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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

**Assigned for All Purposes
Judge Michael Strickroth**

ELIZABETH JAIMES, an individual,

Plaintiff,

v.

DUARTE FUEL, INC., a California
Corporation; PEGAH FAZELI, an
individual; and DOES 1 THROUGH 20,
inclusive,

Defendants.

Case No.: 30-2024-01433742-CU-WT-CJC
Unlimited Jurisdiction

COMPLAINT

- 1. WRONGFUL TERMINATION AND RETALIATION IN VIOLATION OF PUBLIC POLICY;**
- 2. HARASSMENT – HOSTILE WORKING ENVIRONMENT;**
- 3. DISCRIMINATION BASED ON PROTECTED STATUS – DISABILITY;**
- 4. FAILURE TO ACCOMMODATE;**
- 5. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- 6. FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION, HARASSMENT, AND/OR RETALIATION;**
- 7. NONPAYMENT OF MINIMUM WAGES;**
- 8. NONPAYMENT OF REGULAR WAGES;**
- 9. NONPAYMENT OF OVERTIME COMPENSATION;**
- 10. FAILURE TO PROVIDE MEAL BREAKS;**
- 11. FAILURE TO PROVIDE REST PERIODS;**
- 12. FAILURE TO REIMBURSE EXPENSES;**
- 13. NEGLIGENCE;**
- 14. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS;**

Complaint

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**15. NEGLIGENT HIRING,
SUPERVISION, AND RETENTION;
AND
16. UNFAIR BUSINESS PRACTICES.**

DEMAND FOR JURY TRIAL

Plaintiff ELIZABETH JAIMES (“PLAINTIFF”) hereby files this Complaint against Defendants DUARTE FUEL, INC. (“DFI”), a California Corporation, and PEGAH FAZELI (“FAZELI”), an individual, and DOES 1 THROUGH 20, inclusive (Collectively, “DEFENDANTS”). PLAINTIFF alleges as follows:

PARTIES

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

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

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

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

5. PLAINTIFF is informed and believes and thereon alleges that each defendant named in this Complaint now is, and was at all times herein mentioned, the agent, servant, employee, representative, alter ego, members of and/or engaged in a joint venture, partnership and common enterprise of the other defendants herein, and was at all such times acting within the

1 course and scope of said agency and employment and with the consent and permission of each of
2 the other co-defendants, and each of the defendants herein ratified each of the acts of each of the
3 other co-defendants, and each of them.

4 **JURISDICTION AND VENUE**

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

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

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

12 8. In or about April 2014, PLAINTIFF was hired at a Mobil Gas Station owned by
13 DFI, located at 17241 Irvine Blvd., Tustin, California, as a manager.

14 9. FAZELI is the Chief Executive Officer of DFI.

15 10. PLAINTIFF's direct supervisor was Ed Doe ("Ed").

16 11. Through bi-weekly deposits from DFI, PLAINTIFF was paid at \$17/hour, which
17 was her most recent rate of pay.

18 12. Without a regular or accurate clock in and out system, PLAINTIFF's work hours,
19 including those of other employees similarly situated, were not accurately recorded.

20 13. PLAINTIFF was scheduled for work five days a week and work 40 hours a week.
21 However, this was not the case. She often was asked to work different hours to help out during the
22 time when the gas station was short staffed.

23 14. The times PLAINTIFF was asked to work different schedules was often considered
24 overtime, but she was paid at a regular rate with cash and without a paystub for these additional
25 work hours.

26 15. Moreover, during such times she was required to handle purported "managerial"
27 tasks such as file paperwork, do returns, pay out scratcher, pay out lottery winners, and buy
28 merchandise and also handle non-managerial tasks such as stock the gas station, clean, cashier,

1 and help customers. However, non-managerial task occupied the majority of her time.

2 16. Handling these tasks would often cause PLAINTIFF to take late, short, and/or
3 interrupted lunch breaks and miss her rest breaks altogether.

4 17. At the time of hiring, PLAINTIFF was informed that she was the manager of the
5 gas station, but that was not the case in practice. PLAINTIFF would have to handle some
6 managerial tasks for Ed but did not have real supervisory authority and manager duties only
7 occupied a small fraction of her work hours.

8 18. PLAINTIFF was also asked to use her personal car to pick up merchandise,
9 however, she was never reimbursed for the mileage nor the gas expenses.

10 19. Throughout her employment at DFI, PLAINTIFF, as a woman, was constantly
11 given negative comments on her appearance, and age.

12 20. Ed would always make comments about PLAINTIFF's age by saying, "You have
13 health issues because you are old and fat", and he would also pry on PLAINTIFF while she was
14 eating and make comments such as, "That's why you are fat." These demeaning comments were
15 accompanied by gestures of PLAINTIFF having a belly.

16 21. This type of behavior was never made toward men.

17 22. Due to the hostile working environment created by Ed, her direct supervisor,
18 PLAINTIFF suffered from mental distress, and depression.

19 23. PLAINTIFF also developed colon infections due to her not eating when she was
20 supposed to for lack of breaks, and fear of Ed making comments about her weight.

21 24. On or around May 6, 2023, PLAINTIFF suffered a workplace injury. She was
22 assigned to clean the restroom, but while entering the restroom, PLAINTIFF slipped on soap that
23 was on the floor, and to save her fall, she grabbed the sink and fell on her right hand.

24 25. Although PLAINTIFF reported her injuries to her supervisor, DFI did not send her
25 to a clinic nor accommodate her because there was no one to cover for her. Instead, PLAINTIFF
26 was ignored.

27 26. On or around May 26, 2023, PLAINTIFF was reaching for a twelve-pack of beer
28 at work when it began to fall towards her, and to prevent it from hitting her she stopped it with her

1 injured right hand.

2 27. PLAINTIFF immediately reported the injury to Ed, to which he replied, “This
3 happened to you because you are fat”.

4 28. PLAINTIFF continued to work, but eventually, she could not take the pain
5 anymore, and complained to Ed again. This time Ed told PLAINTIFF to not come back to work
6 until she had a doctor’s note, so she went to see a doctor.

7 29. After seeing the doctor, PLAINTIFF was placed on leave in or around June 2023.

8 30. PLAINTIFF provided a doctor’s note to DFI.

9 31. Thereafter, Ed told her there was no more work for her.

10 32. On May 9, 2024, PLAINTIFF complied with *Labor Code* §2699.3(a) in that
11 PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development
12 Agency (“LWDA”) and DEFENDANTS of the specific provisions of the labor Code alleged to
13 have been violated, including the facts and theories to support the alleged violation. As of the date
14 of filing this complaint, (more than 60 calendar days after PLAINTIFF’s LWDA letters were
15 mailed via certified mail), PLAINTIFF has not received any notification that the LWDA intended
16 to investigate the alleged violations.

17 33. On May 9, 2024, PLAINTIFF filed a complaint with the Department of Fair
18 Employment and Housing (“DFEH”) and obtained a Right to Sue letter on the same day.
19 PLAINTIFF herein with this Complaint serves DEFENDANTS with the DFEH complaint and
20 Right to Sue notices.

21 **FIRST CAUSE OF ACTION**

22 **WRONGFUL TERMINATION**

23 **AND RETALIATION IN VIOLATION OF PUBLIC POLICY**

24 **(PLAINTIFF against DFI and DOE 1 through 10)**

25 34. PLAINTIFF hereby realleges and incorporated all of the previous paragraphs of
26 this complaint by reference as though fully set forth herein.

27 35. PLAINTIFF was employed by DEFENDANTS.

28 36. PLAINTIFF was wrongfully terminated and retaliated against by DEFENDANTS

1 in violation of public policy and the California Fair Employment and Housing Act (“FEHA”) as a
2 result of having a disability.

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

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

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

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

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

23 **SECOND CAUSE OF ACTION**

24 **HARASSMENT – HOSTILE WORKING ENVIRONMENT**

25 **(PLAINTIFF against DFI and DOE 1 through 10)**

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

28 43. PLAINTIFF was, at all times relevant, an employee of DEFENDANTS and Ed was

1 PLAINTIFF’S supervisor.

2 44. PLAINTIFF was subjected to harassing conduct because of PLAINTIFF’s gender,
3 disability and age.

4 45. The harassing conduct was severe and/or pervasive.

5 46. A reasonable woman in PLAINTIFF’s circumstances would have considered the
6 work environment to be hostile, intimidating, offensive, oppressive, and/or abusive.

7 47. PLAINTIFF considered the work environment to be hostile, intimidating,
8 offensive, oppressive, and/or abusive.

9 48. A supervisor engaged in the conduct, and DEFENDANTS’ supervisors and/or
10 agents knew or should have known the conduct and failed to take immediate and appropriated
11 corrective action.

12 49. It is violation of Government Code § 12940 et seq. to harass an employee due to
13 gender and age among other things. Here, Ed constantly harassed PLAINTIFF due to her gender
14 (appearance), disability (obesity) and age.

15 50. As a result of Ed’s intentional acts and DEFENDANTS’ failure to properly act to
16 protect PLAINTIFF, in violation of public policy, PLAINTIFF was harmed. Specifically,
17 PLAINTIFF lost income, and endured emotional and mental damages, among other related
18 damages. The exact amount of damage to PLAINTIFF shall be proved at trial.

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

23 52. In addition, PLAINTIFF is entitled to interest, penalties, attorney’s fees and costs,
24 among other damages against all DEFENDANTS.

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

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

5 63. DEFENDANTS herein were aware of PLAINTIFF'S disability that limited
6 PLAINTIFF'S work activities.

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

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

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

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

17 **FIFTH CAUSE OF ACTION**

18 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS**

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

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

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

23 69. PLAINTIFF was an employee of DEFENDANTS.

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

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

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

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

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

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

SIXTH CAUSE OF ACTION

FAILURE TO TAKE REASONABLE STEPS

TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION

IN VIOLATION OF GOVERNMENT CODE §12940 (k)

(PLAINTIFF against DFI and DOE 1 through 10)

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

77. PLAINTIFF was employed as an employee by DEFENDANTS.

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

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

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

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

3 **SEVENTH CAUSE OF ACTION**

4 **NONPAYMENT OF MINIMUM WAGES**

5 **(PLAINTIFF against all DEFENDANTS)**

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

8 83. *Labor Code* §1194.2(a), in pertinent part, states "[i]n any action ... to recover
9 wages because of the payment of a wage less than the minimum wage fixed by an order of the
10 commission or by statute, an employee shall be entitled to recover liquidated damages in an amount
11 equal to the wages unlawfully unpaid and interest thereon."

12 84. PLAINTIFF performed work for DEFENDANTS.

13 85. PLAINTIFF was paid less than the minimum wage by DEFENDANTS for hours
14 worked. Thus, PLAINTIFF was deprived of PLAINTIFF's regular rate of pay and even minimum
15 wages.

16 86. PLAINTIFF was at all times relevant a non-exempt hourly employee of
17 DEFENDANTS.

18 87. PLAINTIFF often worked more than eight hours in a day and/or forty hours in a
19 week, for which she should have been paid overtime wages. However, she was not compensated
20 for this time at all – not even minimum wage.

21 88. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived
22 of regular time wages and liquidated damages in amounts to be proven at trial, and PLAINTIFF is
23 entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties, attorney's fees
24 and costs.

25 **EIGHTH CAUSE OF ACTION**

26 **NONPAYMENT OF WAGES**

27 **(PLAINTIFF against all DEFENDANTS)**

28 89. PLAINTIFF hereby realleges and incorporated all of the previous paragraphs of

1 this Complaint by reference as though fully set forth herein.

2 90. PLAINTIFF performed work for DEFENDANTS.

3 91. DEFENDANTS owes PLAINTIFF wages at the regular rate for uncompensated
4 work time under the terms of the employment.

5 92. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived
6 of regular time wages and liquidated damages in amounts to be proven at trial, and PLAINTIFF is
7 entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties, attorney's fees
8 and costs.

9 **NINTH CAUSE OF ACTION**

10 **NONPAYMENT OF OVERTIME COMPENSATION**

11 **(PLAINTIFF against all DEFENDANTS)**

12 93. PLAINTIFF hereby realleges and incorporated all of the previous paragraphs of
13 this Complaint by reference as though fully set forth herein.

14 94. *Labor Code* §510(a) provides that any work in excess of eight hours in one workday
15 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
16 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
17 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
18 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In
19 addition, any work in excess of eight hours on any seventh day of a workweek shall be
20 compensated at the rate of no less than twice the regular rate of pay of an employee.

21 95. PLAINTIFF performed work for DEFENDANTS that PLAINTIFF worked
22 overtime hours for more than eight (8) hours in a day and/or forty (40) hours in a week and/or
23 seven consecutive days, yet not all her time was compensated, for she was paid for her overtime
24 hours at a regular rate.

25 96. DEFENDANTS knew or should have known that PLAINTIFF had worked
26 overtime hours.

27 97. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived
28 of regular time wages and liquidated damages in amounts to be proven at trial, and PLAINTIFF is

entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties, attorney's fees and costs.

TENTH CAUSE OF ACTION

FAILURE TO PROVIDE MEAL BREAKS

(PLAINTIFF against all DEFENDANTS)

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

99. *Labor Code* §512(a) provides that employees who work more than five hours in a day are entitled to a meal period of at least 30 minutes; and a second meal period of at least 30 minutes if they work for more than 10 hours in a day.

100. *Labor Code* §512 further provides that "An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived."

101. *Labor Code* §516 provides that the Industrial Welfare Commission may adopt or amend working condition orders with respect to meal periods for any workers in California consistent with the health and welfare of those workers.

102. Section 11(C) of the *IWC Wage Order(s)* provides that "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

103. Section 11(D) of the *IWC Wage Order(s)* provides that "If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

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

5 105. Since PLAINTIFF was often required to cover the shifts of other employees when
6 DFI was short staffed, she was not given meal periods or proper meal periods.

7 106. At times PLAINTIFF would have to completely forego her meal breaks or would
8 take her lunch breaks later. At other times, it was interrupted or cut short.

9 107. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to meal
10 breaks.

11 108. PLAINTIFF was at times not given meal breaks and at other times meal breaks
12 which were not compliant with labor laws.

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

18 **ELEVENTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE REST PERIODS**

20 **(PLAINTIFF against all DEFENDANTS)**

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

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

26 112. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to rest
27 breaks. PLAINTIFF's shifts that were over four (4) hours therefore were entitled to a rest period
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of not less than ten (10) minutes prior to exceeding four (4) hours of employment for each four (4) hours of work.

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

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

TWELFTH CAUSE OF ACTION

FAILURE TO REIMBURSE EXPENSES

(PLAINTIFF against all DEFENDANTS)

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

116. In California, employers must cover employees' expenses. Pursuant to *Labor Code* §2802(a) an employer is required to "indemnify him or her employee for all necessary expenditures and losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer..." This includes, "all reasonable costs" as defined in *Labor Code* §2802(c). Further, *Labor Code* §2804 states the employee may not waive these rights.

117. PLAINTIFF had to use her personal car to pick up merchandise necessary for work as part of her job.

118. DEFENDANTS did not reimburse PLAINTIFF for mileage or gas.

119. Therefore, DEFENDANTS are liable and PLAINTIFF is entitled to reimbursement of expenses and other costs pursuant to *Labor Code* §2802(a).

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1 **THIRTEENTH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(PLAINTIFF against all DEFENDANTS)**

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

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

11 122. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

12 123. DEFENDANTS' breach was and is the actual and proximate cause of
13 PLAINTIFF's harm.

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

16 **FOURTEENTH CAUSE OF ACTION**

17 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

18 **(PLAINTIFF against all DEFENDANTS)**

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

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

26 127. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

27 128. DEFENDANTS' breach was and is the actual and proximate cause of
28 PLAINTIFF's harm.

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

5 **FIFTEENTH CAUSE OF ACTION**

6 **NEGLIGENT HIRING, SUPERVISION, AND RETENTION**

7 **(PLAINTIFF against all DEFENDANTS)**

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

10 131. DEFENDANTS hired PLAINTIFF'S supervisors Ed.

11 132. PLAINTIFF'S supervisor became unfit and incompetent to perform the work for
12 which PLAINTIFF'S supervisor was hired.

13 133. DEFENDANTS knew or should have known of PLAINTIFF'S supervisor
14 becoming unfit and incompetent to perform the work, and PLAINTIFF'S supervisor created a
15 particular risk to others.

16 134. PLAINTIFF'S supervisor's unfitness and incompetence harmed PLAINTIFF.

17 135. DEFENDANTS' negligence in hiring, supervising and retaining of PLAINTIFF'S
18 supervisors was a substantial factor in causing PLAINTIFF'S harm. The exact amount of damage
19 to PLAINTIFF shall be proved at trial.

20 **SIXTEENTH CAUSE OF ACTION**

21 **UNFAIR BUSINESS PRACTICES**

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

23 **(PLAINTIFF against all DEFENDANTS)**

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

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

- 3 a. Wrongfully terminating an employee because of their disability;
- 4 b. Harassing employees because of their gender, disability and age;
- 5 c. Retaliating against employees with disability and medical condition-based
6 reasons;
- 7 d. Discriminating against employees based on disability and medical condition;
- 8 e. Failing to accommodate;
- 9 f. Failing to properly supervise and train its employees;
- 10 g. Failing to pay minimum, regular, overtime wages earned and owed to
11 employees;
- 12 h. Failing to provide proper meal breaks and rest periods, or to pay premium
13 wages for missed meal and rest periods to PLAINTIFF;
- 14 i. Failing to provide reimbursement for business expenses; and,
- 15 j. The foregoing wrongful activities have caused harm, fear, pressure, and
16 humiliation to the employee(s) at DEFENDANTS.

17 138. PLAINTIFF is entitled to enforce all applicable penalty provisions of the California
18 Business and Professions Code §17202.

19 139. Pursuant to the provisions of §17203 of the California Business and Professions
20 Code, PLAINTIFF is entitled to restoration of lost wages, meal breaks and rest periods premium
21 wages, business expense reimbursement, interests, and profits DEFENDANTS have collected by
22 the use of the unfair, deceptive, and misleading business practices described in this Complaint.

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

27 141. Pursuant to the provisions of §17203 of the California Business and Professions
28 Code, this Court should issue an injunction prohibiting DEFENDANTS from engaging in the

foregoing unfair, deceptive, and misleading business practices.

PRAYER FOR RELIEF

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

1. General and compensatory damages in an amount to be subject to proof at trial to the extent permitted by law;
2. Liquidated damages (if applicable);
3. Special damages;
4. Emotional distress damages;
5. Restoration of all money PLAINTIFF lost that DEFENDANTS have collected by the use of the unfair, deceptive, and misleading business practices described as in unfair business practices cause of action;
6. Injunctive relief prohibiting DEFENDANTS from engaging in the unfair, deceptive, and misleading business practices described as in unfair business practices cause of action;
7. Declaration that DEFENDANTS' business practices are unfair within the meaning described as in unfair business practices cause of action;
8. Punitive and exemplary damages;
9. Pre-judgment interest;
10. Costs of lawsuit herein incurred;
11. Attorneys' fees; and
12. For an award of such other and further equitable and legal relief as this Court may deem appropriate.

Dated: October 16, 2024

BITTON & ASSOCIATES



Ophir J. Bitton, Esq.
Attorneys for Plaintiff,
Elizabeth Jaimes

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Dated: October 16, 2024



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