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LUIS ALEJANDRO RODRIGUEZ

FILED
Superior Court of California
County of Los Angeles

08/06/2024

David W. Slayton, Executive Officer / Clerk of Court

By: N. Osollo Deputy

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

LUIS ALEJANDRO RODRIGUEZ, an
individual,

Plaintiff,

v.

EZK LIQUIDATORS, INC., an unknown
corporation; EZK LIQUIDATOR, INC., a
California corporation; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 24STCV15867

Assigned to the Honorable Anne Richardson,
Dept. 40

**FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:**

1. **DISCRIMINATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
2. **RETALIATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
3. **FAILURE TO PREVENT
DISCRIMINATION, AND RETALIATION
IN VIOLATION OF GOV'T CODE
§12940(k);**
4. **FAILURE TO PROVIDE REASONABLE
ACCOMMODATIONS IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
5. **FAILURE TO ENGAGE IN A GOOD
FAITH INTERACTIVE PROCESS IN
VIOLATION OF GOV'T CODE §§12940 ET
SEQ.;**
6. **RETALIATION (LAB. CODE §98.6);**
7. **RETALIATION (LAB. CODE §§1102.5,
1102.6);**
8. **WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**

1 9. FAILURE TO PAY WAGES (CAL. LABOR
CODE §§201, 1194);

2 10. FAILURE TO PAY OVERTIME
3 COMPENSATION (CAL. LABOR CODE
§§510, 1194);

4 11. FAILURE TO PROVIDE MEAL AND
5 REST PERIODS (CAL. LABOR CODE
§§226.7, 512);

6 12. FAILURE TO PROVIDE ITEMIZED
7 WAGE AND HOUR STATEMENTS (CAL.
LABOR CODE §§226, ET SEQ.);

8 13. WAITING TIME PENALTIES (CAL.
9 LABOR CODE §§201-203);

10 14. PRIVATE ATTORNEY GENERAL ACT
(CAL. LABOR CODE §2699, ET SEQ.);

11 15. FAILURE TO PERMIT INSPECTION OF
12 PERSONNEL AND PAYROLL RECORDS
(CAL. LABOR CODE §§226 AND 1198.5);
13 AND

14 16. UNFAIR COMPETITION (BUS. & PROF.
CODE §17200 ET SEQ.); AND

15 DEMAND OVER \$25,000

16 [DEMAND FOR JURY TRIAL]

17 COMES NOW PLAINTIFF, LUIS ALEJANDRO RODRIGUEZ, and for causes of action
18 against the Defendants and each of them, alleges as follows:

19
20 **JURISDICTION**

21 1. This Court is the proper court, and this action is properly filed in Los Angeles County, because
22 Defendants' obligations and liability arise therein, because Defendants maintain offices and transact
23 business within Los Angeles County, and because the work that is the subject of this action was
24 performed by Plaintiff in Los Angeles County.

25
26 **THE PARTIES**

27 2. Plaintiff, LUIS ALEJANDRO RODRIGUEZ, is and at all times relevant hereto was a resident of the
28 County of Los Angeles, State of California.

- 1 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto,
2 Defendant EZK LIQUIDATORS, INC. (hereinafter referred to as “EZK”) was and is an unknown
3 corporation doing business at 11992 Hawthorne Blvd., Hawthorne, in the County of Los Angeles,
4 State of California.
- 5 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto,
6 Defendant EZK LIQUIDATOR, INC. (hereinafter referred to as “EZKs”) was and is a California
7 corporation doing business at 13800 Van Ness Ave., Gardena, in the County of Los Angeles, State of
8 California.
- 9 5. EZK and EZKs are hereinafter collectively referred to as “Employers.”
- 10 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto,
11 Employers owned and operated a private car rental company.
- 12 7. At all times relevant herein, Employers and DOES 1-20 were Plaintiff’s employers, joint employers
13 and/or special employers within the meaning of Government Code §§12926, subdivision (d), 12940,
14 subdivisions (a), (h), (1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more persons
15 and are therefore subject to the jurisdiction of this Court.
- 16 8. At all times relevant herein, Employers and DOES 1-20 were Plaintiff’s employers, joint employers
17 and/or special employers within the meaning of the Labor Code and Industrial Welfare Commission
18 Order No. 4-2001 and are each any “employer or other person acting on behalf of an employer” as
19 such term is used in Labor Code section 558, and liable to Plaintiff on that basis.
- 20 9. The true names and capacities, whether individual, corporate, associate, or otherwise, of the
21 Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
22 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint
23 to insert the true names and capacities of said Defendants when the same become known to Plaintiff.
24 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
25 Defendants is responsible for the wrongful acts alleged herein and is therefore liable to Plaintiff as
26 alleged hereinafter.
- 27 10. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto,
28 Defendants, and each of them, were the agents, employees, managing agents, supervisors,

coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or joint venture and with the permission and consent of each of the other Defendants.

11. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANTS, acted in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANTS, and each of them, formed and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff harm.

12. Whenever and wherever reference is made in this complaint to any act or failure to act by a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each Defendant acting individually, jointly and severally.

13. Plaintiff has filed complaints of discrimination, retaliation, failure to prevent discrimination or retaliation, failure to accommodate, failure to engage in the interactive process, and wrongful termination under Government Code §§12940, et seq., the California Fair Employment and Housing Act ("FEHA") with the California Civil Rights Department ("CRD") and has satisfied Plaintiff's administrative prerequisites with respect to these and all related filings.

ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER

14. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between Employers and DOES 1-20 that the individuality and separateness of defendants have ceased to exist.

1 15. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of purported
2 corporate existence, Employers and DOES 1-20 are, in reality, one and the same, including, but not
3 limited to because:

4 a. Employers are completely dominated and controlled by one another and DOES 1-
5 20, who personally committed the frauds and violated the laws as set forth in this complaint, and who
6 have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or
7 accomplish some other wrongful or inequitable purpose.

8 b. Employers and DOES 1-20 derive actual and significant monetary benefits by and
9 through one another's unlawful conduct, and by using one another as the funding source for their own
10 personal expenditures.

11 c. Employers and DOES 1-20, while really one and the same, were segregated to
12 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
13 accomplishing some other wrongful or inequitable purpose.

14 d. Employers do not comply with all requisite corporate formalities to maintain a
15 legal and separate corporate existence.

16 e. The business affairs of Employers and DOES 1-20 are, and at all times relevant
17 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
18 inextricable confusion. Employers are, and at all times relevant hereto were, used by one another and
19 DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and
20 were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of
21 Defendants would not promote justice, in that it would permit Defendants to insulate themselves from
22 liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate
23 existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice
24 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

25 16. Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the fiction of
26 their separate corporate existence must be disregarded.

27 17. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges
28 that Employers and DOES 1-20 are Plaintiff's joint employers by virtue of a joint enterprise, and that

1 Plaintiff was an employee of Employers and DOES 1-20. Plaintiff performed services for each and
2 every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared
3 control of Plaintiff as an employee, either directly or indirectly, and the manner in which Defendants'
4 business was and is conducted.

5 18. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and between
6 DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of assumption
7 pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other
8 Defendants, (2) the transaction between Employers and/or DOES 1-20 and the other Defendants
9 amounts to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are
10 a mere continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES
11 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly,
12 Employers and/or DOES 1-20 are the successors of one or more of the other Defendants and are liable
13 on that basis.

14 15 **FACTUAL ALLEGATIONS**

16 19. Luis Alejandro Rodriguez ("Plaintiff") was hired by EZK Liquidators, Inc. and EZK
17 Liquidator, Inc. (collectively "Employer") as the lot manager in or about November 2021. Plaintiff
18 performed his job duties satisfactorily until he was wrongfully terminated on or about October 1, 2023.

19 20. In or around April 2023, Plaintiff suffered a panic attack at work and had to be taken to
20 the emergency room by ambulance. After Plaintiff returned to work, he explained to his supervisors, Eric
21 Kwan and Oscar Rodriguez, that he was overwhelmed at work because he was short staffed and needed
22 Employer to hire additional staff. Plaintiff complained that he was short staffed, he was suffering on
23 going back pain while performing his work, and that he was unable to take his meal and rest breaks and
24 if he was able to take his breaks, they were more often than not interrupted. Eric and Oscar did not
25 address Plaintiff's concerns and told him that it was his responsibility to manage his team.

26 21. In or around July 2023, Plaintiff suffered another panic attack at work and was taken to
27 the emergency room by ambulance complaining of chest pains and tingling sensations to his arms. Again,
28 upon Plaintiff's release from the hospital he expressed his concerns about back pain, being overwhelmed

1 at work to the point of panic attacks, being short-staffed and not being able to take his meal and rest
2 breaks. Again, Eric and Oscar did not address Plaintiff's concerns and told him that it was his
3 responsibility to manage his team. In retaliation for his continuing complaints and requests for
4 accommodation, Eric and Oscar changed Plaintiff's schedule from four days a week for ten hours a day
5 to five days a week for eight hours a day. Plaintiff protested this change as it allowed Mr. Rodriguez less
6 days off a week to decompress from work, which would exacerbate his panic attack disorder.

7 22. In on around August 17, 2023, Plaintiff was hospitalized due to his ongoing back pain.
8 Plaintiff's panic attacks and back condition limited a major life activity of working, thus constituted a
9 disability. He was discharged from the hospital on August 18, 2023. Plaintiff notified his supervisors,
10 Eric and Oscar, and told them his doctor prescribed work restrictions that precluded him from heavy
11 lifting and repetitive bending. Plaintiff's job duties required that he clean upwards of 100 cars by
12 vacuuming, cleaning windows, tires, washing the inside and outside of the vehicle, which required a lot
13 of bending and heavy lifting of materials and tools. Oscar Rodriguez told Plaintiff that he didn't need to
14 see his work restrictions. Plaintiff asked that he be accommodated by temporarily working an open
15 customer service position while he sought treatment for his back pain. Oscar told Plaintiff that he could
16 not accommodate him and that he needs to continue working in his usual position. Because Mr.
17 Rodriguez was forced to work outside his work restrictions, his condition continued to deteriorate, and
18 he continued to complain that he needed to be accommodated. Plaintiff was forced to miss work due to
19 his disability.

20 23. In or around October 2023, Plaintiff was terminated under pretextual reasons.

21 24. Based on the events set forth above, Plaintiff believes Respondents discriminated,
22 harassed and retaliated against and terminated Plaintiff based upon his disability, real or perceived,
23 medical condition, real or perceived, engagement in protected activities, denied accommodation, denied
24 an interactive process, & actually or constructively and wrongfully terminated Plaintiff. Respondents
25 failed & refused to stop and prevent discrimination, harassment and retaliation against Plaintiff & Plaintiff
26 was actually or constructively wrongfully terminated. In the event that Respondent claim that Plaintiff
27 was not terminated, then Respondents have failed and continue to fail to engage in a good faith interactive
28 process to provide reasonable accommodations and return Plaintiff to his employment.

- 1
- 2 25. Between November 2021 and October 1, 2023, Plaintiff's hourly wage rate was \$23.00. During this
- 3 time period, Plaintiff's fixed schedule was four days per week for approximately 8 to 12 hours per
- 4 day.
- 5 26. Plaintiff worked approximately 8 hours each week, for which Plaintiff received no wages at all, not
- 6 Plaintiff's hourly wage rate, or even the requisite minimum wage.
- 7 27. Plaintiff worked approximately 8 overtime hours each week but was not paid for these hours at all.
- 8 28. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of Plaintiff's right
- 9 to take statutory 10-minute rest breaks for every four hours worked or substantial portion thereof.
- 10 One or more of Plaintiff's 10-minute rest periods were [not provided/interrupted] approximately 4
- 11 times per week.
- 12 29. Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-minute meal
- 13 periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff worked.
- 14 One or more of Plaintiff's 30-minute meal periods were [not provided / interrupted] approximately 4
- 15 times per week.
- 16 30. Plaintiff's employment with Employer ended on October 1, 2023. Plaintiff was not paid the unpaid
- 17 minimum wages/overtime wages/unpaid meal and rest break compensation at the time of Plaintiff's
- 18 separation, or ever.
- 19 31. At all relevant times, Defendants failed to properly engage in a good faith interactive process in an
- 20 effort to properly accommodate Plaintiff's disability and/or medical condition such that Plaintiff
- 21 could continue working for Defendants.
- 22 32. At all relevant times, Defendants failed to reasonably accommodate Plaintiff even though Plaintiff
- 23 was able to perform the essential job duties of Plaintiff's position or another position with or without
- 24 accommodations.
- 25 33. Plaintiff's termination was substantially motivated by Plaintiff's disability or perceived disability,
- 26 medical condition or perceived medical condition, request for accommodation, and/or engagement in
- 27 protected activities, without any discussion of disability accommodations or any good faith attempt
- 28

1 to engage in the interactive process with Plaintiff. Defendants' discriminatory animus is evidenced
2 by the previously mentioned facts

3 34. Defendants' conduct described herein was undertaken, authorized, and/or ratified Defendants'
4 officers, directors and/or managing agents, including, but not limited to those identified herein as
5 DOES 1 through 20, who were authorized and empowered to make decisions that reflect and/or create
6 policy for Defendants. The aforementioned conduct of said managing agents and individuals was
7 therefore undertaken on behalf of Defendants who further had advanced knowledge of the actions
8 and conduct of said individuals whose actions and conduct were ratified, authorized, and approved
9 by managing agents whose precise identities are unknown to Plaintiff at this time and are therefore
10 identified and designated herein as DOES 1 through 20, inclusive.

11 35. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general and special
12 damages, including severe and profound pain and emotional distress, anxiety, depression, headaches,
13 tension, and other physical ailments, as well as medical expenses, expenses for psychological
14 counseling and treatment, and past and future lost wages and benefits.

15 36. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses, commissions,
16 benefits and loss or diminution of earning capacity.

17 37. Plaintiff claims general damages for emotional and mental distress and aggravation in a sum in excess
18 of the jurisdictional minimum of this Court.

19 38. Because the acts taken toward Plaintiff were carried out by officers, directors and/or managing agents
20 acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's
21 rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied
22 against Defendants and each of them, in sums in excess of the jurisdictional minimum of this Court.

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FIRST CAUSE OF ACTION
FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST ALL DEFENDANTS

39. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set forth in full herein.

40. At all times hereto, the FEHA was in full force and effect and was binding upon Defendants and each of them.

41. As such term is used under FEHA, "on the bases enumerated in this part" means or refers to discrimination on the bases of one or more of the protected characteristics under FEHA.

42. FEHA requires Defendants to refrain from discriminating against an employee on the basis of disability and/or medical condition, real or perceived, and to prevent discrimination and harassment on the basis of disability and/or medical condition, real or perceived, use of medical leave, and engagement in protected activities from occurring.

43. Plaintiff was a member of multiple protected classes as a result of Plaintiff's disability, medical condition and/or the perception that Plaintiff was suffering from a disability and/or medical condition.

44. At all times relevant hereto, Plaintiff was performing competently in the position Plaintiff held with Defendants.

45. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate and/or return to work, and termination, and was harmed thereby.

46. Plaintiff is informed and believes that Plaintiff's disability and/or medical condition, real and perceived, and/or some combination of these protected characteristics under Government Code §12926(j) were motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse employment actions.

47. Said conduct violates the FEHA, and such violations were a proximate cause in Plaintiff's damage as stated below.

48. The damage allegations are herein incorporated by reference.

1 49. The foregoing conduct of Defendants individually, or by and through their officers,
2 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
3 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
4 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
5 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to
6 punitive damages in an amount appropriate to punish or make an example of Defendants.

7 50. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
8 attorneys' fees and costs, including expert fees pursuant to the FEHA.

9
10 **SECOND CAUSE OF ACTION**
11 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
12 **AGAINST ALL DEFENDANTS**

13 51. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set
14 forth in full herein.

15 52. At all times hereto, the FEHA was in full force and effect and was binding upon
16 Defendants and each of them.

17 53. These laws set forth in the preceding paragraph require Defendants to refrain from
18 retaliating against an employee for engaging in protected activity.

19 54. Plaintiff engaged in the protected activities of requesting accommodation, and
20 complaining about and protesting Defendants' discriminatory and harassing conduct towards Plaintiff
21 based upon Plaintiff's disability, medical condition, real or perceived, and use of medical leave.

22 55. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
23 failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate
24 and/or return to work, and termination, and was harmed thereby.

25 56. Plaintiff is informed and believes that Plaintiff's conduct of requesting accommodation,
26 complaining about and protesting about Defendants' discriminatory and harassing conduct, and/or some
27 combination of these factors, were motivating reasons and/or factors in the decisions to subject Plaintiff
28 to the aforementioned adverse employment actions.

57. Defendants violated the FEHA by retaliating against Plaintiff and terminating Plaintiff for attempting to exercise Plaintiff's protected rights, as set forth hereinabove.

58. Plaintiff is informed and believes, and based thereon alleges, that the above acts of retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or at the direction of, each other Defendant and the other Managers.

59. The above said acts of Defendants constitute violations of the FEHA and were a proximate cause in Plaintiff's damage as stated below.

60. The damage allegations are herein incorporated by reference.

61. The foregoing conduct of Defendants individually, or by and through their officers, directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

62. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

THIRD CAUSE OF ACTION

FAILURE TO PREVENT DISCRIMINATION AND RETALIATION

IN VIOLATION OF GOV'T CODE §12940(k)

AGAINST ALL DEFENDANTS

63. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set forth in full herein.

64. At all times hereto, the FEHA, including in particular Government Code §12940(k), was in full force and effect and was binding upon Defendants. This subsection imposes a duty on Defendants to take all reasonable steps necessary to prevent discrimination, and retaliation from occurring. As alleged above, Defendants violated this subsection and breached their duty by failing to take all reasonable steps necessary to prevent discrimination, and retaliation from occurring.

1 65. The above said acts of Defendants constitute violations of the FEHA and were a proximate
2 cause in Plaintiff's damage as stated below.

3 66. The damage allegations are herein incorporated by reference.

4 67. The foregoing conduct of Defendants individually, or by and through their officers,
5 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
6 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
7 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
8 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to
9 punitive damages in an amount appropriate to punish or make an example of Defendants.

10 68. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
11 attorneys' fees and costs, including expert fees pursuant to the FEHA.

12
13 **FOURTH CAUSE OF ACTION**
14 **FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**
15 **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
16 **AGAINST ALL DEFENDANTS**

17 69. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set
18 forth in full herein.

19 70. At all times hereto, the FEHA, including in particular Government Code §12940(m), was
20 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on
21 Defendants to make reasonable accommodation for the known physical disability and/or medical
22 condition of an employee.

23 71. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
24 in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a disability, a
25 physical condition that affected Plaintiff's major life activities, and medical condition of which
26 Defendants had both actual and constructive knowledge.

27 72. At all times herein, Plaintiff was willing and able to perform the duties and functions of
28 the position in which Plaintiff was employed or could have performed the duties and functions of that

1 position with reasonable accommodations. At no time would the performance of the functions of the
2 employment position, with a reasonable accommodation for Plaintiff's disability or medical condition,
3 actual or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's health
4 or safety. Accommodation of Plaintiff's disability, real or perceived, or medical condition, real or
5 perceived by Defendants, would not have imposed an undue hardship on Defendants. Defendants failed
6 and refused to accommodate Plaintiff's disability, failed to engage in the interactive process with Plaintiff
7 and continue to violate this obligation, up to and including the date of Plaintiff's termination or, if
8 Defendant contends Plaintiff was never terminated, through the present and ongoing.

9 73. The above said acts of Defendants constitute violations of the FEHA and were a proximate
10 cause in Plaintiff's damage as stated below.

11 74. The damage allegations are herein incorporated by reference.

12 75. The foregoing conduct of Defendants individually, and/or by and through their officers,
13 directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
14 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
15 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
16 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to
17 punitive damages in an amount appropriate to punish or make an example of Defendants.

18 76. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
19 attorneys' fees and costs, including expert fees pursuant to the FEHA.

20
21 **FIFTH CAUSE OF ACTION**
22 **FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**
23 **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
24 **AGAINST ALL DEFENDANTS**

25 77. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set
26 forth in full herein.

27 78. At all times hereto, the FEHA, including in particular Government Code §12940(n), was
28 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on

1 Defendants to engage in a timely, good faith, interactive process with the employee to determine effective
2 reasonable accommodations, if any, in response to a request for reasonable accommodation by an
3 employee with a known physical disability or known medical condition and/or becoming aware of the
4 employee's need for accommodation.

5 79. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
6 in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a physical disability
7 that affected Plaintiff's major life activities, and medical condition of which Defendants had both actual
8 and constructive knowledge.

9 80. Plaintiff reported the disability to Defendants and requested accommodation, triggering
10 Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein,
11 Defendants failed and refused to do so. Thereafter, despite Defendants continuing obligation to engage
12 in the interactive process with Plaintiff, despite Plaintiff's submission of a doctors' notes identifying
13 Plaintiff's condition and Plaintiff's desire to continue working in some capacity, Defendants failed and
14 refused to have any dialogue with Plaintiff whatsoever, on any of these occasions, and Defendants
15 violated, and continued to violate this obligation up to and including the date of Plaintiff's termination
16 or, if Defendant contends Plaintiff was never terminated, through the present and ongoing.

17 81. The above said acts of Defendants constitute violations of the FEHA and were a proximate
18 cause in Plaintiff's damage as stated below.

19 82. The damage allegations are herein incorporated by reference.

20 83. The foregoing conduct of Defendants individually, and/or by and through their officers,
21 directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
22 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
23 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
24 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to
25 punitive damages in an amount appropriate to punish or make an example of Defendants.

26 84. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
27 attorneys' fees and costs, including expert fees pursuant to the FEHA.

1 **SIXTH CAUSE OF ACTION**

2 **RETALIATION**

3 **LABOR CODE §98.6**

4 **AGAINST ALL DEFENDANTS**

5 85. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set
6 forth in full herein.

7 86. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against an
8 employee for political activities; for complaining that he or she is owed unpaid wages, for
9 whistleblowing; for assigning wage claims to the Labor Commissioner resulting from demotion,
10 suspension, or discharge for lawful conduct occurring during nonworking hours away from employer's
11 premises; for filing a complaint with the Labor Commissioner or testifying in such proceedings; for
12 initiating proceedings against the employer to collect civil penalties under the "Labor Code Private
13 Attorneys General Act;" and for exercising "any rights afforded him or her" under the Labor Code. Thus,
14 Section 98.6 prohibits an employer from discharging or in any manner discriminating or retaliating
15 against an employee who, among other things, has exercised his or her rights under that Chapter,
16 including the right to take meal breaks, and/or made a written or oral complaint that he or she is owed
17 unpaid wages. An employee who has been discharged or retaliated against in violation of Labor Code
18 §98.6 is entitled to recovery of a civil penalty against the employer in an amount not exceeding ten
19 thousand dollars (\$10,000.00) for each violation of that section.

20 87. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff was
21 terminated from Plaintiff's employment with Defendants as a result of Plaintiff's complaints about not
22 being paid all wages due, not receiving meal and/or rest breaks, exercising Plaintiff's right to take meal
23 and/or rest breaks. Defendants' retaliatory animus is evidenced by, among other things, the following
24 facts: For complaining of not getting/interrupted of Plaintiff's meal and rest breaks.

25 88. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
26 Defendants, and Defendants' officers and/or managing agents, including, and those identified herein as
27 DOES 1-20, who were authorized and empowered to make decisions that reflect and/or create policy for
28 Defendants. The aforementioned conduct of said managing agents and individuals was therefore

undertaken on behalf of Defendants. Defendants further had advanced knowledge of the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and approved by managing agents whose precise identities are unknown to Plaintiff at this time and are therefore identified and designated herein as DOES 1-20, inclusive.

89. The damage allegations are herein incorporated by reference.

90. As a result of Defendants' actions, Plaintiff is each entitled to a civil penalty not to exceed \$10,000.00 for Defendants' violations of Labor Code §§98.6 and/or 1102.

91. Because the acts taken toward Plaintiff were carried out by managerial employees acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and in order to injure and damage them, Plaintiff requests that punitive damages be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

SEVENTH CAUSE OF ACTION
FOR RETALIATION
IN VIOLATION OF LABOR CODE §§ 1102.5 AND 1102.6
AGAINST ALL DEFENDANTS

92. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set forth in full herein.

93. At all relevant times, Labor Code §1102.5(a) was in full force and effect and was binding on Defendants. This law prohibits an employer, or any person acting on behalf of the employer, from discharging an employee or in any manner discriminating or retaliating against, or taking any adverse action against, an employee because, among other things, the employee disclosed information to a government or law enforcement agency, or to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties.

1 94. Plaintiff reported violations of employment practices to Plaintiff's supervisors of being
2 understaffed.

3 95. Defendants subjected Plaintiff to the adverse employment action, including without
4 limitation, termination because Plaintiff reported the violations of employment practices to Plaintiff's
5 supervisors.

6 96. Plaintiff's reports of these violations were a motivating and contributing factor for the
7 adverse employment actions by Defendants against Plaintiff.

8 97. Said conduct violates Labor Code Labor Code §1102.5 and Labor Code §1102.6, and such
9 violations were a proximate cause in Plaintiff's damages as hereinabove stated.

10 98. The damage allegations are herein incorporated by reference.

11 99. The foregoing conduct of Defendants individually, or by and through their managing
12 agents, was intended by Defendants to cause injury to Plaintiff, or was despicable conduct carried on by
13 Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to cruel
14 and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice, oppression,
15 or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an amount appropriate
16 to punish or make an example of Defendants.

17
18 **EIGHTH CAUSE OF ACTION**
19 **FOR WRONGFUL TERMINATION**
20 **IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**
21 **AGAINST ALL DEFENDANTS**

22 100. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set
23 forth in full herein.

24 101. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
25 and was binding on Defendants. This law requires Defendants to refrain, among other things, from
26 discriminating against any employee on the basis of disability, medical condition, real or perceived, and
27 use of medical leave, and from retaliating against any employee who engages in protected activity.

1 102. At all times mentioned in this complaint, it was a fundamental policy of the State of
2 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of
3 disability, medical condition, real or perceived, use of medical leave and/or engagement in protected
4 activity.

5 103. Plaintiff believes and thereon alleges that Plaintiff's disability and/or medical condition,
6 real or perceived, use of medical leave, engagement in protected activity with respect to these protected
7 classes, and/or some combination thereof, were factors in Defendants' conduct as alleged hereinabove.

8 104. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's
9 employment on the basis of disability, medical condition, real or perceived, or use of medical leave,
10 Plaintiff's complaining of harassment and discrimination due to these protected classes, Plaintiff's
11 engagement in protected activity, and/or some combination of these factors, were a proximate cause in
12 Plaintiff's damages as stated below.

13 105. The above said acts of Defendants constitute violations of the Government Code and the
14 public policy of the State of California embodied therein as set forth above. Defendants violated these
15 laws by discriminating and retaliating against Plaintiff and terminating Plaintiff's employment in
16 retaliation for exercise of protected rights.

17 106. At all times mentioned in this complaint, it was a fundamental policy of the State of
18 California that Defendants cannot discriminate and/or retaliate against any employee in violation of
19 FEHA.

20 107. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's status as a
21 protected member of the class under FEHA was a proximate cause in Plaintiff's damages as stated below.

22 108. At all relevant times mentioned in this complaint, Labor Code §98.6 was in full force and
23 effect and was binding upon Defendants and each of them. This law prohibits retaliation against
24 employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor Code.
25 Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of individual
26 employees and job applicants who could not otherwise afford to protect themselves from violations of
27 the Labor Code.

1 109. At all relevant times mentioned in this complaint, Labor Code §1102.5 was in full force
2 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against
3 employees who disclose reasonable suspicions of illegal activity or conduct by their employer to a
4 government or law enforcement agency, or to employer itself. Labor Code §1102.5 reflects the State's
5 broad public policy interest in encouraging workplace "whistleblowers," who may without fear of
6 retaliation report concerns regarding an employer's suspected illegal conduct, irrespective of whether the
7 reporting is made to governmental agencies or to the employer itself, and irrespective of whether the
8 employee's suspicions are correct that the challenged conduct actually violates some law. Indeed, the
9 law in California is that an employee's good faith but mistaken belief in the illegality of his co-workers',
10 supervisor's, and employer's conduct is protected from employer retaliation in the whistle-blowing
11 context.

12 110. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
13 engagement in protected activities under Labor Code §§98.6 and/or 1102.5 was a proximate cause in
14 Plaintiff's damages as stated below.

15 111. The damage allegations are herein incorporated by reference.

16 112. The foregoing conduct of Defendants individually, or by and through their officers,
17 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
18 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
19 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
20 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to
21 punitive damages in an amount appropriate to punish or make an example of Defendants.

22
23 **NINTH CAUSE OF ACTION**
24 **FOR FAILURE TO PAY WAGES DUE**
25 **LABOR CODE §§201, 1182.12, 1194, 1194.2**
26 **AGAINST ALL DEFENDANTS**

27 113. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
28 though set forth in full herein.

1 114. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
2 required by 8 Code of Regulations §11040, as set forth hereinabove. As alleged herein, Defendants
3 routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

4 115. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
5 Code of Regulations §11040, and Industrial Welfare Commission Order No. 4-2001.

6 116. Plaintiff has been deprived of Plaintiff's rightfully earned compensation as a direct and
7 proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to
8 recover such amounts, plus interest thereon, attorneys' fees and costs.

9 117. Labor Code §558(a) provides that any person acting on behalf of an employer who
10 violates, or causes to be violated, any statute or provision regulating hours and days of work in any order
11 of the Industrial Welfare Commission pay a civil penalty in the amount of \$50.00 for each underpaid
12 employee for each pay period in which the employee was underpaid in addition to an amount sufficient
13 to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting
14 on behalf of an employer is liable in the amount of \$100.00 for each underpaid employee for each pay
15 period for which the employee was underpaid in addition to an amount sufficient to recover the underpaid
16 wages.

17 118. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated
18 above based upon Defendants' underpayment of minimum and overtime wages. Within the one year
19 immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code
20 §558 on one pay period, the first of which Defendants are penalized \$50.00, and the remainder of which
21 Defendants are penalized \$100.00 each subsequent violation.

22
23 **TENTH CAUSE OF ACTION**
24 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
25 **LABOR CODE §§510, 1194**
26 **AGAINST ALL DEFENDANTS**

27 119. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
28 though set forth in full herein.

1 120. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
2 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
3 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
4 hours in a single day. It also requires employers to pay their non-exempt employees overtime
5 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
6 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
7 consecutive day of work.

8 121. At all relevant times, Defendants required Plaintiff to work more than eight hours per day
9 and/or more than 40 hours per workweek.

10 122. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
11 compensation required by Labor Code §510, 8 Code of Regulations §11040, and Industrial Welfare
12 Commission Order No. 4-2001.

13 123. In the four years last past, Plaintiff worked 8 hours of overtime each week, all of which
14 should have been paid at 1.5 times Plaintiff's regularly hour wage rate at that time. Defendants failed to
15 pay Plaintiff the requisite overtime wages in each of the following ways in the four years immediately
16 preceding the filing of this complaint:

17 a. From approximately November 2021 to July 2023, Plaintiff's hourly overtime rate
18 was \$34.5. During this time period, Plaintiff worked an average of 8 hours of overtime each week, for
19 92 weeks, or 736 hours, but did not receive any wages for these hours at all. Therefore, Plaintiff is owed
20 \$34.5 for each of those hours, totaling \$25,392.00.

21 124. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
22 Code §510, 8 Code Regulations §11040, and Industrial Welfare Commission Order No. 4-2001.

23 125. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
24 of \$25,392.00., above and beyond the minimum wages sought in the preceding cause of action for these
25 same hours.

26 126. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation
27 as a direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff
28 is entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

ELEVENTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE MEAL AND REST BREAKS
LABOR CODE §§226.7, 512
AGAINST ALL DEFENDANTS

127. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

128. Labor Code §512 requires employers to provide every employee with an uninterrupted meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

129. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion thereof.

130. In the four years last past, Plaintiff regularly worked in excess of five hours per day, and was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each day of work.

131. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the applicable sections of 8 Code of Regulations §11040 and Industrial Welfare Commission Order No. 4-2001, as follows:

a. From approximately November 2021 to October 1, 2023, Plaintiff's statutory 30-minute meal periods were interrupted and cut short approximately 4 times per week for 100 weeks, or on approximately 400 days. During this same time period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods on approximately 400 days (4 days per week for 100 weeks).

132. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8 Code of Regulations §11040 and Industrial Welfare Commission Order No. 4-2001. Consequently, Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever is greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day that Plaintiff was denied such rest periods, calculated as follows:

1 a. From approximately November 2021 to October 1, 2023, Defendants failed to
2 provide Plaintiff with an uninterrupted statutory meal period on approximately 400 separate days.
3 Consequently, Plaintiff is owed one hour of pay at \$23.00 for each day, or \$9,200.00, plus interest
4 thereon, for unpaid interrupted meal periods. During this same time period, Defendants failed to provide
5 Plaintiff with the statutory rest period on approximately 400 separate days. Consequently, Plaintiff is
6 owed one hour of pay at \$23.00 for each day, or \$9,200, plus interest thereon, for unpaid rest periods.
7 Thus, Plaintiff is owed a total of \$18,400.00, plus interest thereon, for unpaid meal and rest periods for
8 this time period.

9 133. Thus, the total missed meal and rest period compensation owing Plaintiff for this time
10 period is \$18,400.00.

11 134. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for meal and rest
12 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

13 135. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
14 such amounts in the combined amount of \$18,400.00, pursuant to Labor Code §226.7(b), plus interest
15 thereon and costs of suit.

16
17 **TWELFTH CAUSE OF ACTION**
18 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
19 **LABOR CODE §§226 ET SEQ.**
20 **AGAINST ALL DEFENDANTS**

21 136. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
22 though set forth in full herein.

23 137. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
24 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,
25 total deductions and net wages earned. An employer who violates these code sections is liable to its
26 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the
27 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay
28 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is

1 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement
2 at all.

3 138. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
4 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation
5 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

6 139. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
7 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
8 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
9 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
10 by Plaintiff. For the majority of the time and as to nearly all of Plaintiff's wages, Defendants knowingly
11 and intentionally, not inadvertently, failed to provide Plaintiff with paystubs at all, and instead paying
12 Plaintiff entirely in cash without any calculations of how Plaintiff's gross wages were calculated. Not
13 one of the paystubs that Plaintiff received complied with Labor Code §226, and contained almost none
14 of the required information, including hours actually worked.

15 140. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

16 141. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
17 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
18 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
19 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
20 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
21 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
22 meal period, and rest period wages. For the time periods that Plaintiff was not provided with paystubs at
23 all, Plaintiff's aforementioned injuries are presumed as a matter of law.

24 142. Plaintiff was paid on a bi-weekly basis, and therefore Defendants violated Labor Code
25 §226 approximately once during the one year preceding the filing of this complaint. Consequently,
26 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
27 amount of \$4,000.00, whichever is greater.

1 143. In addition thereto, for Defendant's one violation, Defendants are penalized \$250.00 for
2 the first violation, and the remainder of which Defendants are penalized \$1,000.00 each subsequent
3 violation.

4 144. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
5 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
6 applicable provisions, as well as attorneys' fees and costs.

7
8 **THIRTEENTH CAUSE OF ACTION**

9 **FOR WAITING TIME PENALTIES**

10 **LABOR CODE §§201-203**

11 **AGAINST ALL DEFENDANTS**

12 145. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
13 though set forth in full herein.

14 146. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
15 other compensation due immediately upon termination or within 72 hours of resignation, as required.
16 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest
17 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
18 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
19 203.

20 147. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
21 203.

22 148. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
23 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
24 more than \$5,520.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
25 \$184.00, inclusive of overtime.

26 149. Based on Defendants' conduct as alleged herein, Defendants are liable for \$5,520.00 in
27 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
28 fees and costs.

FOURTEENTH CAUSE OF ACTION
FOR PRIVATE ATTORNEY GENERAL ACT
LABOR CODE §2699
AGAINST ALL DEFENDANTS

150. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

151. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties for Defendants' violations of the California Labor Code.

152. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as previously pleaded in this Complaint.

153. On May 29, 2024, more than 63 calendar days before filing this Complaint, Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201, 202, 203, 226, 226.7, 226.8, 510, 512, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is enumerated among the serious violations set forth in Labor Code §2699.5.

154. As of the filing of this Complaint, Plaintiff has not received any response from the Labor and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently, Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

155. As a direct and proximate result of Defendants' California Labor Code violations as set forth in this Complaint, Plaintiff is entitled to civil penalties of \$100.00 for each aggrieved employee per pay period for the initial violation, and \$200.00 for each aggrieved employee per pay period for each subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

1 156. Plaintiff may also seek these penalties on behalf of himself/herself and these same
2 penalties on behalf of all other aggrieved employees.

3 157. Plaintiff is also entitled to reasonable attorneys' fees and costs, and 25% of the recovered
4 civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

5
6 **FIFTEENTH CAUSE OF ACTION**

7 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**

8 **LABOR CODE §§226 AND 1198.5**

9 **AGAINST ALL DEFENDANTS**

10 158. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
11 though set forth in full herein.

12 159. Labor Code §226(c) requires an employer, within twenty-one days of an oral or written
13 request thereof, to inspect or receive a copy of an employee's payroll records. An employer's failure to
14 do so subjects the employer to a \$750.00 penalty pursuant to Labor Code §226(f), payable to the
15 employee.

16 160. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
17 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
18 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

19 161. On March 4, 2024, Plaintiff made a written request to inspect or receive a copy of
20 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

21 162. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
22 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
23 the time required by Labor Code §§226 and/or 1198.5, or ever.

24 163. As a result of Defendants' failure and refusal to comply with Labor Code §226(c), Plaintiff
25 is entitled to recover from Defendants a civil penalty of \$750.00.

26 164. As a result of Defendants' failure and refusal to comply with Labor Code §1198.5,
27 Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00.
28

165. As a further result of Defendants' failure and refusal to comply with Labor Code §§ 226 and 1198.5, Plaintiff has been forced to bring this action seeking injunctive relief to obtain these files, entitling Plaintiff to attorney's fees and costs pursuant to Labor Code §§ 226(h) and 1198.5(l).

SIXTEENTH CAUSE OF ACTION
FOR UNFAIR COMPETITION
BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.
AGAINST ALL DEFENDANTS

166. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

167. Defendants' violations of 8 Code of Regulations §11040, Industrial Welfare Commission Order No. 4-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5, 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.

168. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

169. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from Plaintiff.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount no less than \$250,000.00 according to proof as follows:

1. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money, together with interest on these amounts; for other special damages; and for general damages for mental pain and anguish and emotional distress and loss of earning capacity;

2. For civil penalties pursuant to Labor Code §98.6 in the amount of no less than \$10,000.00;

3. For civil penalties pursuant to Labor Code § 1102.5 in the amount of no less than \$10,000.00;

4. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194, Industrial Welfare Commission Order No. 4-2001, and 8 Code of Regulations §11040, in the amount of no less than \$25,392.00.;

5. For statutory penalties or damages pursuant to Labor Code §558 in the amount according to proof;

6. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512, in the amount of no less than \$18,400.00;

7. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

8. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount according to proof

9. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less than \$5,520.00;

10. For statutory penalties pursuant to Labor Code §2699(f), in the amount of no less than \$25,500.00 on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants' aggrieved employees, in an amount according to proof;

11. For statutory penalties pursuant to Labor Code §1198.5 in the amount of no less than \$750.00;

1 12. For prejudgment interest on each of the foregoing at the legal rate from the date the
2 obligation became due through the date of judgment in this matter.

3
4 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
5 amount according to proof, as follows:

6 13. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
7 condemning Defendants' discriminatory practices;

8 14. For injunctive relief barring Defendants' discriminatory employment policies and
9 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

10 15. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
11 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

12 16. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
13 Code and/or any other basis;

14 17. For post-judgment interest; and

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DOWNTOWN L.A. LAW GROUP, LLP

L Martin

Liliuokalani Martin, Esq.
Attorneys for Plaintiff
LUIS ALEJANDRO RODRIGUEZ

JURY TRIAL DEMANDED

Plaintiff demands trial of all issues by jury.

DOWNTOWN L.A. LAW GROUP, LLP

L Martin

Liliuokalani Martin, Esq.
Attorneys for Plaintiff
LUIS ALEJANDRO RODRIGUEZ