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Attorneys for Plaintiff TINA KHACHATORIAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

TINA KHACHATORIAN,

Plaintiff,

vs.

KAB GROUP INVESTMENTS, INC.;
KHALED ABOUBAKER; JOHN
SOUCCAR; and DOES 1 to 25, inclusive,

Defendants.

CASE NO: **24STCV30759**

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 7) FAILURE TO PROVIDE REST BREAKS;**
- 8) FAILURE TO PROVIDE MEAL BREAKS;**
- 9) FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 10) PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 11) DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT ("FEHA");**
- 12) FAILURE TO ACCOMMODATE PHYSICAL DISABILITY IN VIOLATION OF FEHA;**
- 13) FAILURE TO ENGAGE IN INTERACTIVE PROCESS TO**

1 KAB GROUP INVESTMENTS, INC. (hereinafter “NISSAN OF DUARTE”) is a California
2 Corporation, doing business in the County of Los Angeles, State of California.

3 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant
4 KHALED ABOUBAKER and JOHN SOUCCAR are male residents of the State of California,
5 and the owners, managing agents, and/or directors of KAB GROUP INVESTMENTS, INC.
6 They are being included in this lawsuit pursuant to Labor Code Section 558.1 as they were
7 involved in the day-to-day operations of the business, including the wage and hour policies and
8 practices, and thus controlled the hours, wages, and/or working conditions of Plaintiff and
9 other hourly, non-exempt employees. Defendants KAB GROUP INVESTMENTS, INC.,
10 KHALED ABOUBAKER, JOHN SOUCCAR are collectively referred to herein as
11 “Defendant(s)” (unless otherwise noted) or “NISSAN OF DUARTE”.

12 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
13 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
14 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
15 defendants, numbers 1 to 25, reside in the State of California and are in some manner
16 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
17 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
18 and capacities of these fictitiously named defendants.

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

26 **GENERAL ALLEGATIONS**

27 7. Plaintiff started working for NISSAN OF DUARTE on or around late 2023 or early
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2024 as a salesperson. During her employment tenure, Plaintiff was classified as an hourly, non-exempt employee. Plaintiff's employment ended in April 2024.

8. NISSAN OF DUARTE has committed the below labor code violations against Plaintiff and other hourly, non-exempt employees, including technicians. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018), Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas Security Services USA, Inc., an onsite security provider. After about a year of employment, Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff specifically alleged violations to the Labor Code requiring immediate payment of wages upon termination of employment and weekly payment of wages to temporary employees. The trial court determined Huff was not a temporary employee, and therefore, lacked standing to bring the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the PAGA representative to sue for violations that the representative has personally suffered. The PAGA statute states that an "aggrieved employee" is able to file suit on behalf of others. The statute also states that an "aggrieved employee" is "any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed." Because at least one of the violations that Huff had alleged had affected him personally, the Court of Appeal denied Securitas' motion.

9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of other employees, it allows for suits broader than the specific violations the named employee experienced. Therefore, even if the employee did not personally experience the Labor Code violations, the

1 employer may still be liable to under PAGA. Consequently, it is Plaintiff's position that
2 Plaintiff can equivocally bring the following labor code violations on behalf of all other
3 employees in the state of California, including all hourly non-exempt employees, whether it be
4 technicians or other job titles that were paid on an hourly basis.

5 10. Pursuant to California Industrial Welfare Commission Order No. 4-2001/7-2001,
6 Section 9(B), "When tools or equipment are required by the employer or are necessary to the
7 performance of a job, such tools and equipment shall be provided and maintained by the
8 employer, except that an employee whose wages are at least two (2) times the minimum wage
9 provided herein may be required to provide and maintain hand tools and equipment
10 customarily required by the trade or craft." NISSAN OF DUARTE unequivocally required its
11 employees, the service technicians, to provide their own tools to perform work duties. The
12 latter was company policy. As such, NISSAN OF DUARTE violated the aforementioned IWC
13 Wage Order(s) in that NISSAN OF DUARTE required its technicians, and other employees to
14 provide and maintain hand tools and equipment customarily required by the trade but did NOT
15 compensate these employees at least two (2) times the minimum wage.
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17 11. Further, NISSAN OF DUARTE did not provide Plaintiff and other aggrieved
18 employees with compensation for all hours worked and did not pay Plaintiff and others the
19 minimum wages to which they were entitled for work performed "off the clock" pursuant to
20 California Labor Code sections 1194, 1197 and 1197.1. Plaintiff and others also worked "off
21 the clock" due to their meal breaks being consistently interrupted with work obligations and
22 work duties. Additionally, Plaintiff and others also worked "off the clock" and were not paid
23 for all hours worked because NISSAN OF DUARTE had a company policy wherein they
24 would disproportionately round down the number of hours worked by Plaintiff and other
25 aggrieved employees, resulting in "time shaving" and further resulting in aggrieved employees
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1 not being paid for all hours worked. In addition, there were numerous occasions wherein
2 Plaintiff worked off the clock in that she would be communicating with clients “off the clock”
3 and outside of work hours, including picking up clients calls and communicating with clients.
4 Management was unequivocally aware of the latter “off the clock” work but did not
5 compensate Plaintiff and others for this time which is yet another minimum wage violation.

6 12. Additionally, California Labor Code section 226.2, effective January 1, 2016, provides
7 that employees shall be compensated for rest and recovery periods and other non-productive
8 time separate from any piece-rate compensation. Section 226.2 further requires that employees
9 must be compensated for these time periods at a rate no less than the highest federal, state, or
10 local minimum wage that is applicable to the employment. NISSAN OF DUARTE did not
11 fully and accurately compensate Plaintiff and all similarly situated aggrieved employees for
12 rest and recovery periods and other non-productive time separate from any piece-rate
13 compensation. Moreover, as alluded to above, Plaintiff and others would often work “off the
14 clock” in that they would perform work duties before clocking in or after clocking out and
15 management was unequivocally aware. Moreover, NISSAN OF DUARTE failed to provide its
16 employees with proper and accurate reporting time pay.

17 13. NISSAN OF DUARTE also violated Labor Code §510 because it failed to pay the
18 technicians and other employees, including salespersons and other hourly employees, the
19 correct amount of overtime (based on a base pay rate of twice the minimum wage), even
20 though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
21 throughout their employment. Moreover, for the commissioned employees such as Plaintiff,
22 NISSAN OF DUARTE failed to pay overtime during pay periods during which salespersons
23 did not meet the inside salesperson exemption in that they did not earn one-and-a-half times the
24 minimum wage during a particular pay period and more than half of their wages for that
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1 particular pay period were not from commission/sales. Moreover, during those particular pay
2 periods wherein the inside salesperson exemption did not apply, NISSAN OF DUARTE did
3 not factor in the commission payments/incentive payments/sick pay and/or any bonuses in
4 deciphering employees regular rate of pay for purposes of figuring out the overtime rate of pay.
5 Moreover, and as alluded to above, NISSAN OF DUARTE failed to pay the correct and
6 accurate amount of overtime due to the “off the clock” work mentioned above, whether it was
7 due to work obligations before/after clocking in and out OR due to the company’s policy in
8 rounding/time shaving. Furthermore, NISSAN OF DUARTE failed to include
9 bonuses/incentive payments/sick pay in calculating employees’ regular rate of pay for use in
10 deciphering the correct overtime rate of pay. Additionally, the incentive and bonus
11 payments/sick pay were also not factored into employees’ regular rate for purposes of
12 receiving meal and rest break premiums per the Ferra v. Loews case.

14 14. NISSAN OF DUARTE violated Labor Code §§ 512 and 226.7 as well as the applicable
15 Industrial Welfare Commission (IWC) Wage Order (no. 4 or 7) because it failed to provide
16 Plaintiff and other similarly situated aggrieved employees the requisite 30-minute,
17 uninterrupted meal periods for every five (5) hours of work throughout their employment, and
18 Plaintiff did not validly waive said meal periods. NISSAN OF DUARTE did not completely
19 relieve Plaintiffs of all duties during said meal periods. NISSAN OF DUARTE did not pay to
20 Plaintiff one additional hour of pay at Plaintiff’s regular rate of compensation for each
21 workday that one or more statutory meal periods was not provided. If Plaintiff and others were
22 even able to take a full, uninterrupted meal break, they would not be able to receive their meal
23 periods before the 5th hour worked due to work obligations. Late meal breaks were consistent
24 and pervasive and across the board for all hourly, non-exempt employees. Furthermore, hourly,
25 non-exempt employees did not receive a second meal break on those days wherein Plaintiff
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1 and others worked more than 10 hours. The reason for the late meal periods was due to
2 management asking for Plaintiff and others to finish work tasks before being able to clock out
3 for a meal period. In addition, and for Plaintiff specifically, if she was able to take a meal
4 period, it would be interrupted by Human Resources who would be harassing Plaintiff with
5 questions or issues during the designated meal period. Additionally, the incentive and bonus
6 payments were also not factored into Plaintiff's and others' regular rate for purposes of
7 receiving meal and rest break premiums per the Ferra v. Loews case.
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9 15. If NISSAN OF DUARTE had Plaintiff sign a meal period waiver, it would not be valid
10 and enforceable since Plaintiff and others generally worked more than a 6-hour shift. If
11 NISSAN OF DUARTE had Plaintiff sign an on-duty meal period agreement wherein Plaintiff
12 agreed to work through the meal periods or stay on the premises during meal periods, it would
13 be invalid and unenforceable because the nature of Plaintiff's job does not and did not prevent
14 her from taking a meal period. NISSAN OF DUARTE could have easily hired more staff,
15 including salespersons, which would have allowed Plaintiff to take a timely, uninterrupted
16 break and be relieved of all work duties. If NISSAN OF DUARTE argues that Plaintiff and
17 others were actually paid for their meal breaks, the latter would not mean there was no
18 violation since Plaintiff and others were essentially denied any meal breaks for them to rest and
19 get something to eat. The solution for NISSAN OF DUARTE is not to keep their employees
20 from taking meal periods, but to hire additional staff and "breakers" to make sure that their
21 employees receive statutory breaks. To the extent that NISSAN OF DUARTE argues that
22 employees receive meal break premium pay for missed meal periods, that argument is
23 inconsequential for PAGA penalty purposes since the PAGA penalties are for the violations
24 themselves, irrespective of whether an employee received the premium payment for a missed,
25 short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated,
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1 “section 226.7 does not give employers a lawful choice between providing *either* meal and rest
2 breaks *or* an additional hour of pay.” *See Kirby v. Immoos Fire Protection, Inc.*, (2012) 53
3 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the
4 violation; the employer has still committed a violation even if the remedy for the violation has
5 been paid. *See Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As
6 such, the work environment and culture at NISSAN OF DUARTE was not conducive to
7 receiving consistent, timely, uninterrupted statutory meal breaks under California law.
8 Moreover, any meal or rest break premiums paid were not compensated at the weighted
9 average regular rate, inclusive of bonuses and/or incentive payments.

11 16. NISSAN OF DUARTE violated Labor Code § 226.7 as well as the applicable IWC
12 Wage Order (no. 4 or 7) because it failed to provide Plaintiff and other similarly situated
13 aggrieved employees 10-minute rest periods for every four hours of work, or majority portion
14 thereof, throughout their employment. NISSAN OF DUARTE did not completely relieve
15 Plaintiff of all duty during said rest periods. NISSAN OF DUARTE did not pay to Plaintiff
16 one additional hour of pay at Plaintiff’s regular rate of compensation for each workday that one
17 or more statutory rest periods was not provided. It was not company policy and not part of the
18 company culture for employees such as Plaintiff and others to take rest breaks, especially two
19 daily rest breaks of at least 10 minutes each wherein Plaintiff and others were fully relieved of
20 their work duties. The latter simply did not exist. In fact, Plaintiff and the other employees did
21 not receive any rest breaks at all during their employment tenure. As such, the culture at
22 NISSAN OF DUARTE did not lend itself to the employees receiving statutory breaks wherein
23 they were relieved of all work duties. It was the normal practice and custom of NISSAN OF
24 DUARTE not to authorize, permit, and enforce statutory rest periods. As such, the environment
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1 and culture at NISSAN OF DUARTE was not conducive to receiving statutory rest breaks
2 under California law.

3 17. Furthermore, during the relevant time period, and due to the aforementioned violations,
4 NISSAN OF DUARTE failed to pay Plaintiff and other similarly situated aggrieved employees
5 all wages due to them within any time period specified by California Labor Code section 204.
6 NISSAN OF DUARTE was also in violation of California Labor Code section 226(a) by
7 failing to include pertinent information on the wage statements, including but not limited to,
8 the correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, correct
9 amount of pay for non-productive time, gross wages earned, premium pay for missed meal and
10 rest breaks, all deductions, net wages earned, the correct name and address of the employer,
11 employee identifying information, rest and recovery compensation and the rest and recovery
12 periods that were supposed to be compensated, the correct start and end of the pay
13 periods, and reimbursement for business expenses, among others. This is so partly because
14 NISSAN OF DUARTE did not compensate a certain number of its employees, including
15 service technicians, at least two (2) times the minimum wage despite requiring its technician
16 employees to provide and maintain hand tools and equipment. Moreover, NISSAN OF
17 DUARTE did not provide rest and recovery period compensation to Plaintiff and other
18 commissioned salespersons. As such, NISSAN OF DUARTE did not provide Plaintiff and
19 other similarly situated aggrieved employees with complete, accurate itemized wage
20 statements.
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24 18. NISSAN OF DUARTE violated Labor Code § 203 because it willfully failed to pay
25 Plaintiff and other similarly situated aggrieved employees earned and due wages upon
26 separation of employment, either immediately upon involuntary termination, or within 72
27 hours of resignation. After aggrieved employees stopped working at NISSAN OF DUARTE
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1 and after their employment with NISSAN OF DUARTE ended, NISSAN OF DUARTE failed
2 and refused to pay all wages earned and due immediately upon separation. These earned but
3 unpaid wages include the unpaid minimum wages/compensation for all hours worked including
4 non-productive time, “off the clock” work, overtime, premium pay for missed meal and rest
5 breaks, and business expense reimbursement, among others.

6 19. It is Plaintiff’s contention that the rounding/time shaving, and statutory meal and rest
7 period violations would trigger penalties under Labor Code sections 203, 204, and 226 per
8 Naranjo v. Spectrum Security Services Inc. (2022) 13 Cal. 5th 93.
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10 20. During the relevant time period, NISSAN OF DUARTE also failed to keep accurate
11 and complete payroll records showing the correct wages paid (for instance, twice the minimum
12 wage and the correct overtime compensation) to Plaintiff and other aggrieved employees,
13 including technicians, pursuant to California Labor Code sections 1174(d).

14 21. Moreover, during the relevant time period, Plaintiff and other aggrieved employees
15 incurred necessary, business-related expenses and costs that were not reimbursed by NISSAN
16 OF DUARTE. These costs include, but are not limited to, the purchase and use of their own
17 tools in carrying out their job duties as technicians. Additionally, Plaintiff and other similarly
18 situated aggrieved employees had to use their personal cell phones for work purposes,
19 including sales activities involving clients. Plaintiff and others were also not reimbursed for
20 their uniforms. Moreover, Accordingly, NISSAN OF DUARTE was in violation of California
21 Labor Code sections 2800 and 2802.
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23 22. Furthermore, there was no suitable seating/rest break facilities for the employees
24 pursuant to Wage Order no. 4-2001/7-2001.
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26 23. In addition, Plaintiff would also have individual non-wage claims for discrimination
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1 based on physical disability in violation of the Fair Employment and Housing Act (FEHA) as
2 well as failure to accommodate, failure to engage in the interactive process, retaliation, and
3 wrongful termination in violation of public policy. During Plaintiff's employment tenure,
4 Plaintiff had informed Defendants and its management regarding her physical disabilities,
5 including being diagnosed with endometriosis. In fact, Plaintiff specifically told the female
6 controller of the company that Plaintiff had a physical disability that may require her to stay
7 home each month for approximately 4 days depending on the severity of the pain and that
8 Plaintiff could work from home. The controller's response was "We're trying to run a business
9 here, that's not something we can work with." Moreover, Plaintiff had requested time off due
10 to the flare-ups that she had to deal with as part of her physical disability, including providing
11 doctor's notes to Defendants on January 22, 2024, February 2024, and April 2024. Defendants
12 unequivocally retaliated against Plaintiff, failed to accommodate Plaintiff, and ultimately
13 terminated Plaintiff's employment in April 2024 due to Plaintiff's disability and due to
14 Plaintiff requesting and taking time off due to her physical disability.
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17 24. Prior to filing this lawsuit, Plaintiff has timely exhausted her administrative remedies
18 with the California Civil Rights Department and timely received her Right to Sue Notice.
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20 **FIRST CAUSE OF ACTION**

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

22 **(California Industrial Welfare Commission Order 4-2001/7-2001, California Code of
23 Regulations Title 8 Section 11040/11070, and California Labor Code Section 1198)**

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

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

27 26. At all times relevant herein, Defendants were required to compensate its employees for
28 all hours worked upon reporting for work at the appointed time stated by the employer

1 pursuant to Industrial Welfare Commission Order 4-2001/7-2001, California Code of
2 Regulations, Title 8, Section 11040/11070.

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

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

8 29. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
9 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
10 this Court.

11 30. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
12 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
13 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
14 reasonable attorney's fees and costs of suit.

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

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PAY MINIMUM WAGES**

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

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

23 32. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 31, inclusive, of this Complaint as though fully set forth herein.

25 33. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
26 to suffer or permit a California employee to work without paying wages at the minimum wage
27 rate for all hours worked as required by the applicable Industrial Welfare Commission
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(hereinafter "IWC") Wage Order No. 4-2001/7-2001, codified at California Code of Regulations, Title 8, Section 11040/11070, subdivision 4.

34. Pursuant to IWC Wage Order no. 4-2001/7-2001, subdivision 2(K)/(H), at all relevant times, "hours worked" included "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so..."

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

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

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

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

THIRD CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(California Industrial Welfare Commission Order 4-2001/7-2001, California Code of Regulations Title 8 Section 11040/11070; California Labor Code Section 510)

(Plaintiff against all named defendants and all DOE defendants)

39. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 38, inclusive, of this Complaint as though fully set forth herein.

40. Pursuant to Industrial Welfare Commission Order No. 4-2001/7-2001, Cal. Code of Regs., Title 8, Section 11040/11070, for the period of Plaintiff's employment, Defendants were required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

41. Plaintiff was a non-exempt employee entitled to the protections of the California Industrial Welfare Commission Order No. 4-2001/7-2001, California Code of Regulations, Title 8, Section 11040/11070.

42. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a single workday or forty (40) hours in a single workweek on numerous occasions.

43. Plaintiff was entitled to the above overtime premiums.

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

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

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

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

48. As a proximate result of Defendants' violations, Plaintiff has been damaged in an

1 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
2 Court.

3 49. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
4 Regulations, Title 8, Sections 11040/11070, Plaintiff is entitled to recover damages for the
5 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
6 reasonable attorney's fees and costs of suit.

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

10 **FOURTH CAUSE OF ACTION**

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

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

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

14 51. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 50, inclusive, of this Complaint as though fully set forth herein.

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

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

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

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

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

FIFTH CAUSE OF ACTION

FAILURE TO PAY WAGES OWED EVERY PAY PERIOD

(California Labor Code Section 204)

(Plaintiff against all named defendants and all DOE defendants)

57. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 56, inclusive, of this Complaint as though fully set forth herein.

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

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

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

61. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount, subject to proof, to the extent she was not paid all wages each pay period. The precise amount of unpaid wages is not presently known to Plaintiff but can be determined directly

1 from Defendants' records or indirectly based on information from Defendants' records.

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

5 **SIXTH CAUSE OF ACTION**

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

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

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

9 63. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 62, inclusive, of this Complaint as though fully set forth herein.

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

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

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

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

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

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

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

6 **SEVENTH CAUSE OF ACTION**

7 **FAILURE TO GIVE REST BREAKS**

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

9 71. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 70, inclusive, of this Complaint as though fully set forth herein.

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

- 12 a. Title 8 of the California Code of Regulations Sections 11040/11070(12)(A), which
13 provides that every employer shall authorize and permit all employees to take rest
14 periods, which insofar as practicable shall be in the middle of each work period.

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

- 17 b. Title 8 of the California Code of Regulations Sections 11040/11070(12)(B), which
18 provides that if an employer fails to provide an employee a rest period in
19 accordance with the applicable provisions of this order, the employer shall pay the
20 employee one (1) hour of pay at employee's regular rate of compensation for each
21 workday that the rest period is not provided;

- 22 c. Title 8 of the California Code of Regulations sections 11040/11070(20)(A), which
23 penalizes the employer \$50.00 for each initial violation, per employee, of any
24 provision of the Wage Order, and \$100.00 for each additional violation thereafter
25 per employee; and
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1 d. California Labor Code section 226.7, which states that (a) no employer shall require
2 any employee to work during any rest period mandated by an applicable order of
3 the Industrial Welfare Commission, and (b) if an employer fails to provide an
4 employee a rest period in accordance with an applicable order of the Industrial
5 Welfare Commission, the employer shall pay the employee one (1) additional hour
6 of pay at employee's regular rate of compensation for each work day that the rest
7 period is not provided.
8

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

12 74. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
13 regulations, and wage orders alleged in this cause of action along with any allowable interest,
14 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
15 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
16

17 75. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
18 fees as well as interest under Labor Code section 218.6.

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

22 **EIGHTH CAUSE OF ACTION**

23 **FAILURE TO GIVE MEAL BREAKS**

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

25 77. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 76, inclusive, of this Complaint as though fully set forth herein.

27 78. Plaintiff brings this cause of action under the following laws, for the following reasons:
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- 1 a. California Labor Code section 512(a), which requires that employees be given a 30-
2 minute uninterrupted meal break after five (5) hours of work, and a second
3 uninterrupted meal break after ten (10) hours of work;
- 4 b. California Labor Code section 226.7, which states that (a) no employer shall require
5 any employee to work during any meal period mandated by an applicable order of
6 the Industrial Welfare Commission, and (b) if any employer fails to provide an
7 employee a meal period in accordance with an applicable order of the Industrial
8 Welfare Commission, the employer shall pay the employee one (1) additional hour
9 of pay at the employee's regular rate of compensation for each workday that the
10 meal period is not provided;
- 11 c. California Industrial Welfare Commission Order No. 4/7 section 11(B), as codified
12 under Title 8 of the California Code of Regulations Section 11040/11070, which
13 states that if an employer fails to provide an employee a meal period in accordance
14 with the applicable provisions of the Wage Order, the employer shall pay the
15 employee one (1) hour of pay at the employee's regular rate of compensation for
16 each workday that the meal period is not provided;
- 17 d. California Industrial Welfare Commission Wage Order No. 4/7 Section 7(A)(3), as
18 codified under Title 8 of the California Code of Regulations Section 11040/11070,
19 which requires an employer to maintain records documenting its employees' meal
20 periods;
- 21 e. California Industrial Welfare Commission wage order No. 4/7 Section 20(A), as
22 codified under California Code of Regulations Section 11040/11070, which
23 penalizes the employer \$50.00 for each initial violation, per employee, of any
24 provision of the Wage Order, and \$100.00 for each additional violation thereafter
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per employee; and

- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4/7) as enforceable law.

79. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted to take a second relieved meal break after ten (10) hours of work, as required by California law. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 4/7, as codified under California Code of Regulations Sections 11040/11070 et. seq. requires that employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of all work duty. California Labor Code section 226.7 provides that employers may not require their employees to work through their meal periods. California Labor Code section 226.7 and California Code of Regulations section 11040/11070 requires that if the employer fails to provide the employee with an uninterrupted meal period, the employer must pay the employee one (1) hour of pay for each work day that the meal period is not given.

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

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

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

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

4 83. Plaintiff re-alleges and incorporates by reference each and every allegation in
5 paragraphs 1 through 82, inclusive, of this Complaint as though fully set forth herein.

6 84. Labor Code section 2802 provides that “[a]n employer shall indemnify his or her
7 employee for all necessary expenditures or losses incurred by the employee in direct
8 consequence of the discharge of his or her duties.”

9 85. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
10 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
11 of completing her job duties, which were not reimbursed by Defendant. These costs include,
12 but are not limited to, use of personal cell phones for work purposes, including sales activities
13 involving clients. Plaintiff was also not reimbursed for her uniforms.

14 86. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
15 and attorney’s fees and costs, under Labor Code section 2802.

16 **TENTH CAUSE OF ACTION**

17 **PRIVATE ATTORNEYS GENERAL ACT**

18 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
19 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197,**
1197.1, 1198, 2800, 2802 and IWC Wage Order 4-2001/7-2001)

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

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

23 88. Plaintiff has complied with the procedures for bringing suit specified in California
24 Labor Code § 2699.3. By letter dated May 1, 2024, Plaintiff gave written notice by certified mail
25 to the Labor and Workforce Development Agency (“LWDA”) and Defendants of the specific
26 provisions of the California Labor Code alleged to have been violated, including the facts and
27 theories to support the alleged violations.

28 89. Pursuant to California Labor code section 2699.3, no response was received from

1 the LWDA within 65 days of the postmark date of the above-alleged letter.

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

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

12 92. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
13 violator and had one or more of the alleged violations committed against her, and therefore is
14 properly suited to represent the interests of other current and former employees, including all
15 current and former hourly, non-exempt employees who worked for NISSAN OF DUARTE at
16 any of their locations in the State of California during the applicable PAGA Period.

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

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

24 95. California Labor Code section 2699 et seq. imposes penalties upon culpable
25 Defendants for violating the Labor Code.

26 96. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
27 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
28 seeking individual penalties/victim specific relief or underpaid wages for herself or other

1 employees under this specific PAGA cause of action. Plaintiff has separate causes of action in
2 this Complaint for individual wages but is not seeking wages through the PAGA action.

3 97. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for the
4 following:

5 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
6 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2800, 2802, and
7 any other Labor Codes/Industrial Welfare Commission Order (No. 4/7) violated based
8 on the facts alleged in this Complaint.

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

13 **ELEVENTH CAUSE OF ACTION**

14 **DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION**

15 **OF FEHA**

16 **(Plaintiff against KAB GROUP INVESTMENTS, INC. and all DOE Defendants)**

17 99. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 98, inclusive, of this Complaint as thought fully set forth herein.

19 100. Defendants and DOES 1 to 25, inclusive, are covered employers under California's
20 Fair Employment and Housing Act.

21 101. California Government Code section 12926(m) has established a "broad definition" of
22 physical disability; disability protections under the Fair Employment and Housing Act
23 ("FEHA") even extend to "perceived" physical disabilities. *Id.* Under the law of this state,
24 "working" is a major life activity. *See* section 12926.1(c).

25 102. Plaintiff's endometriosis, which was debilitating, and which limited a major life
26 activity, clearly qualifies as a disability under FEHA, and Plaintiff was entitled to its
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1 protection.

2 103. Defendant knew of Plaintiff's disability and violated California Government Code
3 section 12940 et. seq. by discriminating against Plaintiff on the basis of her disability.
4

5 104. As a direct and proximate result of the aforementioned acts and omissions of
6 Defendants , Plaintiff suffered general and compensatory damages, including but not limited
7 to, loss of income (past and future), loss of employment benefits (past and future), general and
8 compensatory damages (past and future), mental pain and anguish and emotional distress (past
9 and future), and will continue to suffer in the future, in an amount to be proved at trial.

10 105. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive, and
11 each of their directors, officers and/or managing agents, constitutes malice, fraud, and
12 oppression and was authorized, ratified, and carried on with a conscious and willful disregard
13 of their workers' right to work in an environment in which personnel decisions and company
14 policies are made without regard to physical disability, so as to justify the imposition of
15 punitive damages to punish and set an example of said Defendants .
16

17 106. As a proximate result of the foregoing conduct, which violated the provisions of
18 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
19 fees and costs in the prosecution of this claim, in an amount to be proven at trial.
20

21 **TWELFTH CAUSE OF ACTION**

22 **FAILURE TO ACCOMMODATE PHYSICAL DISABILITY IN VIOLATION OF**

23 **FEHA**

24 **(Plaintiff against KAB GROUP INVESTMENTS, INC. and all DOE Defendants)**

25 107. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 106, inclusive, of this Complaint as though fully set forth herein.

27 108. California Government Code section 12940(p) provides that it is unlawful for an
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1 employer to fail to make reasonable accommodation for the known physical disability of an
2 employee.

3 109. Defendants failed to make reasonable accommodation of Plaintiff's physical
4 disabilities.

5 110. As a direct and proximate result of the aforementioned acts and omissions of
6 Defendants , Plaintiff suffered general and compensatory damages, including but not limited
7 to, loss of income (past and future), loss of employment benefits (past and future), general and
8 compensatory damages (past and future), mental pain and anguish and emotional distress (past
9 and future), and will continue to suffer in the future, in an amount to be proved at trial.

10 111. The foregoing conduct engaged in by Defendants and each of their directors, officers
11 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
12 and carried on with a conscious and willful disregard of their workers' right to receive
13 reasonable accommodations, so as to justify the imposition of punitive damages to punish and
14 set an example of said Defendants .

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

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20 **THIRTEENTH CAUSE OF ACTION**

21 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS IN VIOLATION OF FEHA**

22 **(Plaintiff against KAB GROUP INVESTMENTS, INC. and all DOE Defendants)**

23 113. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 112, inclusive, of this Complaint as though fully set forth herein.

25 114. California Government Code section 12940(n) provides that it is unlawful for an
26 employer to fail to engage in a timely, good faith, interactive process with an employee to
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determine effective accommodations for that employee's physical disability.

115. Defendants failed to engage in a timely, good faith, interactive process with Plaintiff to determine effective reasonable accommodations for Plaintiff's known physical disabilities.

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

117. The foregoing conduct engaged in by Defendants and each of their directors, officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified, and carried on with a conscious and willful disregard of their workers' right to engage in the interactive process and receive reasonable accommodations, so as to justify the imposition of punitive damages to punish and set an example of said Defendants .

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

FOURTEENTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF FEHA

(Plaintiff against KAB GROUP INVESTMENTS, INC. and all DOE Defendants)

119. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 118, inclusive, of this Complaint as thought fully set forth herein.

120. At all times herein mentioned, Government Code section 12940 et. seq. was in full force and effect and was binding upon Defendants and each of them. Said statute imposes certain duties upon Defendants concerning discrimination and retaliation against persons, such

1 as Plaintiff, on the basis of physical disability. Said statutes were intended to prevent the type
2 of injury and damage set forth herein. Plaintiff was, at all times herein mentioned, a member of
3 the class of persons intended to be protected by said statutes. As alleged above, Plaintiff was
4 retaliated against and was eventually terminated from her employment as a result of her
5 physical disability.

6 121. As a direct and proximate result of the conduct of Defendants, and each of them,
7 Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, salary, and benefits,
8 among other things. As a result, Plaintiff has suffered such damages in an amount
9 according to proof.
10

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

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

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

3 125. FEHA provides for an award of reasonable attorneys' fees and costs incurred by a
4 prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
5 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
6 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
7 award of attorneys' fees and costs.
8

9 **FIFTEENTH CAUSE OF ACTION**

10 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION IN VIOLATION**

11 **OF FEHA**

12 **(Plaintiff against KAB GROUP INVESTMENTS, INC. and all DOE Defendants)**

13 126. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 125, inclusive, of this Complaint as thought fully set forth herein.

15 127. At all times herein mentioned, FEHA, California Government Code section 12940(k),
16 was in full force and effect and was binding on Defendants . This statute states that it is an
17 unlawful employment practice in California for an employer to "fail to take all reasonable steps
18 necessary to prevent discrimination and harassment from occurring."
19

20 128. During the course of Plaintiff's employment, Defendants failed to prevent their
21 employees, including management, from engaging in intentional actions that resulted in
22 Plaintiff being treated less favorably and eventually being terminated because of Plaintiff's
23 protected status (i.e. her physical disabilities). During the course of Plaintiff's employment,
24 Defendants failed to prevent their employees from engaging in unjustified employment
25 practices against employees in such protected classes. During the course of Plaintiff's
26 employment, Defendants failed to prevent a pattern and practice by its employees of
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1 intentional discrimination and retaliation on the basis of physical disability, requests for time
2 off due to disability, and/or other protected status and/or protected activity.

3 129. Plaintiff believes and, on that basis, alleges that her physical disabilities and
4 other protected status was a substantial motivating factor in Defendants' employees'
5 discriminating against her and retaliating against her.

6 130. As a direct and proximate result of the aforementioned acts and omissions of
7 Defendants, Plaintiff suffered general and compensatory damages, including but not limited
8 to, loss of income (past and future), loss of employment benefits (past and future), general and
9 compensatory damages (past and future), mental pain and anguish and emotional distress (past
10 and future), and will continue to suffer in the future, in an amount to be proved at trial.

11 131. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive, and
12 each of their directors, officers and/or managing agents, constitutes malice, fraud, and
13 oppression and was authorized, ratified, and carried on with a conscious and willful disregard
14 of their workers' right to work in an environment in which personnel decisions and company
15 policies are made without regard to physical disability, so as to justify the imposition of
16 punitive damages to punish and set an example of said Defendants.

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

20 **SIXTEENTH CAUSE OF ACTION**

21 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC**
22 **POLICY**

23 **(Plaintiff Against KAB GROUP INVESTMENTS, INC. and DOE Defendants, and each**
24 **of them)**

25 133. Plaintiff re-alleges and incorporates by reference each and every allegation in
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1 paragraphs 1 through 132, inclusive, of this Complaint as though fully set forth herein.

2 134. Plaintiff is informed and believes and thereon alleges that Defendants' decisions to
3 discriminate against her and retaliate against her, as alleged herein, was motivated by
4 Plaintiff's physical disabilities. Plaintiff is further informed and believes and thereon alleges
5 that any other reasons proffered by Defendants were and are pretextual in nature. Defendants
6 intentionally created the aforementioned discrimination and retaliation and failed to reasonably
7 accommodate Plaintiff's physical disabilities, thereby not giving Plaintiff an opportunity to
8 work in an environment free of discrimination and retaliation.
9

10 135. The employment of Plaintiff was wrongfully terminated on or around early April of
11 2024 in violation of the fundamental public policy of the State of California with respect to
12 discriminating against an employee on account of her physical disabilities as well as denying
13 reasonable accommodations to Plaintiff. Plaintiff was forced to hire an attorney to assist her to
14 end these illegal activities. Said conduct violated statutory and constitutional expressions of
15 public policy including, but not limited to, California Government Code sections 12940 et seq.,
16 and the California Constitution, Article 1 section 8.
17

18 136. As set forth above, said actions by Defendants were wrongful and in violation of the
19 fundamental principles of the public policy of the State of California as reflected in its laws,
20 objectives and policies. Said statutes and constitutional expressions of public policy include,
21 but are not limited to, California Government Code sections 12940 et seq., and the California
22 Constitution, Article 1 section 8. These laws inure to the benefit of the public at large, and not
23 just the private interests of the employers and employees whom they govern or protect.
24

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

3 138. The foregoing conduct engaged in by Defendants and each of their directors, officers
4 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
5 and carried on with a conscious and willful disregard of their workers' right to work in an
6 environment free of discrimination and retaliation based on physical disability and where
7 workers receive reasonable accommodations for their physical disabilities, and where workers
8 do not get retaliated against due to issues related to their physical disabilities, so as to justify
9 the imposition of punitive damages to punish and set an example of said Defendants .
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11 **SEVENTEENTH CAUSE OF ACTION**

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

13 **(Plaintiff Against KAB GROUP INVESTMENTS, INC. and DOE Defendants, and each**
14 **of them)**

15 139. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 138, inclusive, of this Complaint as though fully set forth herein.

17 140. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendant
18 constitute unfair and unlawful business practices under California Business and Professions
19 Code section 17200, et seq.

20 141. California Business and Professions Code section 17200 et seq. prohibits unfair
21 business practices by employers including, but not limited to, committing labor code violations
22 and retaliating against and terminating employees due to physical disability.

23 142. The aforementioned acts of Defendant was willful, wanton, malicious, intentional,
24 oppressive, and despicable and was done in willful and conscious disregard of the rights,
25 welfare, and safety of Plaintiff, and was done by managerial agents and employees of
26 Defendant and DOES 1 to 25, and with the express knowledge, consent, and ratification of
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1 managerial agents and employees of Defendant and DOES 1 to 25, thereby justifying the
2 awarding of punitive and exemplary damages in an amount to be determined at the time of
3 trial.

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

8 144. As a result of the acts of Defendant, as alleged herein, Plaintiff is entitled to multiple
9 damages as specifically provided in California Business and Professions Code section 17200 et
10 seq.

11 145. For the four years preceding the filing of this action, Plaintiff has suffered damages
12 and requests damages and/or restitution of all monies and profits to be disgorged from
13 Defendant in an amount according to proof at time of trial, but in excess of the jurisdiction of
14 this Court.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
17 follows:

- 18 1. For compensatory damages including lost past and future wages, regular wages,
19 overtime, and all other sums of money, including employment benefits, together with
20 interest on said amounts, and any other economic injury to Plaintiff, according to proof;
21
- 22 2. For general damages according to proof;
- 23 3. For punitive and exemplary damages against corporate Defendants in an amount subject
24 to proof at trial;
- 25 4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
26 at trial;
- 27 5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
28 subject to proof at trial;

6. For damages and penalties pursuant to Labor Code Section 203/204/210 in an amount subject to proof at trial;
7. For restitution and disgorgement for all unfair business practices by corporate Defendants against Plaintiff in an amount subject to proof at trial;
8. For an order enjoining corporate Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
11. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative PAGA claim/action;
12. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of attorney's fees, costs, interest, and penalties according to proof to the extent permitted by law;
13. For restitution and/or damages for all amounts unlawfully withheld from the wages of Plaintiff, as may be proven;
14. For the imposition of civil penalties and/or statutory penalties;
15. For all interest as allowed by law;
16. For all costs and disbursements incurred in this suit;
17. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, the California Labor Code; FEHA, including Government Code section 12940 et seq.; and/or other applicable laws; and

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1 18. For such other and further relief as this Court may deem proper.
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3 **DATED:** November 21, 2024

MESSRELIAN LAW INC.

4
5 By: 

6 Harout Messrelian, Esq.

7 Attorneys for Plaintiff Tina Khachatorian

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
10

11 **DATED:** November 21, 2024

MESSRELIAN LAW INC.

12
13 By: 

14 Harout Messrelian, Esq.

15 Attorneys for Plaintiff Tina Khachatorian
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