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Clerk of the Superior Court
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BELEN FAVIOLA DUARTE SALINAS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO – NORTH COUNTY

(UNLIMITED JURISDICTION)

BELEN FAVIOLA DUARTE SALINAS,

Plaintiff,

vs.

WEDDING DAY CATERING, INC., a
California corporation; TRADEMARK
VENUES, LLC, a California limited liability
company; and DOES 1 to 25, inclusive,

Defendants.

Case No.: 37-2024-00028500-CU-OE-NC

COMPLAINT FOR DAMAGES FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 8) Failure to Provide Personnel Records;
- 9) Failure to Provide Pay Records;
- 10) Civil Penalties (Lab. Code §§ 2698, *et seq.*);
- 11) Disability Discrimination (Gov. Code, §§ 12940(a); 12926(m));
- 12) Failure to Engage in the Interactive Process (Gov. Code, §12940(n));

- 13) Failure to Accommodate Disability (Gov. Code, § 12940(m));
14) Retaliation in Violation of the FEHA (Gov. Code, § 12940(h));
15) Failure To Prevent Discrimination and Retaliation in Violation of the FEHA (Gov. Code, §§ 12940(k));
16) Retaliation In Violation of Labor Code Section 98.6;
17) Retaliation In Violation of Labor Code Section 1102.5;
18) Wrongful Termination In Violation of Public Policy; and
19) Unfair Competition (Bus. & Prof. Code, § 17200 *et seq.*)

JURY TRIAL DEMANDED

COMES NOW Plaintiff, BELEN FAVIOLA DUARTE SALINAS (hereafter “Plaintiff”), and complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this action based on alleged violations of the California Labor Code, Industrial Welfare Commission Order No. 5-2001 (hereafter “the Wage Order”), the Fair Employment Housing Act (“FEHA”), the Business and Professions Code, and public policy against WEDDING DAY CATERING, INC., TRADEMARK VENUES, LLC, and DOES 1 to 25, inclusive, (collectively “WEDDING DAY CATERING” or “Defendants”).

JURISDICTION AND VENUE

2. Jurisdiction and venue are proper in this Court and this action is properly filed in the County of San Diego – North County because Defendants WEDDING DAY CATERING, INC., TRADEMARK VENUES, LLC, and DOES 1 to 25, inclusive, do business in the North County of San Diego and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the North County of San Diego is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$35,000.

THE PARTIES

3. Plaintiff Belen Faviola Duarte Salinas is a female resident of California. At all relevant times, Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations Section 11050 and an “Aggrieved Employee” within the meaning of Labor Code Section 2699(c).

4. Defendant WEDDING DAY CATERING, INC. is and was a California corporation, doing business in San Diego County, and which employed Plaintiff. As such, it is a citizen of California based on Plaintiff’s information and belief.

5. Defendant TRADEMARK VENUES, LLC is and was a California limited liability company, doing business in San Diego County, and which employed Plaintiff. As such, it is a citizen of California based on Plaintiff’s information and belief.

6. The “Aggrieved Employees” are all current and former non-exempt or hourly paid employees who worked for Defendants in California during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

7. Plaintiff is ignorant of the true names, capacities, relationships, and extents of participation in the conduct alleged herein, of the defendants sued as DOES 1-25, inclusive, but is informed and believes and thereon alleges that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend the Complaint to allege the true names and capacities of the DOE defendants when ascertained.

8. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters or employers of the remaining Defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such agency or employment, and with the approval and ratification of each of the other Defendants.

9. Plaintiff is informed and believes and thereon alleges that each and every one of the acts and omissions alleged herein were performed by, and/or are attributable to, all

1 Defendants, each acting as agents and/or employees, and/or under the direction and control of
2 each of the other Defendants, and that said acts and failures to act were within the course and
3 scope of said agency, employment, and/or direction and control.

4 10. At all relevant times, in perpetrating the acts and omissions alleged herein,
5 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a
6 lack of a practice which resulted in Defendants not paying Plaintiff and the Aggrieved
7 Employees in accordance with applicable California labor laws as alleged herein.

8 **GENERAL ALLEGATIONS**

9 11. WEDDING DAY CATERING first began to employ Plaintiff as part of its
10 Trademark Venues catering team on or around May 27, 2022. Plaintiff's job title was kitchen
11 lead. During her employment tenure, Plaintiff worked at various WEDDING DAY
12 CATERING wedding venues, including, Harlow's Restaurant: 31474 Golf Club Dr, Bonsall,
13 CA 92003; Twin Oaks House Weddings: 236 Deer Springs Rd, San Marcos, CA 92069; Green
14 Gables Wedding Estate: 134 Woodland Pkwy, San Marcos, CA 92069; Botanica: 190
15 Wilshire Rd, Oceanside, CA 92057; Ethereal Gardens: 8561 W Lilac Rd, Escondido, CA
16 92026; Tivoli Italian Villa: 4103 Mission Rd, Fallbrook, CA 92028; and Pine Hill Lodge:
17 2960 La Posada Way, Julian, CA 92036. Plaintiff generally worked Thursday to Sunday (two
18 weeks a month she worked Wednesday to Sunday) from approximately 1:30 p.m. to 10:30
19 p.m. Plaintiff's employment ended on or around March 20, 2024.

20 12. At all relevant times, WEDDING DAY CATERING issued wages to Plaintiff
21 and all of the other Aggrieved Employees on a weekly basis and paid them by the hour. At all
22 relevant times, WEDDING DAY CATERING classified Plaintiff and all of the other
23 Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code
24 and the Wage Order. Plaintiff's latest rate of pay was \$18.90/hour.

25 13. WEDDING DAY CATERING failed to pay Plaintiff and the other Aggrieved
26 Employees for all time worked or subject to its control. This is so because WEDDING DAY
27 CATERING had a policy wherein it would disproportionately round down the number of
28 hours worked, resulting in "time shaving" and further resulting in Plaintiff and the other

1 Aggrieved Employees not being paid for all hours worked. Moreover, managers, including
2 Oscar Atempa would manipulate Plaintiff's and the other Aggrieved Employees' time records
3 in order to avoid paying overtime. In addition, WEDDING DAY CATERING management,
4 including Adrian Liwanang and Richard Ortiz, would often give work instructions to Plaintiff
5 prior to her clocking in for the start of her shift and Plaintiff would continue performing work
6 after she had already clocked out for the end of her shift. Plaintiff consistently worked off the
7 clock approximately 30 minutes prior to clocking in and approximately 30 minutes after
8 clocking out. Furthermore, and to the extent employees such as Plaintiff and others worked
9 through their meal periods while "off the clock", and those meal periods were interrupted, they
10 were not compensated for that time, which would be akin to a minimum wage violation. "Off
11 the clock" work also included Plaintiff receiving phone calls or text message on her personal
12 cell phone from management, before or after her shifts, to discuss scheduling and work-related
13 issues.

14 14. Due to the above "off the clock" violations, WEDDING DAY CATERING
15 failed to pay Plaintiff and the Aggrieved Employees properly-calculated overtime wages. The
16 Aggrieved Employees' actual work hours, which included the "off the clock" work as
17 described above, entitled them to overtime, however, it was not company policy to keep
18 accurate track of all hours worked and to pay employees the accurate amount of overtime,
19 especially since the "off the clock" work was not factored into the equation. Furthermore, any
20 incentive payments and/or bonus payments were not factored into employees' regular rate of
21 pay for purposes of deciphering the correct overtime rate of pay. In addition, any bonus and/or
22 incentive payments were not factored into the correct meal and rest break premium pay per
23 *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

24 15. WEDDING DAY CATERING failed to authorize and permit Plaintiff and
25 others with 10-minute rest periods for every four hours of work, or majority portion thereof,
26 throughout their employment. WEDDING DAY CATERING did not completely relieve
27 Plaintiff and others of all duty during said rest periods. WEDDING DAY CATERING did not
28 pay to Plaintiff and others one additional hour of pay at their regular rate of compensation for

1 each workday that one or more statutory rest periods was not provided. It was not part of the
2 company policy for employees such as Plaintiff to take at least two rest breaks per shift. In
3 fact, WEDDING DAY CATERING instructed Plaintiff and the other Aggrieved Employees to
4 combine their rest breaks with their meal break. The concept of rest breaks was not
5 consistently implemented as it was not company policy. Moreover, it would not have been
6 possible for employees such as Plaintiff to take such rest breaks due to being understaffed and
7 due to a heavy workload, especially in the fast-paced catering/restaurant industry. As such, the
8 culture as well as the policies and procedures of WEDDING DAY CATERING did not lend
9 itself to the employees receiving consistent statutory rest breaks wherein they were relieved of
10 all work duties. The environment at WEDDING DAY CATERING was not conducive to
11 receiving multiple statutory rest breaks under California law and timely, statutory rest breaks
12 were not authorized or enforced.

13 16. WEDDING DAY CATERING failed to provide Plaintiff and the other
14 Aggrieved Employees the requisite 30-minute, uninterrupted meal periods for every five (5)
15 hours of work throughout their employment. WEDDING DAY CATERING did not
16 completely relieve Plaintiff and other employees of all duty during said meal periods.
17 WEDDING DAY CATERING did not pay to Plaintiff and its hourly, non-exempt employees
18 one additional hour of pay at their regular rate of compensation for each workday that one or
19 more statutory meal periods was not provided. The hourly, non-exempt employees would
20 often not be able to receive timely meal periods before the 5th hour worked that were actually
21 uninterrupted. The latter was due to the workload and due to being in a fast-paced
22 catering/restaurant environment. In fact, managers, including Adrian Liwanang, would instruct
23 Plaintiff and the other Aggrieved Employees to clock out for their meal periods before the fifth
24 hour of work and continue working due to the press of business, and take their meal breaks
25 later. This was a daily occurrence. There were times that Plaintiff could not take her meal
26 period until 8:00 p.m. When Plaintiff would be on her meal period, WEDDING DAY
27 CATERING chefs/managers/supervisors, would interrupt Plaintiff with work instructions,
28 questions about ingredients, or requests for assistance, such as needing more sauces or plates.

1 It is important to note that WEDDING DAY CATERING did not provide a break room for
2 employees. Instead, Plaintiff and the other Aggrieved Employees had to take their breaks in
3 the kitchen, where naturally, they would be interrupted. Like the rest breaks, receiving a thirty-
4 minute uninterrupted and timely meal break was not part of the company culture and was not
5 enforced by WEDDING DAY CATERING. Consequently, it was the normal practice and
6 custom of WEDDING DAY CATERING not to authorize, permit, and enforce timely
7 statutory meal periods. To the extent that WEDDING DAY CATERING argues that
8 employees receive meal break premium pay for missed meal periods, that argument is
9 inconsequential for PAGA penalty purposes since the PAGA penalties are for the violations
10 themselves, irrespective of whether an employee received the premium payment for a missed,
11 short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated,
12 “section 226.7 does not give employers a lawful choice between providing either meal and rest
13 breaks or an additional hour of pay.” See *Kirby v. Immoos Fire Protection, Inc.*, (2012) 53
14 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the
15 violation; the employer has still committed a violation even if the remedy for the violation has
16 been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As
17 such, the work environment and culture at WEDDING DAY CATERING was not conducive
18 to receiving consistent, timely, statutory meal breaks under California law. Moreover, any
19 meal or rest break premiums paid were not compensated at the weighted average regular rate,
20 inclusive of bonuses and/or incentive payments as well as overtime compensation.

21 17. WEDDING DAY CATERING failed to reimburse Plaintiff and the other
22 Aggrieved Employees for business expenses they incurred in direct consequence of the
23 discharge of their duties. WEDDING DAY CATERING required Plaintiff and the Aggrieved
24 Employees to download the “Paycom” app on their own personal cell phones and use their
25 own personal cell phones to clock in and out of their work shifts. WEDDING DAY
26 CATERING also required Plaintiff and the other Aggrieved employees to use their own cell
27 phones to send photos of any issues with food, and communicate with management
28 concerning work matters and scheduling. WEDDING DAY CATERING did not reimburse

1 Plaintiff or the other employees for their mobile phone expenses. In addition, WEDDING
2 DAY CATERING required Plaintiff and the other Aggrieved Employees to use their own
3 personal vehicles to travel to the different venues, some as far as an hour and a half away.
4 Despite being told they would be reimbursed for gas/mileage, WEDDING DAY CATERING
5 failed to reimburse Plaintiff and the other Aggrieved Employees for their gas/mileage
6 expenses. Accordingly, WEDDING DAY CATERING was in violation of California Labor
7 Code sections 2800 and 2802.

8 18. WEDDING DAY CATERING failed to pay its employees all wages due to
9 them within any time period specified by California Labor Code section 204, including the
10 minimum wages and overtime as described above as well as meal/rest break premiums.

11 19. WEDDING DAY CATERING did not provide Plaintiff and the other
12 Aggrieved Employees accurate, itemized wage statements. Wage statements must include all
13 hours worked, overtime hours worked, all applicable hourly rates, the correct legal name and
14 correct address of employer entity, gross wages earned, all deductions, net wages earned,
15 reimbursement for business expenses, the correct start and end of the applicable pay period,
16 the employee ID numbers or social security numbers, among other items. Labor Code §
17 226(a)(2). WEDDING DAY CATERING issued wage statements that inaccurately reflected
18 total hours worked, gross and net wages earned, and the number of hours worked at each
19 hourly rate because of WEDDING DAY CATERING's failure to properly pay wages as
20 explained herein. Labor Code §§ 226(a)(1), (2), (5), (9). WEDDING DAY CATERING's
21 failure to maintain accurate records as to the hours worked daily by employees also constitutes
22 a violation of Labor Code section 1174(d).

23 20. Finally, because WEDDING DAY CATERING did not properly pay all wages
24 earned as explained herein, WEDDING DAY CATERING also failed to pay final wages owed
25 to Plaintiff and the other Aggrieved Employees in violation of Labor Code section 203. These
26 earned but unpaid wages include minimum wages and compensation for all hours worked,
27 overtime compensation, premium pay for missed meal and rest breaks, and business expense
28 reimbursement, among others.

1 21. WEDDING DAY CATERING has also violated Labor Code section 558 and
2 engaged in business practices which violate Business and Professions Code Section 17200.

3 22. In addition, during her employment tenure, Plaintiff complained to
4 management about an unsafe and hostile work environment, including death threats against
5 her, and not being able to take her statutory meal and rest breaks. In response to Plaintiff's
6 complaints, WEDDING DAY CATERING retaliated against her and sent her to the venues
7 that entailed a more difficult and heavier workload.

8 23. On or around February 25, 2024, Plaintiff got injured on the job wherein a
9 heavy pot lid fell on her head, causing her to bleed and go to the hospital where she received
10 stitches. WEDDING DAY CATERING was unequivocally aware of this fact. Plaintiff
11 provided WEDDING DAY CATERING management with work restriction letter for modified
12 duty and spoke with manager Adrian Liwanang about sending her to venues that did not entail
13 a heavy workload as she recovered from her injuries. WEDDING DAY CATERING had a
14 duty and obligation to engage in the interactive process and to continue to accommodate
15 Plaintiff's physical injury/disability. Despite the latter, WEDDING DAY CATERING
16 abruptly and wrongfully terminated Plaintiff's employment on or around March 20, 2024.

17 24. Pursuant to California Government Code § 12960, Plaintiff has exhausted her
18 administrative remedies. Plaintiff filed a complaint with the State of California Civil Rights
19 Department ("CRD") (previously "DFEH") alleging claims in this complaint. On the same
20 day, the CRD issued a notice of right-to-sue to Plaintiff against the named Defendants.

21 **FIRST CAUSE OF ACTION**

22 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

23 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

24 **(By Plaintiff against all Defendants)**

25 25. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

26 26. At all relevant times, Plaintiff was a non-exempt employee of Defendants and
27 entitled to the benefits and protections of California Labor Code §§ 510, 1194, 1197, and 1198,
28 and the Wage Order.

1 27. Section 2(K) of the Wage Order defines “hours worked” as “the time during
2 which an employee is subject to the control of an employer, and includes all the time the
3 employee is suffered or permitted to work, whether or not required to do so.”

4 28. Section 3 of the Wage Order states:

5 (A) Daily Overtime - General Provisions

6 (1) The following overtime provisions are applicable to
7 employees 18 years of age or over and to employees 16 or
8 17 years of age who are not required by law to attend
9 school and are not otherwise prohibited by law from
10 engaging in the subject work. Such employees shall not
11 be employed more than eight (8) hours in any workday or
12 more than 40 hours in any workweek unless the employee
13 receives one and one-half (1 ½) times such employee’s
14 regular rate of pay for all hours worked over 40 hours in
15 the workweek. Eight (8) hours of labor constitutes a day’s
16 work. Employment beyond eight (8) hours in any
17 workday or more than six (6) days in any workweek is
18 permissible provided the employee is compensated for
19 such overtime at not less than:

20 (a) One and one-half (1 ½) times the employee’s
21 regular rate of pay for all hours worked in excess
22 of eight (8) hours up to and including 12 hours in
23 any workday, and for the first eight (8) hours
24 worked on the seventh (7th) consecutive day of
25 work in a workweek.

26 (b) Double the employee’s regular rate of pay for
27 all hours worked in excess of 12 hours in any
28 workday and for all hours worked in excess of
eight (8) hours on the seventh (7th) consecutive
day of work in a workweek.

(c) The overtime rate of compensation required to
be paid to a nonexempt full-time salaried
employee shall be computed by using the
employee’s regular hourly salary as one-fortieth
(1/40) of the employee’s weekly salary.

26 29. Section 4 of the Wage Order requires an employer to pay non-exempt employees
27 at least the minimum wage set forth therein for all hours worked, which consist of all hours that
28 an employer has actual or constructive knowledge that employees are working.

1 30. Labor Code section 510 states:

2 Eight hours of labor constitutes a day's work. Any work in excess
3 of eight hours in one workday and any work in excess of 40
4 hours in any one workweek and the first eight hours worked on
5 the seventh day of work in any one workweek shall be
6 compensated at the rate of no less than one and one-half times the
7 regular rate of pay for an employee. Any work in excess of 12
8 hours in one day shall be compensated at the rate of no less than
9 twice the regular rate of pay for an employee. In addition, any
10 work in excess of eight hours on any seventh day of a workweek
11 shall be compensated at the rate of no less than twice the regular
12 rate of pay of an employee. Nothing in this section requires an
13 employer to combine more than one rate of overtime
14 compensation in order to calculate the amount to be paid to an
15 employee for any hour of overtime work.

16 31. California Labor Code § 1194 invalidates any agreement between an employer
17 and an employee to work for less than the minimum wage required under the applicable Wage
18 Order.

19 32. California Labor Code § 1197 makes it unlawful for an employer to pay an
20 employee less than the minimum wage required under the applicable Wage Order for all hours
21 worked during a payroll period.

22 33. California Labor Code § 1198 makes it unlawful for an employer to employ an
23 employee under conditions that violate the Wage Order.

24 34. In conjunction, these provisions of the California Labor Code require employers
25 to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates
26 for all hours worked, including unrecorded hours when the employer knew or reasonably should
27 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
28 *Co.* (2000) 22 Cal.4th 575, 585.)

 35. Defendants required Plaintiff to work in excess of eight (8) hours in one workday
 and forty (40) hours in one workweek without compensating her for such time worked at the
 premium rates required by California law.

 36. As described more fully above, Defendants failed to pay all minimum, regular,
 overtime, and double time wages to Plaintiff because Defendants paid wages based on rounded

1 times, did not pay for off-the-clock work, and failed to pay overtime and double time wages
2 based on correct regular rates of pay.

3 37. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
4 amount, subject to proof, to the extent that she was not paid the full amount of wages earned
5 during each pay period during the applicable limitations period, including minimum, overtime,
6 and double-time wages.

7 38. As a result of Defendants' conduct, Plaintiff seeks damages and/or restitution for
8 unpaid wages which Defendants failed to pay her at the rates set forth herein, interest thereon,
9 and costs of suit and reasonable attorney's fees pursuant to California Labor Code §§ 1194.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PROVIDE REST BREAKS**

12 **(Lab. Code §§ 226.7 and 1198)**

13 **(By Plaintiff against all Defendants)**

14 39. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

15 40. At all relevant times during the applicable limitations period, Plaintiff was a
16 non-exempt employee of Defendants and entitled to the benefits and protections of California
17 Labor Code §§ 226.7, 1198, and the Wage Order.

18 41. Labor Code § 1198 states,

19 "The maximum hours of work and the standard conditions of labor
20 fixed by the commission shall be the maximum hours of work and the
21 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful."

22 42. In relevant part, Section 12 of the Wage Order states:

23 Rest Periods:

24 (A) Every employer shall authorize and permit all employees
25 to take rest periods, which insofar as practicable shall be in the
26 middle of each work period. The authorized rest period time
27 shall be based on the total hours worked daily at the rate often
28 (10) minutes net rest time per four (4) hours or major fraction
thereof. However, a rest period need not be authorized for
employees whose total daily work time is less than three and
one-half (3 1/2) hours. Authorized rest period time shall be

1 counted as hours worked for which there shall be no deduction
2 from wages.

3 (B) If an employer fails to provide an employee a rest period
4 in accordance with the applicable provisions of this Order, the
5 employer shall pay the employee one (1) hour of pay at the
6 employee's regular rate of compensation for each work day that
7 the rest period is not provided.

8 43. In addition, Labor Code Section 226.7 states

9 (b) An employer shall not require an employee to work during a
10 meal or rest or recovery period mandated pursuant to an applicable
11 statute, or applicable regulation, standard, or order of the Industrial
12 Welfare Commission, the Occupational Safety and Health Standards
13 Board, or the Division of Occupational Safety and Health.

14 (c) If an employer fails to provide an employee a meal or rest or
15 recovery period in accordance with a state law, including, but not
16 limited to, an applicable statute or applicable regulation, standard, or
17 order of the Industrial Welfare Commission, the Occupational Safety
18 and Health Standards Board, or the Division of Occupational Safety and
19 Health, the employer shall pay the employee one additional hour of pay
20 at the employee's regular rate of compensation for each workday that
21 the meal or rest or recovery period is not provided.

22 44. Pursuant to the Wage Order, Plaintiff was entitled to be provided with net rest
23 breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

24 45. Defendants failed to authorize and permit Plaintiff to take compliant rest
25 periods and failed to pay one hour of correctly-calculated premium pay for each day such a
26 rest period was not provided.

27 46. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
28 an amount subject to proof to the extent she was not paid additional wages owed for all rest
breaks not provided to her.

47. By reason of the above, Plaintiff is entitled to premium wages for workdays in
which one or more rest breaks were not provided to her pursuant to California Labor Code §
226.7, plus interest and costs.

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employee's regular rate of compensation for each workday that the meal period is not provided.

53. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff was entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day she worked five or more hours. Pursuant to California Labor Code § 512, Plaintiff was also entitled to a second 30-minute meal period when she worked more than ten (10) hours in a workday.

54. During the relevant time period, Defendants failed to provide Plaintiff with compliant meal periods before the fifth hour of work and failed to pay one hour of correctly-calculated premium pay for each day such a meal period was not provided.

55. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount subject to proof to the extent she was not paid additional wages owed for all meal periods not provided to her.

56. By reason of the above, Plaintiff is entitled to premium wages for workdays in which one or more meal periods were not provided to her pursuant to California Labor Code § 226.7, plus interest and costs.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code §§ 1198 & 2802)

(By Plaintiff against all Defendants)

57. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

58. At all relevant times, Plaintiff was a non-exempt employee of Defendants and entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the Wage Order.

59. In pertinent part, California Labor Code § 2802(a) states:
An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.

60. California Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

1 61. WEDDING DAY CATERING failed to reimburse Plaintiff for business
2 expenses she incurred in direct consequence of the discharge of her duties. WEDDING DAY
3 CATERING required Plaintiff to download the “Paycom” app on her own personal cell phone
4 and use her own personal cell phone to clock in and out of her work shifts. WEDDING DAY
5 CATERING also required Plaintiff to use their own cell phones to send photos of any issues
6 with food, and communicate with management concerning work matters and scheduling.
7 WEDDING DAY CATERING did not reimburse Plaintiff for their mobile phone expenses. In
8 addition, WEDDING DAY CATERING required Plaintiff and the other Aggrieved Employees
9 to use their own personal vehicles to travel to the different venues, some as far as an hour and a
10 half away. Despite being told they would be reimbursed for gas/mileage, WEDDING DAY
11 CATERING failed to reimburse Plaintiff and the other Aggrieved Employees for their
12 gas/mileage expenses. Accordingly, WEDDING DAY CATERING was in violation of
13 California Labor Code sections 2800 and 2802.

14 62. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
15 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
16 Defendants’ failure to indemnify Plaintiff for the reasonable expenses she incurred in the course
17 of performing her duties.

18 63. By reason of the above, Plaintiff is entitled to reimbursement for all necessary
19 expenditures and losses and interest due and owing to within three years (3) of the date of the
20 filing of the Complaint until the date of entry of judgment pursuant to California Labor Code §
21 2802(b). Further, Plaintiff seeks reasonable attorney’s fees pursuant to Labor Code § 2802(c).

22 **FIFTH CAUSE OF ACTION**

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

24 **(California Labor Code Section 226)**

25 **(By Plaintiff against all Defendants)**

26 64. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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

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

67. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to the 1-year period immediately preceding the date this lawsuit was filed.

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

69. 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.

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS

(California Labor Code Sections 201-203)

(By Plaintiff against all Defendants)

70. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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

1 72. Pursuant to California Labor Code Section 202, when an employee resigns, the
2 employer must pay all compensation due and owing within 72 hours of resignation, or on the
3 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

4 73. Pursuant to California Labor Code Section 203, if an employer willfully fails to
5 pay, without abatement or reduction, any wages of an employee whose employment ends, the
6 wages of the employee shall continue as a penalty from the due date at the same rate until paid
7 or until an action is commenced; however, the wages shall not continue for more than 30 days
8 for failure to pay an employee owed wages.

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

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

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

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

21 **SEVENTH CAUSE OF ACTION**

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

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

24 **(By Plaintiff against all Defendants)**

25 78. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

26 79. California Labor Code Section 204 establishes the fundamental right of all
27 employees in the State of California to be paid wages in a timely fashion for their work.

28 80. At all times relevant during the liability period, Defendants failed to pay

1 Plaintiff the full amount of all owed wages when due as required by California Labor Code
2 Section 204.

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

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

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

15 **EIGHTH CAUSE OF ACTION**

16 **FAILURE TO PROVIDE PERSONNEL RECORDS**

17 **(Plaintiff against Defendants)**

18 84. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

19 85. Labor Code section 1198.5 dictates "every current and former employee, or his
20 or her representative, has the right to inspect and receive a copy of the personnel records that
21 the employer maintains relating to the employee's performance or to any grievance concerning
22 the employee."

23 86. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the
24 employer shall make the contents of those personnel records available for inspection to the
25 current or former employee, or his or her representative, at reasonable intervals and at
26 reasonable times..." On information and belief, Defendants intentionally failed to provide
27 Plaintiff with personnel records when requested by Plaintiff via letter on April 1, 2024, as
28 required by law. Plaintiff requested her personnel records in accordance with California Labor

1 Code section 1198.5(k) on April 1, 2024 via certified U.S. mail.

2 87. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her
3 records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
4 suffered and continues to suffer substantial losses related to Defendants' failure to provide
5 personnel records.

6 88. Plaintiff seeks all available remedies for Defendants' violations including, but
7 not limited to penalties, and costs to the extent permitted by law and according to proof at trial.
8 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
9 amount of \$750.00, along with costs and attorney's fees.

10 **NINTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE PAY RECORDS**

12 **(Plaintiff against all Defendants)**

13 89. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

14 90. Labor Code section 226 sub-section (b) dictates "an employer...shall afford
15 current and former employees the right to inspect or copy records pertaining to their
16 employment, upon reasonable request to the employer..."

17 91. Moreover, pursuant to sub-section (c) of Labor Code section 226, "an employer
18 who receives a written or oral request to inspect or copy records pursuant to subdivision (b)
19 pertaining to a current or former employee shall comply with the request as soon as practicable,
20 but no later than 21 calendar days from the date of the request." On information and belief,
21 Defendants intentionally failed to provide Plaintiff with pay records when requested by
22 Plaintiff via letter, on April 1, 2024, and as required by law. Plaintiff requested her pay records
23 in accordance with California Labor Code section 226 on April 1, 2024, via U.S. certified mail.
24 Defendants failed to provide Plaintiff with an opportunity to inspect or copy her pay records
25 within 21 days.

26 92. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered
27 and continues to suffer substantial losses related to Defendants' failure to provide pay records.
28 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the

1 amount of \$750.00, along with costs and attorney's fees.

2 93. Plaintiff seeks all available remedies for Defendants' violations including, but
3 not limited to, penalties and costs to the extent permitted by law and according to proof at trial.

4 **TENTH CAUSE OF ACTION**

5 **CIVIL PENALTIES**

6 **(Lab. Code §§ 2698, *et seq.*)**

7 **(By Plaintiff against all Defendants)**

8 94. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

9 95. Plaintiff is an Aggrieved Employee under the Private Attorneys General Act of
10 2004 ("PAGA") because she was employed by Defendants during the applicable statutory
11 period and suffered one or more of the violations of the Labor Code set forth in this Complaint.
12 Plaintiff seeks to recover on her own behalf, on behalf of the State of California, and on behalf
13 of all current and former Aggrieved Employees of Defendants, the civil penalties provided by
14 PAGA, plus reasonable attorney's fees and costs.

15 96. During the applicable time period, Defendants violated California Labor Code
16 §§ 98.6, 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1102.5, 1174, 1194, 1197, 1198, and
17 2802.

18 97. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
19 behalf of themselves and other current or former employees, to bring a civil action to recover
20 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

21 98. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the
22 Aggrieved Employees are entitled to recover civil penalties for each of the Defendants'
23 violations of California Labor Code §§ 98.6, 201, 202, 203, 204, 226, 226.7, 510, 512, 558,
24 1102.5, 1174, 1194, 1197, 1198, and 2802 during the applicable limitations period in the
25 following amounts:

26 A. For violations of California Labor Code § 204, one hundred dollars
27 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
28 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts

1 established by California Labor Code § 210).

2 B. For violations of California Labor Code § 226(a), two hundred fifty
3 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars
4 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
5 established by California Labor Code § 226.3).

6 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
7 (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars (\$100.00)
8 for each Aggrieved Employee for each subsequent violation (penalty amounts established by
9 California Labor Code § 558).

10 D. For violations of California Labor Code § 1174, five hundred dollars
11 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
12 California Labor Code § 1174.5).

13 E. For violations of California Labor Code § 1197, one hundred dollars
14 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
15 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
16 per pay period (regardless of whether the initial violations were intentionally committed)
17 (penalty amounts established by California Labor Code § 1197.1).

18 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
19 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period
20 for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per
21 pay period for each subsequent violation (penalty amounts established by California Labor
22 Code § 2699(f)(2)).

23 G. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff individually
24 is entitled to recover civil penalties for each of the Defendants' violations of California Labor
25 Code §§ 98.6 and 1102.5 during the applicable limitations period in the following amounts:

26 1) For violations of California Labor Code § 98.6, an amount not to
27 exceed \$10,000 for each violation by Defendants of California Labor Code § 98.6(a), as well as
28 attorney's fees and costs under Labor Code § 2699(g) (penalty amounts established by

1 California Labor Code § 98.6(b)(3)).

2 2) For violations of California Labor Code § 1102.5, an amount not
3 to exceed \$10,000 for each violation by Defendants of California Labor Code § 1102.5(c), as
4 well as attorney's fees and costs under Labor Code § 2699(g) (penalty amounts established by
5 California Labor Code § 1102.5(f)).

6 99. Plaintiff has complied with the procedures for bringing suit specified in
7 California Labor Code § 2699.3. By letters dated April 1, 2024 and April 29, 2024, Plaintiff
8 filed written notices online with the Labor and Workforce Development Agency (“LWDA”)
9 and gave written notices by certified mail to Defendants of the specific provisions of the
10 California Labor Code alleged to have been violated, including the facts and theories to support
11 the alleged violations. Plaintiff accompanied her LWDA notice with a fee in the amount of
12 \$75.00. The LWDA has failed to take action in response within 65 calendar days of the date of
13 Plaintiff’s notice.

14 100. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
15 Employees are entitled to an award of civil penalties and reasonable attorney’s fees and costs in
16 connection with their claims for civil penalties.

17 **ELEVENTH CAUSE OF ACTION**

18 **DISABILITY DISCRIMINATION**

19 **(Gov. Code, §§ 12926(m), 12940(a))**

20 **(By Plaintiff against all Defendants)**

21 101. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

22 102. Defendants and DOES 1 to 25, inclusive, are covered employers under
23 California’s Fair Employment and Housing Act (“FEHA”).

24 103. According to Government Code section 12940(a), it is an unlawful employment
25 practice for an employer to discharge a person from employment because of a physical
26 disability. (*Id.* § 12926(m)).

27 104. At all times, Plaintiff performed her work with the utmost diligence and
28 competence and she never engaged in misconduct. Defendants had no complaints about

1 Plaintiff's work performance or behavior.

2 105. Plaintiff's work injury to her head, which was debilitating, and which limited a
3 major life activity, qualifies as a disability under FEHA, and Plaintiff was entitled to its
4 protection.

5 106. Defendants knew of Plaintiff's disability and violated California Government
6 Code section 12940 et. seq. by discriminating against Plaintiff on the basis of her physical
7 disability by continuing to send her to venues that entailed a heavier work load despite her
8 limitations. Such discrimination constituted unlawful discrimination in violation of California
9 Government Code sections 12926(m) and 12940(a).

10 107. As a proximate result of the conduct of the Defendants, Plaintiff has suffered
11 and will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
12 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer
13 physical and emotional injuries, including nervousness, humiliation, depression, anguish,
14 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's
15 damages will be ascertained at trial.

16 108. In committing the foregoing acts, Defendants have been guilty of oppression,
17 fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to
18 punitive damages in a sum appropriate to punish and make an example out of the foregoing
19 Defendants.

20 109. The acts of oppression, fraud, and/or malice, were engaged in by employees of
21 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
22 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
23 wrongful conduct for which an award of punitive damages is sought, and/or was personally
24 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
25 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
26 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
27 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
28 California Civil Code section 3294 in a sum appropriate to punish and make an example of

1 each Defendant.

2 110. FEHA provides for an award of reasonable attorneys' fees and costs incurred by
3 a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
4 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
5 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
6 award of attorneys' fees and costs.

7 **TWELFTH CAUSE OF ACTION**

8 **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS**

9 **(Gov. Code, §12940(n))**

10 **(By Plaintiff against all Defendants)**

11 111. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

12 112. Defendants and DOES 1 to 25, inclusive, are covered employers under
13 California's Fair Employment and Housing Act ("FEHA").

14 113. At all relevant times, Plaintiff was an employee of Defendants with a physical
15 disability – a head injury – which is a disability that is protected under FEHA.

16 114. Under California Government Code section 12940(n), the employer must engage
17 in a timely, good faith interactive process in response to a request for reasonable
18 accommodation by an employee with a known physical or mental disability or known medical
19 condition. The employer must initiate this process if the employee's disability is known or
20 apparent by making known to the employee other suitable job opportunities. Absent evidence of
21 undue hardship to the employer, the employer should give preference to the employee's
22 requested accommodation during this process.

23 115. As set forth in the allegations above, Defendants, and each of them, were aware
24 of Plaintiff's disability and failed to engage in the interactive process with Plaintiff to determine
25 effective reasonable accommodations as required by California Government Code section
26 12940(n) and 12926.1(e).

27 116. Had Defendants, and each of them, engaged in a timely good faith interactive
28 process, there were reasonable accommodations that would have accommodated Plaintiff's

1 disability.

2 117. As a direct and proximate result of the conduct of Defendants, and each of them,
3 Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, salary, benefits, and
4 additional amounts of money Plaintiff would have received if Plaintiff had been afforded a good
5 faith interactive process. As a result, Plaintiff has suffered such damages in an amount
6 according to proof.

7 118. As a further direct and proximate result of the conduct of Defendants, and each
8 of them, Plaintiff has been harmed in that Plaintiff has suffered the intangible loss of
9 employment-related opportunities. As a result, Plaintiff has suffered such damages in an amount
10 according to proof.

11 119. As a further direct and proximate result of the conduct of Defendants, and each
12 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish,
13 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
14 suffered such damages in an amount according to proof.

15 120. The above-recited actions of Defendants, and each of them, were done with
16 malice, fraud, oppression, and in reckless disregard of Plaintiff's rights under the FEHA.
17 Accordingly, Plaintiff is entitled to an award of punitive damages.

18 **THIRTEENTH CAUSE OF ACTION**
19 **FAILURE TO ACCOMMODATE DISABILITY**
20 **(Gov. Code, § 12940(m))**
21 **(By Plaintiff against all Defendants)**

22 121. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

23 122. Defendants and DOES 1 to 25, inclusive, are covered employers under
24 California's Fair Employment and Housing Act ("FEHA").

25 123. At all relevant times, Plaintiff was an employee of Defendants with a physical
26 disability – a head injury – which is a disability that is protected under FEHA.

27 124. California Government Code section 12940(m) makes it unlawful "[f]or an
28 employer or other entity...to fail to make reasonable accommodation for the known physical or

1 mental disability of an applicant or employee.”

2 125. As set forth above, Plaintiff provided Defendants with a work restriction letter
3 from her physician based on her physical disability, but rather than accommodating Plaintiff’s
4 physical disability, Defendants insisted on sending her to venues that entailed a heavier
5 workload despite her limitations.

6 126. As a proximate result of the conduct of the Defendants, Plaintiff has suffered and
7 will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
8 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical
9 and emotional injuries, including nervousness, humiliation, depression, anguish,
10 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff’s
11 damages will be ascertained at trial.

12 127. In committing the foregoing acts, Defendants have been guilty of oppression,
13 fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to
14 punitive damages in a sum appropriate to punish and make an example out of the foregoing
15 Defendants.

16 128. The acts of oppression, fraud, and/or malice, were engaged in by employees of
17 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
18 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
19 wrongful conduct for which an award of punitive damages is sought, and/or was personally
20 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
21 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
22 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
23 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
24 California Civil Code section 3294 in a sum appropriate to punish and make an example of each
25 Defendant.

26 129. FEHA provides for an award of reasonable attorneys’ fees and costs incurred by
27 a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
28 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has

1 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
2 award of attorneys' fees and costs.

3 **FOURTEENTH CAUSE OF ACTION**
4 **RETALIATION IN VIOLATION OF THE FEHA**
5 **(Gov. Code, § 12940(h))**
6 **(By Plaintiff against all Defendants)**

7 130. Plaintiff incorporates by reference each and every paragraph of this Complaint
8 as if fully alleged herein.

9 131. Defendants and DOES 1 to 25, inclusive, are covered employers under
10 California's Fair Employment and Housing Act ("FEHA").

11 132. At all relevant times, Plaintiff was an employee of Defendants with a physical
12 disability – a head injury – which is a disability that is protected under FEHA.

13 133. The California Fair Employment and Housing Act (FEHA), Government Code
14 section 12900 et seq., provides that it is illegal for an employer to retaliate against an
15 employee who has opposed any practices that violated the FEHA. (*Id.* § 12940(h).)

16 134. As alleged above, Defendants retaliated against Plaintiff and scheduled her to
17 work at the venues that entailed a heavier workload, despite her limitations and terminated her
18 employment as a result of her physical disability.

19 135. As a direct and proximate result of Defendants' conduct, Plaintiff has been
20 harmed in that Plaintiff has suffered the loss of wages, salary, and benefits, among other
21 things. As a result, Plaintiff has suffered such damages in an amount according to proof.

22 136. As a further direct and proximate result of the conduct of Defendants, and each
23 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish
24 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
25 suffered such damages in an amount according to proof.

26 137. The acts of oppression, fraud, and/or malice, were engaged in by employees of
27 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
28 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the

1 wrongful conduct for which an award of punitive damages is sought, and/or was personally
2 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
3 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
4 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
5 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance
6 with California Civil Code section 3294 in a sum appropriate to punish and make an example
7 of each Defendant.

8 138. FEHA provides for an award of reasonable attorneys' fees and costs incurred
9 by a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and
10 will continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
11 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
12 award of attorneys' fees and costs.

13 **FIFTEENTH CAUSE OF ACTION**
14 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION**
15 **IN VIOLATION OF THE FEHA**
16 **(Gov. Code, §§ 12940(k))**
17 **(By Plaintiff against all Defendants)**

18 139. Plaintiff incorporates by reference each and every paragraph of this Complaint
19 as if fully alleged herein.

20 140. Plaintiff was and is at all times relevant hereto an employee covered by
21 Government Code § 12926(c).

22 141. Defendants were at all times relevant hereto employers who employed five or
23 more persons within the meaning of Government Code § 12926(d), and California
24 Government Code §§ 12940, et seq., was in full force and effect and was binding on
25 Defendants.

26 142. The Fair Employment and Housing Act ("FEHA") prohibits an employer to fail
27 to take all reasonable steps necessary to prevent discrimination from occurring. Cal. Gov.
28 Code §12940(k).

1 143. During the course of Plaintiff's employment, Defendants failed to prevent their
2 employees, including management, from engaging in intentional actions that resulted in
3 Plaintiff being treated less favorably and eventually being terminated because of Plaintiff's
4 protected status (i.e. her physical disability). During the course of Plaintiff's employment,
5 Defendants failed to prevent their employees from engaging in unjustified employment
6 practices against employees in such protected classes. During the course of Plaintiff's
7 employment, Defendants failed to prevent a pattern and practice by its employees of intentional
8 discrimination and retaliation on the basis of physical disability, and/or other protected status
9 and/or protected activity.

10 144. Defendants subjected Plaintiff to unlawful discrimination by scheduling her to
11 work at the venues that entailed a heavier workload despite her physical disability and her
12 limitations in violation of Cal. Gov. Code § 12940(a).

13 145. As a proximate result of the wrongful acts of Defendants, Plaintiff has been
14 harmed in that Plaintiff has suffered actual, consequential and incidental financial losses,
15 including without limitation, loss of salary and benefits, and the intangible loss of
16 employment-related opportunities and damage to her professional reputation, all in an amount
17 subject to proof at the time of trial. Plaintiff claims such amounts as damages together with
18 prejudgment interest pursuant to Civil Code Sections 3287 and/or § 3288 and/or any other
19 provision of law providing for prejudgment interest.

20 146. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered
21 and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and
22 emotional distress. Plaintiff is informed and believes and thereon alleges that she will continue
23 to experience said emotional suffering for a period in the future she cannot presently ascertain,
24 all in an amount subject to proof at the time of trial.

25 147. The acts taken toward Plaintiff were carried out by and/or ratified by
26 Defendants and/or managing agent employees of Defendants acting in a despicable,
27 oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner in order to
28

1 injure and damage Plaintiff, thereby justifying an award to her of punitive damages in a sum
2 appropriate to punish and make an example of Defendants.

3 **SIXTEENTH CAUSE OF ACTION**

4 **RETALIATION**

5 **(Lab. Code § 98.6)**

6 **(By Plaintiff against all Defendants)**

7 148. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

8 149. According to Labor Code section 98.6, subdivision (a), a person shall not
9 discharge an employee because the employee has filed a bona fide complaint or claim relating
10 to his or her rights that are under the jurisdiction of the Labor Commissioner, made a written
11 or oral complaint that he or she is owed unpaid wages, or because of the exercise of any right
12 afforded him or her.

13 150. Defendants were employers for purposes of California law.

14 151. Plaintiff was an employee of Defendants, performing work on behalf of
15 Defendants.

16 152. During the course of her employment, Plaintiff complained to Defendants'
17 ownership/management regarding improper pay and not receiving proper statutory meal and
18 rest breaks. Because of her complaints regarding WEDDING DAY CATERING's
19 noncompliance with the California Labor Code, WEDDING DAY CATERING retaliated
20 against Plaintiff, started sending her to venues that entailed a heavier work load, and
21 terminated her employment in violation of Labor Code § 98.6.

22 153. The foregoing conduct engaged in by Defendants and each of their directors,
23 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
24 ratified, and carried on with a conscious and willful disregard of their workers' right to work
25 in an environment free of retaliation and labor code violations, so as to justify the imposition
26 of punitive damages to punish and set an example of said Defendants.

27 ///

28 ///

1 and future), and will continue to suffer in the future, in an amount to be proved at trial.

2 161. Plaintiff requests all available relief under Labor Code § 1102.5 including
3 damages and the imposition of civil penalties of \$10,000 for each violation as well as
4 attorney's fees.

5 162. The foregoing conduct engaged in by Defendants and each of their directors,
6 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
7 ratified, and carried on with a conscious and willful disregard of their workers' right to work
8 in an environment free of retaliation and labor code violations, so as to justify the imposition
9 of punitive damages to punish and set an example of said Defendants.

10 **EIGHTEENTH CAUSE OF ACTION**

11 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

12 **(By Plaintiff against all Defendants)**

13 163. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

14 164. At all times during her employment with Defendants, Plaintiff performed her
15 duties with the utmost diligence and competence.

16 165. The state statutes recited below embody fundamental, substantial, and well-
17 established public policies of the United States and State of California. By terminating
18 Plaintiff, Defendants violated these fundamental, substantial, and well-established public
19 policies.

20 (A) According to Labor Code section 1102.5, subdivision (b), an employer
21 shall not retaliate against an employee for disclosing information to a person with authority
22 over the employee who has the authority to correct the violation if the employee has
23 reasonable cause to believe that the information "discloses a violation of state or federal
24 statute, or a violation of or noncompliance with a local, state, or federal rule or regulation."

25 (B) According to Labor Code section 98.6, subdivision (a), a person shall
26 not discharge an employee because the employee has made a written or oral complaint that he
27 or she is owed unpaid wages or because of the exercise of any right afforded him or her.

28 (C) According to Government Code section 12940(a), it is an unlawful

1 employment practice for an employer to discharge a person from employment because of a
2 physical disability.

3 (D) In *Franklin v. Monadnock Co.* (2007) 151 Cal.App.4th 252, 260 the Court
4 stated, “An employer may not discharge an at will employee for a reason that violates
5 fundamental public policy. This exception is enforced through tort law by permitting the
6 discharged employee to assert against the employer a cause of action for wrongful discharge in
7 violation of fundamental public policy.

8 166. During the course of her employment, Plaintiff complained to Defendants’
9 ownership/management regarding an unsafe and hostile working environment, improper pay,
10 not receiving proper statutory meal and rest breaks, and discrimination. Because of her
11 complaints regarding Defendants’ noncompliance with the California Labor Code and the
12 FEHA, Defendants’ retaliated against Plaintiff and wrongfully terminated her employment on
13 or around March 20, 2024 in violation of California Labor Code § 1102.5(b). Moreover,
14 Plaintiff was forced to hire an attorney to assist her to end these illegal activities.

15 167. As set forth above, said actions by Defendants were wrongful and in violation
16 of the fundamental principles of the public policy of the State of California as reflected in its
17 laws, objectives and policies. Said statutes and constitutional expressions of public policy
18 include, but are not limited to, the California Labor Code, the FEHA, and the California
19 Constitution, Article 1 section 8. These laws inure to the benefit of the public at large, and not
20 just the private interests of the employers and employees whom they govern or protect.

21 168. As a direct and proximate result of the aforementioned acts and omissions of
22 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
23 loss of income (past and future), loss of employment benefits (past and future), general and
24 compensatory damages (past and future), mental pain and anguish and emotional distress (past
25 and future), and will continue to suffer in the future, in an amount to be proved at trial.

26 169. The foregoing conduct engaged in by Defendants and each of their directors,
27 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
28 ratified, and carried on with a conscious and willful disregard of their workers’ right to work in

1 an environment free of retaliation and labor code violations, so as to justify the imposition of
2 punitive damages to punish and set an example of said Defendants.

3 **NINETEENTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

5 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

6 **(By Plaintiff against all Defendants)**

7 170. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

8 171. At all relevant times during the applicable limitations period, Plaintiff has been
9 an employee of Defendants and entitled to the benefits and protections of the Business and
10 Professions Code §§ 17200, *et seq.*

11 172. Defendants engaged in unfair competition by failing to 1) pay Plaintiff for all
12 hours worked at the correct rates of pay and 2) pay Plaintiff premium wages for workdays
13 during which one or more meal or rest periods were not provided, and 3) reimburse Plaintiff
14 for necessary business expenses incurred in the course of performing her duties.

15 173. The unlawful conduct of Defendants alleged herein amounts to and constitutes
16 unfair competition within the meaning of California Business & Professions Code §§ 17200,
17 *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
18 unfairly gained a competitive advantage over other comparable companies doing business in
19 California that comply with their legal obligations to, among other things, refrain from
20 discriminatory and retaliatory practices and prevent discrimination and retaliation, pay their
21 employees premium wages for workdays in which they did not provide employees with one or
22 more meal and rest periods, indemnify them for all business expenses incurred during the
23 course of performing their duties, including, but not limited to, mobile phone expenses, and
24 pay them all wages earned.

25 174. As a result of Defendants' unfair competition as alleged herein, Plaintiff has
26 suffered injuries in fact and lost money or property. Defendants failed to pay Plaintiff for all
27 hours worked, failed to provide her with premium wages for missed meal and rest periods, and
28 failed to reimburse Plaintiff for all expenses she incurred in the course of performing her

1 duties.

2 175. Pursuant to California Business & Professions Code § 17203, Plaintiff is
3 entitled to restitution of all monies rightfully belonging to her that Defendants did not pay her
4 or otherwise retained by means of their unlawful and unfair business practices.

5 176. Plaintiff is entitled to reasonable attorneys' fees in connection with her unfair
6 competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial
7 benefit doctrine and/or the common fund doctrine.

8 177. Accordingly, with respect to this cause of action, Plaintiff prays for the herein
9 stated relief, and an award of all reasonable costs and attorneys' fees, including interest
10 thereon, as permitted by law, all in amounts subject to proof.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

- 13 1. For compensatory damages including lost past and future wages, commissions, and all
14 other sums of money, including employment benefits, together with interest on said
15 amounts, and any other economic injury to Plaintiff, according to proof;
- 16 2. For general damages according to proof;
- 17 3. For special and consequential damages to the extent allowed by law;
- 18 4. For punitive and exemplary damages against corporate Defendant in an amount subject
19 to proof;
- 20 5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
21 subject to proof at trial;
- 22 6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
23 7. proof at trial;
- 24 8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
25 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 26 9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
27 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 28 10. For maximum civil penalties available under the Labor Code and applicable Wage

- 1 Order against Defendants as described more particularly in the Complaint;
- 2 11. For restitution and disgorgement for all unfair business practices by corporate
- 3 Defendants against Plaintiff in an amount according to proof;
- 4 12. For an order enjoining corporate Defendants from further unfair and unlawful business
- 5 practices in violation of Business and Professions Code Sections 17200, et seq.;
- 6 13. For all remedies available to Plaintiff under the applicable Wage Order and the Labor
- 7 Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated
- 8 damages, damages, penalties, and waiting time penalties according to proof to the
- 9 extent permitted by law;
- 10 14. For the imposition of civil penalties and/or statutory penalties;
- 11 15. For all interest as allowed by law;
- 12 16. For all costs and disbursements incurred in this suit;
- 13 17. Reasonable attorney's fees where available by law, including but not limited to,
- 14 pursuant to, Labor Code section 2698 *et seq.*, the FEHA, Code of Civil Procedure
- 15 section 1021.5, and/or other applicable laws; and
- 16 18. For such other and further relief as this Court may deem proper.

17 **DEMAND FOR JURY TRIAL**

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

19

20 Dated: June 17, 2024

MM LAW, APC

21 By Maralle Messrelian

22 Maralle Messrelian, Esq.

23 Attorney for Plaintiff,

24 BELEN FAVIOLA DUARTE SALINAS

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