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Electronically FILED by
Superior Court of California,
County of Los Angeles
7/17/2024 1:29 PM
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DANIELA ESCALANTE,

Plaintiff,

vs.

GRANILLO, INC.; FERNANDO RIVERA
GRANILLO; and DOES 1 to 25, inclusive,

Defendants.

CASE NO.: **24STCV17811**

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 7) FAILURE TO PROVIDE REST BREAKS;**
- 8) FAILURE TO PROVIDE MEAL BREAKS;**
- 9) FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 10) PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 11) VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
- 12) SEXUAL HARASSMENT IN VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT ("FEHA");**
- 13) FAILURE TO PREVENT SEXUAL HARASSMENT VIOLATION OF FEHA;**

1) **14) WRONGFUL CONSTRUCTIVE**
2) **DISCHARGE IN VIOLATION OF**
3) **PUBLIC POLICY;**
4) **JURY TRIAL DEMANDED**
5)

6 COMES NOW Plaintiff, DANIELA ESCALANTE (hereinafter "Plaintiff"), and
7 alleges as follows:
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9 **PARTIES, JURISDICTION, and VENUE**

10 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
11 County of Los Angeles in this judicial district because Defendants GRANILLO, INC.;
12 FERNANDO RIVERA GRANILLO and DOES 1 to 25, inclusive (hereinafter collectively
13 "GRANILLO" or "Defendant(s)") do business in the County of Los Angeles, and because
14 Defendants' obligations and liabilities arise therein, and because the work that was performed
15 by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff's
16 damages sought herein exceed \$35,000.

17 2. Plaintiff is a female resident of the County of Los Angeles, State of California.

18 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
19 GRANILLO, INC. is a California corporation, doing business in the County of Los Angeles,
20 State of California, and which employed Plaintiff.

21 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant
22 FERNANDO RIVERA GRANILLO is a male resident of the State of California, and the
23 owner, managing agent, and/or director GRANILLO, INC., and is being included in this
24 lawsuit pursuant to Labor Code Section 558.1 as he controlled the hours, wages, and/or
25 working conditions of Plaintiff and other hourly, non-exempt employees. Defendants
26 GRANILLO, INC. and FERNANDO RIVERA GRANILLO are collectively referred to herein
27 as "Defendant(s)" (unless otherwise noted) or "GRANILLO".
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1 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
2 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
3 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
4 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible
5 for the conduct alleged herein. Upon discovering the true names and capacities of these
6 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
7 capacities of these fictitiously named defendants.

8
9 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
10 that information and belief, alleges that at all times herein mentioned, each of the remaining
11 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
12 under the authority of their agency, employment, or representative capacity, with the consent of
13 his/her codefendants.

14 **GENERAL ALLEGATIONS**

15 7. Plaintiff started working at GRANILLO on or around 2022 as a waitress. Plaintiff was
16 misclassified as an independent contractor and was paid cash only. Plaintiff's employment
17 ended in March 2024. Note that Plaintiff worked at two locations for GRANILLO: La Jungla
18 (through at least June 2023) and International Night Club (through 2024).

19
20 8. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),
21 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas
22 Security Services USA, Inc., an onsite security provider. After about a year of employment,
23 Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff
24 specifically alleged violations to the Labor Code requiring immediate payment of wages upon
25 termination of employment and weekly payment of wages to temporary employees. The trial
26 court determined Huff was not a temporary employee, and therefore, lacked standing to bring
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1 the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court
2 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
3 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
4 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the
5 PAGA representative to sue for violations that the representative has personally suffered. The
6 PAGA statute states that an “aggrieved employee” is able to file suit on behalf of themselves
7 and others. The statute also states that an “aggrieved employee” is “any person who was
8 employed by the alleged violator and against whom one or more of the alleged violations was
9 committed.” Because at least one of the violations that Huff had alleged had affected him
10 personally, the Court of Appeal denied Securitas’ motion.

12 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
13 other employees, it allows for suits broader than the specific violations the named
14 employee experienced. Therefore, even if the employee did not personally experience the
15 Labor Code violations, the employer may still be liable to under PAGA. Consequently, it is
16 Plaintiff’s position that Plaintiff can equivocally bring the following labor code violations on
17 behalf of all other employees, including ALL hourly, non-exempt employees who worked for
18 GRANILLO anywhere in the state of California (at all different night club/restaurant locations)
19 during the relevant PAGA period.

21 10. It is Plaintiff’s position that GRANILLO has violated the following Labor Code
22 Sections against Plaintiff and other similarly situated aggrieved employees, who include all
23 non-exempt, hourly employees as well as those employees who were misclassified as
24 independent contractors and who worked for GRANILLO at their various club
25 locations/restaurants in the State of California during the relevant PAGA period.

27 11. GRANILLO violated Labor Code section 226.8. Pursuant to Labor Code section
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226.8(a)(1), it is unlawful for any person or employer to willfully misclassify an individual as an independent contractor. “Willful misclassification means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.” Cal. Lab. Code Section 226.8(i)(4). If a person or employer has willfully misclassified an individual as an independent contractor, the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law. Cal. Lab. Code Section 226.8(b). If the person or employer has engaged in or is engaging in a pattern or practice of willfully misclassifying individuals as independent contractors, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law. Cal. Lab. Code Section 226.8(c). This is so because GRANILLO treated Plaintiff and others as employees with a set schedule.

12. In a very important decision, Dynamex Operations v. Superior Court (2018) 4 Cal. 5th 903, the Supreme Court developed the “ABC TEST” to determine whether an independent contractor is an employee. Under the ABC TEST, a worker will be deemed to have been “suffered or permitted to work,” and thus, an employee for wage order purposes, unless the putative employer proves:

(A) that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;

(B) that the worker performs work that is outside the usual course of the hiring entity’s business; and

1 (C) that the worker is customarily engaged in an independently established trade,
2 occupation, or business of the same nature as the work performed.

3 13. Note that each of these requirements need to be met in order for the presumption that a
4 worker is an employee to be rebutted, and for a court to recognize that a worker has been
5 properly classified as an independent contractor.

6 14. Here, it is unequivocally clear that GRANILLO would not be able to get past the
7 second part of the test since Plaintiff and others were unequivocally doing work (waitress)
8 related to GRANILLO's core business of operating nightclubs/restaurants. As such,
9 GRANILLO willfully misclassified Plaintiff and other aggrieved employees as independent
10 contractors. Moreover, there was plenty of control by GRANILLO as it related to Plaintiff's
11 and other aggrieved employees' schedules and working conditions. Moreover, the tools and
12 instrumentalities used to do carry out the job duties was provided by GRANILLO.
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14 15. GRANILLO violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to
15 pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including
16 the statutory minimum wage for all hours worked and for "off the clock" work. This is so
17 because GRANILLO had a company policy wherein they would disproportionately round
18 down the number of hours worked, resulting in "time shaving" and further resulting in
19 aggrieved employees not being paid for all hours worked. In addition, Plaintiff and others were
20 paid a daily rate of either \$100 or \$120, irrespective of the number of hours worked. Since
21 Plaintiff and others would at times work 8-10 hours per day, the latter would equate to a
22 minimum wage violation based on the daily rate paid. Moreover, GRANILLO failed to provide
23 its employees with proper and accurate reporting time pay.
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26 16. Due to the above "off the clock" violations, GRANILLO also violated Labor Code
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§510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation, even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their employment. Plaintiff's and other aggrieved employees' actual work hours entitled them to overtime compensation, however, GRANILLO did not compensate its hourly, non-exempt employees with ANY overtime due to the "off the clock" work and time shaving as described above as well as the fact that Plaintiff and others were misclassified as independent contractors who essentially had no rights. Furthermore, GRANILLO failed to include bonuses/incentive payments in calculating employees' regular rate of pay for use in deciphering the correct overtime rate of pay. Additionally, the incentive and bonus payments were also not factored into employees' regular rate for purposes of receiving meal and rest break premiums per the Ferra v. Loews case.

17. GRANILLO also violated Labor Code § 226.7 and the appropriate Industrial Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and other similarly situated aggrieved employees with 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their employment. GRANILLO did not completely relieve Plaintiff and others of all duty during said rest periods. GRANILLO did not pay to Plaintiff and others one additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or more statutory rest periods was not provided. It was not part of the company policy for employees such as Plaintiff to take even one rest break per shift. In fact, Plaintiff didn't receive any rest breaks during her employment tenure at GRANILLO. The concept of rest breaks was not implemented as it was not company policy. Moreover, it would not have been possible for employees such as Plaintiff to take such rest breaks due to being understaffed and due to a heavy workload, especially in the fast-paced restaurant/club industry wherein customer service is of paramount importance. As such, the culture as well as the

1 policies and procedures of GRANILLO did not lend itself to the employees receiving statutory
2 rest breaks wherein they were relieved of all work duties. The environment at GRANILLO was
3 not conducive to receiving multiple statutory rest breaks under California law and timely,
4 statutory rest breaks were not authorized or enforced.

5 18. GRANILLO violated Labor Code §§ 512 and 226.7 and the appropriate Industrial
6 Welfare Commission Wage Order no. 5 because it failed to provide hourly, non-exempt
7 employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods
8 for every five (5) hours of work throughout their employment. GRANILLO did not completely
9 relieve Plaintiff and other employees of all duty during said meal periods. GRANILLO did not
10 pay to Plaintiff and its hourly, non-exempt employees one additional hour of pay at their
11 regular rate of compensation for each workday that one or more statutory meal periods was not
12 provided. Plaintiff and others did not receive ANY meal breaks, much less timely meal breaks
13 due to work obligations and due to company policy in treating Plaintiff and others as
14 independent contractors. Like the rest breaks, receiving a thirty-minute uninterrupted and
15 timely meal break was not at all part of the company culture and was not enforced by
16 GRANILLO. Consequently, it was the normal practice and custom of GRANILLO not to
17 authorize, permit, and enforce timely statutory meal periods. If GRANILLO had Plaintiff sign
18 a meal period waiver, it would not be valid and enforceable since Plaintiff and others generally
19 worked more than a 6-hour shift. If GRANILLO had Plaintiff sign an on-duty meal period
20 agreement wherein Plaintiff agreed to work through the meal periods, it would be invalid and
21 unenforceable because the nature of Plaintiff's job does not and did not prevent her from taking
22 a meal period and the company could have hired "breakers" to relieve Plaintiff of her job
23 duties so that she can actually take a timely, uninterrupted meal period. Moreover, any such
24 "on duty" meal period agreement did not allow for Plaintiff to revoke such an agreement even
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1 if it was signed. As such, Plaintiff and others did not always receive statutory, timely meal
2 periods during their employment. To the extent that GRANILLO argues that employees
3 receive meal break premium pay for missed meal periods, that argument is inconsequential for
4 PAGA penalty purposes since the PAGA penalties are for the violations themselves,
5 irrespective of whether an employee received the premium payment for a missed, short, or
6 interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, “section
7 226.7 does not give employers a lawful choice between providing *either* meal and rest
8 breaks *or* an additional hour of pay.” See *Kirby v. Immoos Fire Protection, Inc.*, (2012) 53
9 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the
10 violation; the employer has still committed a violation even if the remedy for the violation has
11 been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As
12 such, the work environment and culture at GRANILLO was not conducive to receiving
13 consistent, timely, statutory meal breaks under California law. Moreover, any meal or rest
14 break premiums paid were not compensated at the weighted average regular rate, inclusive of
15 bonuses and/or incentive payments as well as overtime compensation.

18 19. Furthermore, during the relevant time period, and due to the above labor code
19 violations, GRANILLO failed to pay Plaintiff and other similarly situated aggrieved employees
20 all wages due to them within any time period specified by California Labor Code section 204.
21 Since Plaintiff was not compensated for his “off the clock” work and since Plaintiff did not
22 receive meal and rest break premiums, Plaintiff would still be owed wages pursuant to Labor
23 Code Section 204. GRANILLO was also in violation of California Labor Code section 226(a)
24 by failing to include pertinent information on the wage statements, including but not limited to,
25 the correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross
26 wages earned, net wages earned, premium pay for missed meal and rest breaks, all deductions,
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1 the correct start and end of the pay period, all employee identifying information, the correct
2 and complete name and address of the legal employer, and reimbursement for business
3 expenses, among others. As such, GRANILLO did not provide Plaintiff and other similarly
4 situated aggrieved employees with complete, accurate itemized wage statements. In fact, since
5 Plaintiff and others were misclassified as independent contractors, they were not given a single
6 pay stub throughout their entire employment in a willful and clear violation of Labor Code
7 Section 226.

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9 20. During the relevant time period, GRANILLO also failed to keep accurate and complete
10 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and
11 others pursuant to California Labor Code sections 1174(d). In fact, GRANILLO did not at all
12 keep track of ANY work hours for its employees.

13 21. GRANILLO also violated Labor Code § 203 because it willfully failed to pay Plaintiff
14 and other similarly situated aggrieved employees earned and due wages upon separation of
15 employment, either immediately upon involuntary termination, or within 72 hours of
16 resignation. These earned but unpaid wages include compensation for all hours worked,
17 including minimum wages, overtime compensation, and premium pay for missed meal and rest
18 breaks.

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20 22. During the relevant time period, Plaintiff and other aggrieved employees incurred
21 necessary, business-related expenses and costs that were not reimbursed by GRANILLO.
22 These costs include, but are not limited to, use of personal cell phones for work purposes and
23 uniforms. Accordingly, GRANILLO was in violation of California Labor Code sections 2800
24 and 2802.

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26 23. Additionally, GRANILLO violated Labor Code Section 351 and 353 by taking some of
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1 the tips meant for employees and also deducting the tips from Plaintiff's and others' earned
2 wages. GRANILLO also deducted the credit card fee from Plaintiff's and others' tips and did
3 not timely provide the credit card and even cash tips to Plaintiff and other similarly situated
4 aggrieved employees. As such, Plaintiff and the other similarly situated employees were not
5 given accurate tips to which they were entitled.

6 24. Furthermore, GRANILLO did not provide proper and correct/accurate sick pay that
7 was also delineated on employee pay stubs and also failed to provide proper sick leave in
8 violation of Labor Code sections 233 and 246. Moreover, there were no suitable seating/rest
9 break facilities for the employees pursuant to Wage Order no. 5-2001. GRANILLO also failed
10 to provide Worker's Compensation coverage for Plaintiff and other employees in violation of
11 Labor Code section 3700.5.
12

13 25. Furthermore, Plaintiff believes Defendants have also violated Labor Code Section 558
14 and have engaged in business practices which violate Business and Professions Code Section
15 17200.
16

17 26. Moreover, Plaintiff would have individual claims against GRANILLO for
18 violations under the Fair Employment and Housing Act (FEHA) for sexual harassment and
19 failure to prevent sexual harassment in that the owner, Fernando Granillo would make sexually
20 charged comments to Plaintiff and other female employees, even touching Plaintiff's leg on
21 one occasion. Mr. Granillo would also make comments about how it's better when his
22 employees are single and even asked Plaintiff if she wanted to "pass by a hotel". Plaintiff had
23 also seen Mr. Granillo sexually harass other female employees, including grabbing one of them
24 by the waist.
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26 27. Pursuant to California Government Code section 12960, Plaintiff has exhausted her
27 administrative remedies. Plaintiff filed a complaint with the California Civil Rights Department
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1 (formerly, Department of Fair Employment and Housing (“DFEH”), alleging claims in this
2 complaint. The California Civil Rights Department immediately issued to Plaintiff a right to sue
3 letter/notice.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

6 **(California Industrial Welfare Commission Order 5-2001, California Code of**
7 **Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9 28. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 27, inclusive, of this Complaint as though fully set forth herein.

11 29. At all times relevant herein, Defendants were required to compensate its employees for
12 all hours worked upon reporting for work at the appointed time stated by the employer
13 pursuant to Industrial Welfare Commission Order 5-2001, California Code of
14 Regulations, Title 8, Section 11050.

15 30. For the three (3) years preceding filing of this action, Defendants failed to compensate
16 Plaintiff for all hours worked.

17 31. Under the aforementioned wage order and regulations, Plaintiff is to recover
18 compensation for all hours worked but not paid by Defendants for the three (3) years
19 preceding the filing of this Complaint.

20 32. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
21 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
22 this Court.

23 33. Defendants’ conduct described herein violates Labor Code Section 512, 558, 1194, and
24 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
25 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
26 reasonable attorney’s fees and costs of suit.

27 34. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
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1 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
2 amount known to Plaintiff once she has obtained all of her payroll records from
3 Defendants.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY MINIMUM WAGES**

6 **(California Labor Code Sections 1194, 1194.2, 1197)**

7 **(Plaintiff against all named defendants and all DOE defendants)**

8 35. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 34, inclusive, of this Complaint as though fully set forth herein.

10 36. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
11 to suffer or permit a California employee to work without paying wages at the minimum wage
12 rate for all hours worked as required by the applicable Industrial Welfare Commission
13 (hereinafter "IWC") Wage Order No. 5-2001, codified at California Code of
14 Regulations, Title 8, Section 11050, subdivision 4.

15 37. Pursuant to IWC Wage Order no. 5-2001, subdivision 2(K)/(H), at all relevant
16 times, "hours worked" included "the time during which an employee is subject to the control of
17 an employer, and includes all the time the employee is suffered or permitted to work, whether
18 or not required to do so..."

19 38. During her employment, Plaintiff was regularly required as a matter of uniform
20 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
21 was paid less than the minimum wage rate by Defendants for hours worked in violation of
22 California Labor Code Section 1197 and the applicable California Industrial Wage
23 Commission wage order(s).

24 39. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
25 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
26 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
27 to believe that their acts or omissions were not contrary to California law.
28

1 40. For all hours worked by Plaintiff for which he was paid less than the minimum wage
2 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
3 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
4 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
5 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

6 41. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
8 trial.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO PAY OVERTIME**

11 **(California Industrial Welfare Commission Order 5-2001, California Code of**
12 **Regulations Title 8 Section 11050; California Labor Code Section 510)**

13 **(Plaintiff against all named defendants and all DOE defendants)**

14 42. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 41, inclusive, of this Complaint as though fully set forth herein.

16 43. Pursuant to Industrial Welfare Commission Order No. 5-2001, Cal. Code of
17 Regs., Title 8, Section 11050, for the period of Plaintiff's employment, Defendants were
18 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
19 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
20 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
21 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
22 week.

23 44. Plaintiff was a non-exempt employee entitled to the protections of the California
24 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations,
25 Title 8, Section 11050.

26 45. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a
27 single workday or forty (40) hours in a single workweek on numerous occasions.
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46. Plaintiff was entitled to the above overtime premiums.

47. Defendants did not pay Plaintiff premium wages of at least one and one-half times Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past twelve (12) in a day.

48. Defendants did not pay Plaintiff premium wages of at least one and one-half times Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

49. Plaintiff worked at least one pay period in which he was not properly paid overtime within the three (3) years prior to the initiation of this lawsuit.

50. Defendants know or should know the actual dates of overtime worked, the amount of overtime worked, and the amount of unpaid overtime due.

51. As a proximate result of Defendants' violations, Plaintiff has been damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this Court.

52. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus reasonable attorney's fees and costs of suit.

53. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(California Labor Code Section 226)

(Plaintiff against all named defendants and all DOE defendants)

54. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 53, inclusive, of this Complaint as though fully set forth herein.

1 55. Pursuant to California Labor Code Section 226, every employer must furnish each
2 employee an itemized statement of wages and deductions at the time of payment of wages.

3 56. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
4 accurately reflected all information required by Labor Code Section 226, including but not
5 limited to, gross wages earned, including overtime, minimum wages, and premium pay for
6 missed meal and rest breaks, net wages earned, total hours worked by the employee, and all
7 deductions. Therefore, Defendants failed to maintain and provide accurate itemized wage
8 statements to Plaintiff in accordance with California Labor Code Section 226(a).

9 57. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
10 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
11 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
12 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
13 reasonable attorney's fees.

14 58. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
15 sustained damages, including loss of earnings, in an amount to be established at trial. As a
16 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
17 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
18 and attorney's fees pursuant to statute.

19 59. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
20 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
21 trial.

22 **FIFTH CAUSE OF ACTION**

23 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

24 **(California Labor Code Section 204)**

25 **(Plaintiff against all named defendants and all DOE defendants)**

26 60. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 59, inclusive, of this Complaint as though fully set forth herein.
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1 61. California Labor Code Section 204 establishes the fundamental right of all employees
2 in the State of California to be paid wages in a timely fashion for their work.

3 62. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
4 full amount of all owed wages when due as required by California Labor Code Section 204.

5 63. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
6 informed, believes, and thereon alleges, that all times relevant during the liability period,
7 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
8 including overtime hours, the minimum wage, and premium pay for missed meal and rest
9 breaks.

10 64. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
11 amount, subject to proof, to the extent she was not paid all wages each pay period. The precise
12 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
13 from Defendants' records or indirectly based on information from Defendants' records.

14 65. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17 **SIXTH CAUSE OF ACTION**

18 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

19 **(California Labor Code Sections 201, 203)**

20 **(Plaintiff against all named defendants and all DOE defendants)**

21 66. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 65, inclusive, of this Complaint as though fully set forth herein.

23 67. Pursuant to California Labor Code Section 201(a), an employer who discharges an
24 employee must immediately pay for all compensation due and owing.

25 68. Pursuant to California Labor Code Section 202, when an employee resigns, the
26 employer must pay all compensation due and owing within 72 hours of resignation, or on the
27 employee's last day of work, if the employee gives more than 72 hours notice of resignation.
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1 69. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
2 without abatement or reduction, any wages of an employee whose employment ends, the wages
3 of the employee shall continue as a penalty from the due date at the same rate until paid or until
4 an action is commenced; however, the wages shall not continue for more than 30 days for
5 failure to pay an employee owed wages.

6 70. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
7 continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

8 71. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
9 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
10 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
11 preceding the filing of this lawsuit.

12 72. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
13 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
14 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

15 73. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
16 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
17 trial.

18 **SEVENTH CAUSE OF ACTION**

19 **FAILURE TO GIVE REST BREAKS**

20 **(Plaintiff against all named defendants and all DOE defendants)**

21 74. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 73, inclusive, of this Complaint as though fully set forth herein.

23 75. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 24 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which
25 provides that every employer shall authorize and permit all employees to take rest
26 periods, which insofar as practicable shall be in the middle of each work period.

27 The authorized rest period time shall be based on the total hours worked daily at the
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rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;

b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which provides that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at employee's regular rate of compensation for each workday that the rest period is not provided;

c. Title 8 of the California Code of Regulations sections 11050(20)(A), which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and

d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at employee's regular rate of compensation for each work day that the rest period is not provided.

76. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute rest break after every four (4) hours of work or major fraction thereof, as required by California law.

77. Under this cause of action, Plaintiff prays for wages due to her under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

1 78. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
2 fees as well as interest under Labor Code section 218.6.

3 79. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
4 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
5 trial.

6 **EIGHTH CAUSE OF ACTION**

7 **FAILURE TO GIVE MEAL BREAKS**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9 80. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 79, inclusive, of this Complaint as though fully set forth herein.

11 81. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 12 a. California Labor Code section 512(a), which requires that employees be given a 30-
13 minute uninterrupted meal break after five (5) hours of work, and a second
14 uninterrupted meal break after ten (10) hours of work;
15
16 b. California Labor Code section 226.7, which states that (a) no employer shall require
17 any employee to work during any meal period mandated by an applicable order of
18 the Industrial Welfare Commission, and (b) if any employer fails to provide an
19 employee a meal period in accordance with an applicable order of the Industrial
20 Welfare Commission, the employer shall pay the employee one (1) additional hour
21 of pay at the employee's regular rate of compensation for each workday that the
22 meal period is not provided;
23
24 c. California Industrial Welfare Commission Order No. 5section 11(B), as codified
25 under Title 8 of the California Code of Regulations Section 11050, which states that
26 if an employer fails to provide an employee a meal period in accordance with the
27 applicable provisions of the Wage Order, the employer shall pay the employee one
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(1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;

- d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11050, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as codified under California Code of Regulations Section 11050, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5) as enforceable law.

82. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted to take a second relieved meal break after ten (10) hours of work, as required by California law. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 4, as codified under California Code of Regulations Sections 11050 et. seq. requires that employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of all work duty. California Labor Code section 226.7 provides that employers may not require their employees to work through their meal periods. California Labor Code section 226.7 and California Code of Regulations section 11050 requires that if the employer fails to provide the employee with an uninterrupted meal period, the employer must pay the employee one (1) hour of pay for each work day that the meal period is not given.

1 83. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
2 regulations, and wage orders alleged in this cause of action along with any allowable interest,
3 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
4 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

5 84. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
6 fees as well as interest under Labor Code section 218.6.

7 85. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
8 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
9 trial.

10 **NINTH CAUSE OF ACTION**

11 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

12 **(Plaintiff against All Named Defendants and all DOE defendants)**

13 86. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 85, inclusive, of this Complaint as though fully set forth herein.

15 87. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
16 employee for all necessary expenditures or losses incurred by the employee in direct
17 consequence of the discharge of his or her duties."

18 88. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
19 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
20 of completing his job duties, which were not reimbursed by Defendant. These expenses
21 include, but are not limited to, use of personal cell phones for work purposes and uniforms.

22 89. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
23 and attorney's fees and costs, under Labor Code section 2802.

24 **TENTH CAUSE OF ACTION**

25 **PRIVATE ATTORNEYS GENERAL ACT**

26 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
27 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 226.8, 233, 246, 351, 353, 510, 512, 558,**
28 **1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 3700.5)**

(Plaintiff against All Named Defendants and all DOE defendants)

90. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 89, inclusive, of this Complaint as though fully set forth herein.

91. Plaintiff has complied with the procedures for bringing suit specified in California Labor Code § 2699.3. By letter dated April 4, 2024, Plaintiff gave written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

92. Pursuant to California Labor code section 2699.3, no response was received from the LWDA within 65 days of the postmark date of the above-alleged letter.

93. Plaintiff therefore has exhausted all administrative remedies required of her under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants’ violations of the Labor Code.

94. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in California Labor Code section 2699.3.

95. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged violator and had one or more of the alleged violations committed against her, and therefore is properly suited to represent the interests of other current and former employees, including all current and former hourly, non-exempt employees or those who were supposed to be classified as hourly, non-exempt W2 employees but were misclassified and who worked for GRANILLO in the State of California during the applicable PAGA Period.

96. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties under California Labor Code sections 2698 and 2699 because of Defendants’ violations of numerous provisions of the California Labor Code as alleged in this Complaint.

1 97. Plaintiff therefore has exhausted all administrative remedies required of her under
2 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute
3 this cause of action and pursue penalties in a representative action for Defendants' violations of
4 the Labor Code.

5 98. California Labor Code section 2699 et seq. imposes penalties upon culpable
6 Defendants for violating the Labor Code.

7 99. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
8 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
9 seeking individual penalties/victim specific relief or underpaid wages for herself or other
10 employees under this specific PAGA cause of action.

11 100. Specifically, Plaintiff seeks penalties under California Labor Code
12 section 2699, for the following:

13 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
14 226.3, 226.7, 226.8, 233, 246, 351, 353, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197,
15 1197.1, 1198, 2800, 2802, 3700.5, and any other Labor Codes/Industrial Welfare Commission
Order (No. 5) violated based on the facts alleged in this Complaint.

16 101. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
17 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved employees
18 as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional
19 limits of this Court.

20 **ELEVENTH CAUSE OF ACTION**

21 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

22 **(California Business and Professions Code Section 17200)**

23 **(Plaintiff against All Named Defendants and all DOE defendants)**

24 102. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 101, inclusive, of this Complaint as though fully set forth herein.

26 103. By virtue of the foregoing statutes, regulations, and laws, the acts of
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1 Defendants constitutes unfair and unlawful business practices under California Business and
2 Professions Code Section 17200, et seq.

3 104. Defendant's violations of the California labor laws and the Labor Code as well
4 as the FEHA constitutes a business practice because it was done repeatedly over a significant
5 period of time in a systematic manner that was detrimental to Plaintiff and other employees.

6 105. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
7 reasonable attorneys' fees and costs of said suit as specifically provided in California Code of
8 Civil Procedure Section 1021.5 and California Business and Professions Code section 17200 et
9 seq.

10 106. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
11 multiple damages as specifically provided in California Business and Professions Code section
12 17200 et seq.

13 107. For the four years preceding the filing of this action, Plaintiff requests
14 restitution of all monies and profits to be disgorged from Defendants in an amount according to
15 proof at time of trial, but in excess of the jurisdiction of this Court.

16 **TWELFTH CAUSE OF ACTION**

17 **SEXUAL HARASSMENT IN VIOLATION OF FEHA**

18 **(Plaintiff against All Named Defendants and all DOE Defendants)**

19 108. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 107, inclusive, of this Complaint as though fully set forth herein.

21 109. At all times herein mentioned, FEHA, Government Code section 12900, et seq.,
22 was in full force and effect and was binding on Defendants. Specifically, Government Code
23 section 12940(j) prohibits an employer from sexually harassing an employee on the basis of her
24 sex.
25

26 110. Plaintiff's supervisor and owner of Defendants' company, "Fernando Granillo",
27 is considered a supervisor under FEHA as he controlled Plaintiff's work and had the ability to
28 hire and fire Plaintiff. As such, it is Plaintiff's position that GRANILLO would be liable for

1 Fernando Granillo's sexually harassing behavior and in transforming Plaintiff's
2 work environment into a hostile sexual environment which materially altered Plaintiff's working
3 conditions and which constitutes sexual harassment in violation of California Government Code
4 section 12940(j)(1).

5 111. Furthermore, this cause of action is based upon:

- 6 a. Article I Section VIII of the California Constitution which prohibits the
7 discrimination and harassment of employees based upon their sex;
- 8 b. California Government Code Section 12940 which prohibits supervisors and
9 employers from discriminating, harassing, terminating, and retaliating against, an
10 employee on the basis of their sex and sexually harassing an employee, and doing
11 any of these things to an employee because of their complaints to their supervisors
12 that they are being subjected to conduct that violates said code section;
- 13 c. Title II, Division IV of the California Code of Regulations regarding the California
14 Fair Employment and Housing act, and specifically, Sections 7287.6, 7287.8, and
15 7291.1(f)(1) of said code of regulations which makes unwelcome sexual advances,
16 sexual battery, and sexual favors which condition employment benefits unlawful;
- 17 d. California Government Code Section 12940(j)(1) which prohibits employees from
18 harassing their subordinates on the basis of the subordinates' sex including sexually
19 harassing a subordinate; and
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22 112. Plaintiff is informed, believes, and thereon alleges, that she was subjected to
23 sexual harassment, which was severe and ongoing, while Plaintiff was employed by Defendant
24 GRANILLO.

25 113. Based upon what is alleged in the above paragraphs, the Plaintiff alleges that
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1 she was subjected to a sexually hostile and abusive work environment with a quid pro quo
2 nature, during the period of time specified in these Paragraphs, for which the corporate
3 Defendants did nothing to stop the harassing and intolerable work environment.

4 114. The Plaintiff alleges that the corporate Defendants are liable for
5 sexual harassment by allowing “Fernando Granillo” to condition Plaintiff’s employment based
6 upon her forced and coerced willingness to tolerate “Fernando Granillo’s” sexual harassment
7 towards Plaintiff.

8 115. The corporate Defendants are also a party to this cause of action because,
9 amongst other things, they are strictly liable for the harassing conduct of the individual
10 “Fernando Granillo” who was a supervisory and managerial employee, and in fact the owner,
11 of Defendant GRANILLO at all times alleged herein.

12 116. As a direct, foreseeable, and proximate result of the conduct of all Defendants
13 named in this cause of action, and each of them, the Plaintiff has suffered, and continues to
14 suffer emotional distress, as well as other financial losses to be ascertained according to proof.

15 117. In engaging in the aforementioned conduct, Defendants and DOES 1 to 25,
16 inclusive, and each of them, aided, abetted, incited, compelled, and/or coerced unlawful
17 employment practices in violation of the announced policy of this State against such practices.
18 Furthermore, they failed to take immediate and appropriate corrective action to prevent this
19 harassment.

20 118. As a proximate result of the conduct of the Defendants, Plaintiff has suffered and
21 will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
22 pecuniary losses according to proof. Plaintiff has also suffered and will continue to suffer
23 physical and emotional injuries, including nervousness, humiliation, depression, anguish,
24 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff’s
25 damages will be ascertained at trial.
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1 119. In committing the foregoing acts, Defendants have been guilty of oppression,
2 fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to
3 punitive damages in a sum appropriate to punish and make an example out of the foregoing
4 Defendants.

5 120. The acts of oppression, fraud, and/or malice, were engaged in by employees of
6 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
7 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
8 wrongful conduct for which an award of punitive damages is sought, and/or was personally
9 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
10 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
11 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
12 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
13 California Civil Code section 3294 in a sum appropriate to punish and make an example of
14 each Defendant.

15 121. FEHA provides for an award of reasonable attorneys' fees and costs incurred by
16 A prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
17 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff
18 has incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to
19 an award of attorneys' fees and costs.

20 **THIRTEENTH CAUSE OF ACTION**

21 **FAILURE TO PREVENT SEXUAL HARASSMENT**

22 **IN VIOLATION OF FEHA**

23 **(Plaintiff against GRANILLO, INC. and all DOE Defendants)**

24 122. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 121, inclusive, of this Complaint as though fully set forth herein.

26 123. At all times herein mentioned, FEHA, California Government Code section
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1 12940(k), was in full force and effect and was binding on Defendants. This statute states that it
2 is an unlawful employment practice in California for an employer to “fail to take all reasonable
3 steps necessary to prevent discrimination and harassment from occurring.”

4 124. As alleged above, Plaintiff was subjected to sexual harassment.

5 125. Defendants failed to take all reasonable steps necessary to prevent harassment.
6 In addition, GRANILLO failed to remedy such harassment when it realized and
7 was informed that it was occurring. GRANILLO further failed to train, supervise,
8 and monitor its employees and agents.

9 126. The failure of Defendants to prevent harassment created and encouraged an
10 environment where such harassment was condoned, encouraged, tolerated, sanctioned, and/or
11 ratified.

12 127. As a direct and proximate result of the aforementioned acts and omissions of
13 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
14 loss of income (past and future), loss of employment benefits (past and future), general and
15 compensatory damages (past and future), mental pain and anguish and emotional distress (past
16 and future), and will continue to suffer in the future, in an amount to be proved at trial.

17 128. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive,
18 and each of their directors, officers and/or managing agents, constitutes malice, fraud, and
19 oppression and was authorized, ratified, and carried on with a conscious and willful disregard of
20 their workers’ right to work in an environment free of harassment, so as to justify the imposition
21 of punitive damages to punish and set an example of said Defendants.

22 129. As a proximate result of the foregoing conduct, which violated the provisions of
23 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney’s
24 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

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1 **FOURTEENTH CAUSE OF ACTION**

2 **WRONGFUL CONSTRUCTIVE DISCHARGE IN VIOLATION OF PUBLIC POLICY**

3 **(Plaintiff against Granillo, Inc. and all DOE Defendants)**

4 130. Plaintiff re-alleges and incorporates by reference each and every allegation in
5 paragraphs 1 through 129 inclusive, of this Complaint as though fully set forth herein.

6 131. At all times during her employment with GRANILLO, Plaintiff performed her
7 duties with the utmost diligence and competence.

8 132. Defendants intentionally created an illegal and unsafe work environment and
9 atmosphere permeated with sexual harassment. This situation became intolerable for Plaintiff
10 and Plaintiff had no alternative but to quit her job on or around March 16, 2024.

11 133. The employment of Plaintiff was constructively wrongfully terminated in or
12 around March 16, 2024, in violation of the fundamental public policy of the State of California
13 with respect to maintaining a safe and healthy work environment free of sexual harassment.
14 Moreover, Plaintiff was forced to hire an attorney to assist her to end these illegal activities.
15 Said conduct violated statutory and constitutional expressions of public policy including, but
16 not limited to, the California Government Code section 12940 et seq.

17 134. As set forth above, said actions by Defendants were wrongful and in violation
18 of the fundamental principles of the public policy of the State of California as reflected in its
19 laws, objectives and policies. Said statutes and constitutional expressions of public policy
20 include, but are not limited to, the California Government Code and the Fair Employment and
21 Housing Act (FEHA). These laws inure to the benefit of the public at large, and not just the
22 private interests of the employers and employees whom they govern or protect.

23 135. As a direct and proximate result of the aforementioned acts and omissions of
24 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
25 loss of income (past and future), loss of employment benefits (past and future), general and
26 compensatory damages (past and future), mental pain and anguish and emotional distress (past
27 and future), and will continue to suffer in the future, in an amount to be proved at trial.
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136. The foregoing conduct engaged in by Defendants and each of its directors, Officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified, and carried on with a conscious and willful disregard of their workers' right to work in a safe and healthy work environment, free of harassment, so as to justify the imposition of punitive damages to punish and set an example of said Defendants.

PRAYER FOR RELIEF

1. For compensatory damages including lost past and future wages, overtime, commissions, and all other sums of money, including employment benefits, together with interest on said amounts, and any other economic injury to Plaintiff, according to proof;
2. For special and consequential damages to the extent allowed by law;
3. For general damages according to proof;
4. For an award of punitive damages against Defendants according to proof;
5. For restitution and disgorgement for all unfair business practices by corporate Defendants against Plaintiff in an amount according to proof;
6. For an order enjoining corporate Defendants from further unfair and unlawful business practices in violation of Business and Professions Code section 17200, et seq.;
7. For damages and penalties against Defendants under Labor Code section 226 for Plaintiff in an amount subject to proof at trial;
8. For damages and penalties pursuant to Labor Code section 203/204/210 against Defendants in an amount subject to proof at trial;
9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
10. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
11. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative

PAGA claim/action;

12. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;

13. For the imposition of civil penalties and/or statutory penalties;

14. Reasonable attorney's fees where available by law, including but not limited to, pursuant to the California Labor Code, including section 2698, Government Code section 12940 et seq and FEHA, and/or other applicable laws; and

15. Costs and expenses of suit incurred herein;

16. For all interest as allowed by law;

17. For such other and further relief as the Court deems just and proper.

DATED: July 17, 2024

MESSRELIA LAW INC.

By Harout Messrelian, Esq.
Attorneys for Plaintiff Daniela Escalante

DEMAND FOR JURY TRIAL

Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

DATED: July 17, 2024

MESSRELIAN LAW INC.

By Harout Messrelian, Esq.
Attorneys for Plaintiff Daniela Escalante