

Drew Lewis Esq. (SBN 309288)
drew@drewlewis.law
DREW LEWIS, PC
3010 Lava Ridge Court. Ste. 120
Roseville, CA 95661
Tel: (833) 600-7400

Attorneys for Plaintiff

SUPERIOR COURT STATE OF CALIFORNIA

COUNTY OF YUBA

MICHELLE LACORBIERE, an
individual,

Plaintiff(s),

v.

LEGEND TRANSPORT INC, a California
Corporation, DOES 1-20, inclusive,

Defendant(s).

Case No.: CVCV24-00783

**PLAINTIFF'S COMPLAINT FOR
DAMAGES**

- 1. Discrimination in Violation of FEHA**
(Gov't Code § 12900 et seq.)
- 2. Harassment in Violation of FEHA**
(Gov't Code § 12900 et seq.)
- 3. Pregnancy Discrimination in Violation of the FEHA**
- 4. Wrongful Termination in Violation of Public Policy Based on Violations of FEHA**
- 5. Retaliation in Violation of Lab. Code § 1102.5**
- 6. Wrongful Termination in Violation of Public Policy Based on Violations of Lab. Code § 1102.5**
- 7. Failure to Pay State Minimum Wage**
(Lab. Code § 1197, 1194, 1194.2)
- 8. Failure to Pay Overtime** (Lab. Code § 510, 1194, 1194.2)
- 9. Failure to Provide Meal Breaks** (Lab. Code §§ 510, 226.7)
- 10. Failure to Provide Rest Breaks** (Lab. Code §§ 512, 226.7)
- 11. Failure to Timely Pay Wages During Employment** (Lab. Code §§ 204, 210)
- 12. Failure to Pay All Wages on Discharge**
(Lab. Code §§ 201-203)
- 13. Failure to Provide Accurate Pay Stubs**

(Lab. Code § 226)
14. Violation of Unfair Competition Law
(Bus. & Prof. Code § 17200)

PLAINTIFF DEMANDS JURY TRIAL

I. INTRODUCTION

1. This complaint is brought by Plaintiff MICHELLE LACORBIERE, former employee of LEGEND TRANSPORT, INC. (“Defendant”), where Plaintiff worked as an accounts payable manager. During her employment Defendant was discriminated against, harassed, and retaliated against because of her sex, gender, disability, and/or perceived disability, all in violation of the Fair Employment and Housing Act (“FEHA”). Plaintiff also alleges violations of the California Labor Code and applicable Industrial Welfare Commission (“IWC”) Wage Orders based on Defendants’ 1) failure to pay the minimum wage for all hours worked; 2) failure to pay overtime; 3) failure to provide code-compliant meal and rest breaks or pay premiums in lieu thereof; 4) failure to timely pay wages; 5) and failure to provide and maintain accurate and compliant wage statements.

II. JURISDICTION & VENUE

2. This Court has subject matter jurisdiction to hear this case because the amount in controversy exceeds this Court’s jurisdictional minimum and because Defendants were residents of, or were doing business in, the State of California, County of Yuba.

3. Venue in this Court is proper pursuant to sections 395 and 395.5 of the Code of Civil Procedure in that at all relevant times herein, one or more Defendants conducted substantial business and/or committed violations of law in the County of Yuba.

4. For all causes of action falling within the Fair Employment and Housing Act, Government Code section 12900, *et seq.* (“FEHA”), Plaintiffs have exhausted administrative remedies by filing a claim with the Department of Fair Employment and Housing (“DFEH”) against Defendants concerning all claims asserted against Defendants on [Right to Sue Notice

1 Date]. On this same day, Plaintiffs received notice of the right to sue Defendants from the DFEH
2 and is filing this lawsuit within one (1) year of receiving the right to sue notice.

3 **III. PARTIES**

4 5. Plaintiff MICHELLE LACORBIERE is an individual over the age of eighteen
5 (18). At all relevant times herein, Plaintiff was a California resident, employed by Defendants in
6 the County of Yuba, California.

7 6. On information and belief, Plaintiffs allege that Defendant LEGEND
8 TRANSPORT INC is a California Corporation with its principal place of business in the County
9 of Yuba, California.

10 7. Plaintiffs do not know the true names and capacities of Defendants sued in this
11 Complaint as DOES 1 through 20, inclusive, and therefore sues these Defendants by fictitious
12 names. Plaintiffs will amend this Complaint to allege the true names and capacities of DOES 1
13 through 20, inclusive, when ascertained. Plaintiffs are informed and believes, and on that basis
14 alleges, that each of the Defendants named herein as DOES 1 through 20, inclusive, is
15 responsible in some manner for the occurrence, injury, and other damages alleged in this
16 Complaint.

17 8. Plaintiffs are informed and believe, and on that basis alleges, that each Defendant
18 was in some manner responsible for the acts and damages alleged herein, and/or are indebted to
19 Plaintiffs as alleged herein, and that each Defendant was the agent, employer and co-conspirator
20 of each other Defendant, and was acting in the course and scope of such agency and conspiracy.
21 In this Complaint where Plaintiffs refers to Defendant singularly, such reference shall be
22 construed to be a reference to all Defendants named herein, including those named fictitiously.

23 **IV. FACTUAL ALLEGATIONS**

24 9. Plaintiff worked for Defendant from approximately November 23, 2022 to
25 September 5, 2023, as a non-exempt accounts payable manager.

26 10. During her employment Plaintiff frequently worked more than 8 hours in a
27 workday or more than 40 hours in a workweek.

28 11. Defendant did not pay Plaintiff overtime wages for all overtime hours worked,

1 and also did not pay Plaintiff for all hours worked.

2 12. Plaintiff was also regularly denied the opportunity to take duty-free meal and rest
3 periods. Defendant did not provide any additional pay for missed meal breaks or rest breaks.

4 13. During her employment, Plaintiff was issued pay statements by Defendant.
5 However, these pay statements did not accurately reflect the number of regular or overtime
6 hours worked, corresponding applicable hourly pay rates, the correct amount of gross and net
7 wages, or pay premiums for missed meal and rest periods.

8 14. During her employment, Plaintiff learned of multiple actions, inactions, and
9 proposed courses of action by Defendants which Plaintiff reasonably believed constituted
10 violations of state and federal law, including wage and hour requirements, payment of employee
11 compensation and benefits, and OSHA compliance. Plaintiff communicated to Defendants her
12 reasonable belief that these actions, inactions, and proposed courses of action were not lawful,
13 particularly from approximately April through August, 2023, when a number of these matters
14 came to Plaintiff's knowledge.

15 15. In or about August 2023 Defendant learned Plaintiff was pregnant. On multiple
16 occasions thereafter Plaintiff was subjected to negative comments by the company's owners
17 regarding her pregnancy, including questioning Plaintiff's ability to keep up with her job duties
18 as a result of her pregnancy. On one occasion one of the company's owners expressed concern
19 to Plaintiff that she would be calling out sick frequently during her pregnancy, and that the
20 company would be forced to hire additional employees to help Plaintiff with her job duties while
21 she was pregnant.

22 16. On or about September 5, 2023, Defendant terminated Plaintiff's employment.

23 17. Defendant failed to pay all wages due to Plaintiff upon her termination.

24
25 **V. CAUSES OF ACTION**

26
27 **FIRST CAUSE OF ACTION**

28 **Discrimination in Violation of FEHA
(Gov't Code 12900, et seq.)**

(As to All Defendants)

18. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

19. Defendant is an "employer" in the State of California, as defined in the FEHA. Plaintiff is a member of a protected class while employed by Defendants.

20. Based on Plaintiff's sex/gender, disability, and/or perceived disability, Defendant, through their agents and employees, engaged in a pattern and practice of unlawful discrimination in violation of the FEHA in connection with the terms and conditions of Plaintiff's employment.

21. As a direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff have suffered and will continue to suffer economic damages, including lost wages and benefits, and other compensatory damages in an amount to be ascertained at the time of trial.

22. As a further direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff has suffered mental, physical, and emotional distress, and has been generally damaged in an amount to be ascertained at the time of trial.

23. As a further direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff will continue to expend sums in the further for the treatment of the emotional, physical, and mental injuries sustained by Plaintiff as a result of said Defendants' acts in an amount to be ascertained at the time of trial.

24. Defendants' conduct as described above was malicious, fraudulent, oppressive, done with reckless indifference, and/or done with a willful and conscious disregard for Plaintiff's rights and for the deleterious consequences of Defendants' actions. Defendants, and their agents/employees or supervisors, authorized, condoned, and/or ratified the unlawful conduct of each other. As such, exemplary and punitive damages are warranted against Defendants, and each of them, in an amount sufficient to punish said Defendants and to deter others from engaging in similar conduct.

25. As a further direct and proximate result of the above-described acts of

1 Defendants, and each of them, Plaintiff has incurred attorney's fees and costs and, pursuant to
2 the provisions of California Government Code Section 12965(c)(6). Plaintiff is entitled to the
3 reasonable value of such attorney's fees.

4 26. Plaintiff requests relief as described below.

5
6 **SECOND CAUSE OF ACTION**
7 **Harassment in Violation of FEHA**
8 **(Gov't Code 12900, et seq.)**
9 **(As to All Defendants)**

10 27. Plaintiff incorporates each and every paragraph set forth above as though fully set
11 forth herein.

12 28. California Government Code Section 12940(j)(1) makes it unlawful employment
13 practice for an employer "because of...sex [or] gender...to harass an employee..."

14 29. Defendants, and of them, are "employers" within the meaning of California
15 Government Code Section 12940(j)(4)(A), and are subject to FEHA and employers of one (1) or
16 more persons.

17 30. Plaintiff was subjected to unwanted harassment by employees, supervisors,
18 directors and/or managers of Defendants, and each of them, because of her sex and/or gender.

19 31. The harassing conduct was so severe and/or pervasive as to the alter the
20 conditions of Plaintiff's employment and create a hostile and abusive work environment that
21 affected tangible aspects of their compensation, terms, condition, and/or privileges of
22 employment.

23 32. The harassing conduct was so widespread and/or persistent that a reasonable
24 person in Plaintiff's circumstances would have considered the work environment to be hostile
25 and/or abusive, and Plaintiff in fact considered the work environment created by Defendants,
26 and each of them, to be hostile and/or abusive.

27 33. Defendants, and each of them, including supervisors and/or agents of Defendants,
28 and each of them, knew or should have known of the harassing conduct and failed to take
immediate and appropriate corrective action.

1 34. Defendants, and each of them, are vicariously and strictly liable under FEHA for
2 sex and/or gender-based harassment of Plaintiff by supervisors with immediate or successively
3 higher authority over Plaintiff within the meaning of California Government Code Section
4 1296(s).

5 35. As a direct and proximate result of the acts of Defendants, and each of them, as
6 alleged above, Plaintiff have suffered and will continue to suffer economic damages, including
7 lost wages and benefits, and other compensatory damages in an amount to be ascertained at the
8 time of trial.

9 36. As a further direct and proximate result of the acts of Defendants, and each of
10 them, as alleged above, Plaintiff has suffered mental, physical, and emotional distress, and has
11 been generally damaged in an amount to be ascertained at the time of trial.

12 37. As a further direct and proximate result of the acts of Defendants, and each of
13 them, as alleged above, Plaintiff will continue to expend sums in the further for the treatment of
14 the emotional, physical, and mental injuries sustained by Plaintiff as a result of said Defendants'
15 acts in an amount to be ascertained at the time of trial.

16 38. Defendants' conduct as described above was malicious, fraudulent, oppressive,
17 done with reckless indifference, and/or done with a willful and conscious disregard for
18 Plaintiff's rights and for the deleterious consequences of Defendants' actions. Defendants, and
19 their agents/employees or supervisors, authorized, condoned, and/or ratified the unlawful
20 conduct of each other. As such, exemplary and punitive damages are warranted against
21 Defendants, and each of them, in an amount sufficient to punish said Defendants and to deter
22 others from engaging in similar conduct.

23 39. As a further direct and proximate result of the above-described acts of
24 Defendants, and each of them, Plaintiff has incurred attorney's fees and costs and, pursuant to
25 the provisions of California Government Code Section 12965(c)(6). Plaintiff is entitled to the
26 reasonable value of such attorney's fees.

27 40. Plaintiff requests relief as described below.
28

THIRD CAUSE OF ACTION
Pregnancy Discrimination in Violation of the FEHA
(As to All Defendants)

41. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

42. Government Code section 12940(a) provides that it is unlawful “[f]or an employer, because of . . . sex, . . . to discriminate against [any] person in compensation or in terms, conditions, or privileges of employment.”

43. The FEHA defines “sex” to include “[p]regnancy or medical conditions related to pregnancy.” (Government Code section 12926(r)(1).)

44. The FEHA further defines “sex” to include “a person’s gender,” and additionally provides that “[g]ender” means sex, and includes a person’s gender identity and gender expression.” (Government Code section 12926(r)(2).)

45. Defendant is an "employer" in the State of California, as defined in the FEHA.

46. Based on Plaintiff's pregnancy, sex, and/or gender, Defendant, through its agents and employees, engaged in a pattern and practice of unlawful discrimination in violation of the FEHA in connection with the terms and conditions of Plaintiff's employment.

47. As a direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff have suffered and will continue to suffer economic damages, including lost wages and benefits, and other compensatory damages in an amount to be ascertained at the time of trial.

48. As a further direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff has suffered mental, physical, and emotional distress, and has been generally damaged in an amount to be ascertained at the time of trial.

49. As a further direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff will continue to expend sums in the further for the treatment of the emotional, physical, and mental injuries sustained by Plaintiff as a result of said Defendants’ acts in an amount to be ascertained at the time of trial.

50. The above-described acts of Defendants, and each of them, were willful,

1 intentional, and malicious and done with the intent to vex, injure and annoy Plaintiff and warrant
2 the imposition of exemplary and punitive damages in an amount sufficient to punish said
3 Defendants, and each of them, and to deter other from engaging in similar conduct. Defendants,
4 and each of them, authorized and ratified the wrongful acts of their agent and employee, knew in
5 advance that their agents and employees were likely to commit such acts and employed them
6 with conscious disregard of the rights or safety of others, and/or their officers, directors, and/or
7 managing agents were themselves guilty of oppression, fraud, and malice.

8 51. As a further direct and proximate result of the above-described acts of
9 Defendants, and each of them, Plaintiff has incurred attorney's fees and costs and, pursuant to
10 the provisions of California Government Code Section 12965(c)(6). Plaintiff is entitled to the
11 reasonable value of such attorney's fees.

12 52. Plaintiff requests relief as described below.

13
14 **FOURTH CAUSE OF ACTION**
15 **Wrongful Termination in Violation of Public Policy Based on Violation(s) of FEHA**
16 **(As to All Defendants)**

17 53. Plaintiff incorporates in this cause of action each and every allegation of the
18 preceding paragraphs, as though fully set forth herein.

19 54. At all times mentioned herein, California Government Code Section 12920 and
20 California Labor Code section 6310, were in full force and effect, and establishes that the public
21 policy of the State of California is, in part, to protect and safeguard the right and opportunity of
22 all persons to seek and hold employment without discrimination and to be able to work in an
23 environment free of unsafe working conditions.

24 55. An employee may bring a wrongful discharge claim against an employer subject
25 to the FEHA based upon the policy prohibiting violations of the FEHA. *See Stevenson v. Sup.*
26 *Ct. (Huntington Mem. Hosp.), (1997) 16 Cal. 4th 880.* An employer's violation of a statute on a
27 particular subject is also a violation of public policy. *See, e.g., Jie v. Liang Tai Knitwear Co.,*
28 *(2001) 89 Cal. App; 4th 654, 660-61.* Thus, a violation of Government Code section 12940, *et*
seq., is also a violation of public policy.

1 56. Defendants constructively and/or actually discharged Plaintiff in violation of
2 public policy, as found in the FEHA, protecting employees from being discharged based on
3 sex/gender or due to a disability or perceived disability.

4 57. As a direct and proximate result of the acts of Defendants, and each of them, as
5 alleged above, Plaintiff have suffered and will continue to suffer economic damages, including
6 lost wages and benefits, and other compensatory damages in an amount to be ascertained at the
7 time of trial.

8 58. As a further direct and proximate result of the acts of Defendants, and each of
9 them, as alleged above, Plaintiff has suffered mental, physical, and emotional distress, and has
10 been generally damaged in an amount to be ascertained at the time of trial.

11 59. As a further direct and proximate result of the acts of Defendants, and each of
12 them, as alleged above, Plaintiff will continue to expend sums in the further for the treatment of
13 the emotional, physical, and mental injuries sustained by Plaintiff as a result of said Defendants'
14 acts in an amount to be ascertained at the time of trial.

15 60. Defendants' conduct as described above was malicious, fraudulent, oppressive,
16 done with reckless indifference, and/or done with a willful and conscious disregard for
17 Plaintiff's rights and for the deleterious consequences of Defendants' actions. Defendants, and
18 their agents/employees or supervisors, authorized, condoned, and/or ratified the unlawful
19 conduct of each other. As such, exemplary and punitive damages are warranted against
20 Defendants, and each of them, in an amount sufficient to punish said Defendants and to deter
21 others from engaging in similar conduct.

22 61. Plaintiff requests relief as described below.

23
24 **FIFTH CAUSE OF ACTION**
25 **Retaliation in Violation of Labor Code § 1102.5**
26 **(As to All Defendants)**

27 62. Plaintiff incorporates in this cause of action each and every allegation of the
28 preceding paragraphs, as though fully set forth herein.

1 63. At all relevant times, Labor Code section 1102.5 was in effect and was binding
2 on Defendants. This statute prohibited Defendants from retaliating against any employee,
3 including Plaintiff, for raising reasonable, good faith complaints of workplace illegality,
4 “regardless of whether disclosing the information is part of the employee’s job duties.”

5 64. As discussed herein Plaintiff made reasonable, good faith complaints of
6 workplace illegality to Defendants, who retaliated by taking adverse employment actions against
7 Plaintiff, including terminating Plaintiff’s employment.

8 65. As a direct and proximate result of the acts of Defendants, and each of them, as
9 alleged above, Plaintiff have suffered and will continue to suffer economic damages, including
10 lost wages and benefits, and other compensatory damages in an amount to be ascertained at the
11 time of trial.

12 66. As a further direct and proximate result of the acts of Defendants, and each of
13 them, as alleged above, Plaintiff has suffered mental, physical, and emotional distress, and has
14 been generally damaged in an amount to be ascertained at the time of trial.

15 67. As a further direct and proximate result of the acts of Defendants, and each of
16 them, as alleged above, Plaintiff will continue to expend sums in the further for the treatment of
17 the emotional, physical, and mental injuries sustained by Plaintiff as a result of said Defendants’
18 acts in an amount to be ascertained at the time of trial.

19 68. Defendants’ aforesaid acts of retaliation against Plaintiff were malicious,
20 oppressive, despicable, and done in conscious disregard of Plaintiff’s rights. As such, exemplary
21 and punitive damages are warranted against Defendants, and each of them, in an amount
22 sufficient to punish said Defendants and to deter others from engaging in similar conduct.

23 69. Plaintiff has incurred and continues to incur legal expenses and attorneys’ fees.
24 Pursuant to Labor Code section 1102.5, Code of Civil Procedure section 1021.5, and/or other
25 provisions of law, Plaintiff is entitled to recover reasonable attorneys’ fees and costs in an
26 amount according to proof.

27 70. Plaintiff requests relief as described below.
28

SIXTH CAUSE OF ACTION
Wrongful Termination in Violation of Public Policy Based on Violation(s) of Lab. Code § 1102.5
(As to All Defendants)

71. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

72. An employee may bring a wrongful discharge claim against an employer based on a violation of public policy by an employer who violates a statute that inures to the benefit of the public. (See, e.g., *Stevenson v. Sup. Ct. (Huntington Mem. Hosp.)*, (1997) 16 Cal. 4th 880, *Jie v. Liang Tai Knitwear Co.* (2001) 89 Cal. App; 4th 654, 660-61; *Tameny v. Atlantic Richfield Co.* (1980) 27 Cal.3d 167. 172.) Thus, a violation of Labor Code 1102.5 is a violation of public policy.

73. Defendants, and each of them, terminated Plaintiff's employment, in whole or in part, in retaliation for Plaintiff's exercise of rights guaranteed under the Labor Code, as described herein.

74. Defendants' discharge of Plaintiffs was in violation of public policy, as found in Labor Code section 1102.5 which protected Plaintiff from retaliation for making reasonable, good faith complaints of workplace illegality to Defendants, as alleged herein.

75. As a direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff have suffered and will continue to suffer economic damages, including lost wages and benefits, and other compensatory damages in an amount to be ascertained at the time of trial.

76. As a further direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff has suffered mental, physical, and emotional distress, and has been generally damaged in an amount to be ascertained at the time of trial.

77. As a further direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiff will continue to expend sums in the further for the treatment of the emotional, physical, and mental injuries sustained by Plaintiff as a result of said Defendants' acts in an amount to be ascertained at the time of trial.

1 78. Defendants' aforesaid acts taken against Plaintiff in violation of public policy
2 were malicious, oppressive, despicable, and done in conscious disregard of Plaintiff's rights. As
3 such, exemplary and punitive damages are warranted against Defendants, and each of them, in
4 an amount sufficient to punish said Defendants and to deter others from engaging in similar
5 conduct.

6 79. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
7 Pursuant to Labor Code section 1102.5, Code of Civil Procedure section 1021.5, and/or other
8 provisions of law, Plaintiff is entitled to recover reasonable attorneys' fees and costs in an
9 amount according to proof.

10
11 **SEVENTH CAUSE OF ACTION**
12 **Failure to Pay State Minimum Wage**
13 **(Lab. Code § 1197, 1194, 1194.2)**
14 **(As to All Defendants)**

15 80. Plaintiff incorporates in this cause of action each and every allegation of the
16 preceding paragraphs, as though fully set forth herein.

17 81. Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission ("IWC")
18 Wage Order 4-2001 require employers to pay an amount equal to or greater than the minimum
19 wage for each hour worked. Labor Code § 1194.2 provides for the recovery of liquidated
20 damages for such wages unlawfully unpaid and the interest thereon.

21 82. Defendants failed to pay Plaintiff at least the minimum wage for each hour
22 worked.

23 83. As a direct and proximate result of Defendants' unlawful conduct, as set forth
24 herein, Plaintiff has suffered damages, including loss of earnings for time worked on behalf of
25 Defendants.

26 84. Plaintiff requests relief as described below.

27 **EIGHTH CAUSE OF ACTION**
28 **Failure to Pay Overtime Wage**
 (Lab. Code § 1197, 1194, 1194.2)
 (As to All Defendants)

1 85. Plaintiff incorporates in this cause of action each and every allegation of the
2 preceding paragraphs, as though fully set forth herein.

3 86. Labor Code section 510 requires employers to pay overtime compensation to all
4 employees, unless they are exempt from the overtime pay requirements. During all periods of
5 employment, Plaintiff was misclassified as an independent contractor and exempt employee.

6 87. Plaintiff has worked in excess of eight (8) hours in a workday, twelve (12) hours
7 in a workday, and/or forty (40) hours in a workweek.

8 88. Defendants have failed or otherwise refused to pay Plaintiff overtime
9 compensation for all overtime hours worked in the manner required by California law.

10 89. As a direct and proximate result of Defendants' unlawful conduct, as set forth
11 herein, Plaintiff has suffered damages, including loss of earnings for hours of overtime worked
12 on behalf of Defendants.

13 90. Plaintiff requests relief as described below.

14
15 **NINTH CAUSE OF ACTION**
16 **Failure to Provide Meal Breaks**
17 **(Lab. Code §§ 510, 226.7)**
 (As to All Defendants)

18 91. Plaintiff incorporates in this cause of action each and every allegation of the
19 preceding paragraphs, as though fully set forth herein.

20 92. An employer's failure to provide an opportunity to take a meal break entitles the
21 employee to an hour of pay for each day an employer fails to provide an opportunity to take a
22 meal break.

23 93. At all times herein relevant, Plaintiff was a non-exempt employee and entitled to
24 meal breaks.

25 94. At all times herein relevant, Defendants employed Plaintiff for periods of five (5)
26 hours or more without providing meal breaks of at least thirty (30) minutes or a second meal
27 period of at least thirty (30) minutes when Plaintiff worked more than ten (10) hours in a
28 day. Plaintiff did not waive his right to meal periods throughout his employment.

1 95. Defendants further failed to compensate Plaintiff for the premium wage(s) owed
2 resulting from their failure to provide the opportunity to take a meal break.

3 96. As a direct and proximate result of Defendants' unlawful conduct, as set forth
4 herein, Plaintiff has suffered damages, including a loss of wages.

5 97. Plaintiff requests relief as described below.

6
7 **TENTH CAUSE OF ACTION**
8 **Failure to Provide Rest Breaks**
9 **(Lab. Code §§ 512, 226.7)**
10 **(As to All Defendants)**

11 98. Plaintiff incorporates in this cause of action each and every allegation of the
12 preceding paragraphs, as though fully set forth herein.

13 99. Labor Code section 226.7 provides that all non-exempt employees are entitled to
14 at least a 10-minute rest break for each work period of more than four (4) hours, or major
15 fraction thereof.

16 100. An employer's failure to provide an opportunity to take a rest break entitles the
17 employee an hour of pay for each day an employer fails to provide an opportunity to take a rest
18 break.

19 101. At all times relevant, Plaintiff was a non-exempt employee and entitled to rest
20 breaks.

21 102. At all times relevant, Defendants failed to authorize and permit Plaintiff to take
22 rest periods of at least 10 minutes for each work period of more than four (4) hours, or major
23 fraction thereof.

24 103. Defendants further failed to compensate Plaintiff for the premium wage(s) owed
25 resulting from their failure to provide the opportunity to take rest breaks.

26 104. As a direct and proximate result of Defendants' unlawful conduct, as set forth
27 herein, Plaintiff has suffered damages, including a loss of wages.

28 105. Plaintiff requests relief as described below.

ELEVENTH CAUSE OF ACTION

Failure to Timely Pay Wages During Employment
(Lab. Code §§ 204, 210)
(As to All Defendants)

106. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

107. Labor Code section 204 requires employees to be paid earned wages at least twice per month. If an employer fails to pay wages earned during the proper pay period, the employee is entitled to a penalty of \$100 for an initial violation and \$200 for each subsequent or willful, or intentional violation. Additionally, the employee is entitled to 25% of the amount unlawfully withheld.

108. Defendants failed to properly and timely compensate Plaintiff for all wages earned during Plaintiff's pay period(s).

109. Defendants' acts were willful and/or intentional.

110. As a result of Defendants' conduct, Plaintiff is entitled to the penalty set forth in section 210 of the Labor Code.

111. Plaintiff requests relief as described below.

TWELFTH CAUSE OF ACTION
Failure to Pay All Wages on Discharge
(Lab. Code §§ 201-203)
(As to All Defendants)

112. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

113. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due immediately upon discharge, or within seventy-two (72) hours of quitting without notice. Labor Code § 203 provides that where an employer willfully fails to make such timely payment, the employer must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty (30) days' wages.

114. Plaintiff was discharged from employment by Defendants without being paid all

1 wages that were due to them within the time required by Labor Code §§ 201 and
2 202. Defendants' failure to pay these wages Defendants have been and continue to be willful.

3 115. As a result of Defendants' conduct, Plaintiff is entitled to waiting time penalties
4 in the amount of up to thirty (30) days' wages under Labor Code § 203.

5 116. Plaintiff requests relief as described below.

6
7 **THIRTEENTH CAUSE OF ACTION**
8 **Failure to Provide Accurate Pay Stubs**
9 **(Lab. Code § 226)**
10 **(As to All Defendants)**

11 117. Plaintiff incorporates in this cause of action each and every allegation of the
12 preceding paragraphs, as though fully set forth herein.

13 118. Labor Code section 226(a) requires employers to provide employees with regular
14 itemized written statements showing, among other things, total hours worked, all applicable
15 hourly rates during the pay period, and corresponding number of hours worked at each rate by
16 the employee, and total gross and net wages earned during the pay period. Defendants
17 knowingly and intentionally failed to provide timely, accurate itemized wage statements
18 including this required information.

19 119. Labor Code § 226(e) provides that an employee suffering injury as a result of a
20 knowing and intentional failure by an employer to comply with section 226(a) is entitled to
21 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
22 a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period,
23 up to a maximum amount of \$4,000.

24 120. Labor Code § 226(e)(2) provides that an employee is deemed to suffer injury for
25 the purposes of Labor Code § 226 if the employer fails to provide the employee his/her wage
26 statement.

27 121. Defendant knowingly and intentionally failed to provide Plaintiff with accurate
28 itemized wage statements.

122. Plaintiff requests relief as described below.

FOURTEENTH CAUSE OF ACTION
Violation of Unfair Competition Law
(Business & Professions Code § 17200, et seq.)
(As to All Defendants)

123. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

124. Defendants' conduct, as alleged herein, constitutes an unlawful, unfair, and/or fraudulent business practices, as set forth in Business & Professions Code section 17200. Defendants conducted business activities while failing to comply with the legal mandates cited herein. Plaintiff suffered injury in fact and lost money as a result of Defendants' unfair competition.

125. As a result of Defendants' unlawful and unfair business practices, Plaintiff is entitled to and does seek restitution, and other appropriate relief available under Business & Professions Code § 17203, on his own behalf for four (4) years from the filing of this Action.

126. Plaintiff requests relief as described below.

PRAYER

1. For general damages according to proof in an amount to exceed \$1,000,000;
2. For special damages according to proof in an amount to exceed \$1,000,000;
3. For compensatory damages and unpaid wages;
4. For mental and emotional distress damages in an amount to be proved at trial;
5. For exemplary damages, according to proof;
6. For pre-judgment, post-judgment, and statutory interest and all amounts subject herein;
7. For attorney's fees according to statute including Labor Code section 218.5, Labor Code section 1194, Labor Code section 1102.5, Code of Civil Procedure section 1021.5, Government Code section 12965(c)(6), and any other relevant provision under California law that provides for the recovery of attorney's fees;

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- 8. For costs of suit incurred in this action;
- 9. For penalties according to statute;
- 10. For injunctive relief;
- 11. For declaratory relief; and
- 12. For all other relief that this Court deems just and proper.

DATED: June 20, 2024

DREW LEWIS, PC

By: 
Drew Lewis
Attorney for Plaintiff(s)