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FILED
Superior Court of California
County of Los Angeles
11/18/2024
David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

AMANDA SALAS, individually, on behalf of all others similarly situated, the State of California, and other aggrieved persons,

Plaintiff,

v.

ACSC MANAGEMENT SERVICES, INC., a California corporation; AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA, a California non-profit corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 24STCV24554

FIRST AMENDED CLASS ACTION COMPLAINT:

1. Violations of the California Equal Pay Act, California Labor Code § 1197.5, *et seq.*;
2. Violations of the California Fair Employment and Housing Act (Government Code § 12940, *et. seq.*);
3. Wrongful Failure to Take Reasonable Steps to Prevent Harassment, Discrimination and Retaliation in Violation of Government Code Section 12940, Subsection (J)(1);
4. Failure to Produce Requested Employment Records (Cal. Lab. Code §§ 226 and 1198.5)
5. Violations of the California Unfair Business Practices Act, Business and Professions Code § 17200, *et seq.*;

With Individual Causes of Action for:

6. Retaliation in Violation of Government Code § 12940, *et. seq.*;
7. Retaliation in Violation of Labor Code § 1102.5; and

With individual and representative claims for:

8. Civil Penalties Under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698 *et seq.*).

DEMAND FOR JURY TRIAL

Plaintiff Amanda Salas discovered in September 2022 that Defendants ACSC Management Services, Inc. and the Automobile Club of Southern California were offering substantially higher salaries to new male casualty adjusters than to female casualty adjusters with very similar resume history.

Plaintiff Salas also discovered that Defendants were offering these male prospective employee higher salaries than what she and her colleagues were making. She immediately resolved to bring the pay inequities to the attention of Defendants.

Their response, however, was to retaliate. Instead of addressing the blatant gender-based pay inequities that Plaintiff Salas had discovered, Defendants:

- Revoked her duties screening new hires;
- Transferred her to a different department;
- Subjected her to increased scrutiny;
- Deprived her of an opportunity for advancement; and
- Transferred her a second time to a position requiring a 55-minute one-way commute.

Meanwhile, on information and belief, Defendants have not addressed their disparate pay practices and continue to pay certain male employees more than female employees in equivalent positions with equivalent backgrounds, among other pay disparities based on protected categories. Because Defendants' pay practices negatively affect her co-workers throughout Defendants' operations, she brings this case as a class action.

Specifically, upon knowledge and upon information and belief, Plaintiff alleges:

THE PARTIES

A. Plaintiff

1. Plaintiff Amanda Salas is a woman over the age of eighteen who identifies as lesbian and half Hispanic. She resides in California. She works for Defendants including in Riverside, California.

2. Plaintiff reserves the right to seek leave to amend this complaint to add new Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

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B. Defendants

3. Defendant ACSC Management Services, Inc. ("ACSC") is incorporated in California and has its principal place of business in Los Angeles, California.

4. Defendant Automobile Club of Southern California ("AAA") is incorporated in California and has its principal place of business in Los Angeles, California, at the same address where Defendant ACSC has its principal place of business.

5. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendants ACSC and AAA are, and at all times herein mentioned, were:

(a) Business entities conducting business in numerous counties throughout the State of California, including in Los Angeles County; and,

(b) Together, the employes of Plaintiff, and the current and/or former employer of the putative Class and Aggrieved Employees because Defendants ACSC and AAA suffered and permitted Plaintiff and the Class and Aggrieved Employees to work; and/or exercised control over their wages, hours, or working conditions; and/or engaged Plaintiff and the Class and Aggrieved Employees, thereby creating a common law employment relationship.

6. Plaintiff does not know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiff and the Class and Aggrieved Employees as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

7. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured Plaintiff and a significant number of the Class and Aggrieved Employees in the State of California.

8. Plaintiff is informed and believes and thereon alleges that at all relevant times each

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Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the class definitions below, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided, and abetted the conduct of all other Defendants.

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JURISDICTION AND VENUE

9. This Court has jurisdiction over this matter because Defendants ACSC and AAA maintain headquarters in California, are licensed to do business in California, regularly conduct business in California, and committed and continue to commit the unlawful acts alleged herein in California.

10. Venue is proper in this Court pursuant to California Code of Civil Procedure section 395.5 because: a) many class members and Aggrieved Employees work, or have worked in this county and, as such, liability arises in this county; and b) Defendants maintain their principal places of business in this county.

11. Within the time provided by law, Plaintiff filed a complaint with the California Civil Rights Department, in full compliance with applicable law, and has received and with this Complaint serves a right-to-sue letter, attached as **Exhibit A**.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

12. In or about September of 2022, Plaintiff's job duties for Defendants included among other tasks screening potential new hires, arranging interviews, and extending employment offers. While doing this job, Plaintiff began to notice several large discrepancies in Defendants' salary

offers to new male Casualty Adjusters versus female Casualty Adjuster with very similar resume history. Plaintiff and some of her colleagues performing this work also noticed that these new employees were being offered the same or more compensation than what some current Casualty Claims Managers in that department were making.

13. For example, Plaintiff noticed that a male applicant was offered annual pay of $94,000 for a position in which three female applicants with similar backgrounds were offered annual pay that was lower, including one of the female applicants being offered $86,000 per year and another being offered approximately $80,000 per year.

14. During a team manager meeting on or about September 9, 2022 with the Unit Manager, Plaintiff and her Team Manager colleagues expressed their concerns about these pay discrepancies, apparently based on gender. The Unit Manager offered to arrange a meeting for all of the Team Managers, including Plaintiff, to discuss the pay issues with Group Management, including the Group Manager, Group Technical Manager, and Claims Vice President.

15. After this meeting, several Team Managers informed Plaintiff that the Unit Manager had spoken with them individually and cautioned them that it could reflect negatively on them if they attended the planned meeting with Group Management to discuss pay issues. They stated that the Unit Manager told them to reconsider expressing their pay grievances to Group Management.

16. On or about September 22, 2022, Plaintiff met with the Group Manager and Group Technical Manager, during which these two individual informed Plaintiff that the Unit Manager had told them that this meeting was at the sole request of Plaintiff regarding only Plaintiff's pay. Plaintiff corrected this, informing the Group Manager and Group Technical Manager that the meeting was intended to address pay discrepancies based on gender that Plaintiff and others had noticed, but that other managers were intimidated from joining the meeting and voicing their concerns. Plaintiff informed the Group Managers of her suspected findings of unfair pay trends and also requested that Defendants review Plaintiff's own compensation, especially because the Group Manager previously had openly acknowledged on multiple occasions that Plaintiff's compensation was much lower than that of her peers.

17. The Group Technical Manager stated during this September 22, 2022 meeting words

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to the effect of the following: "You should be cautious with your words as it can be interpreted as you being ungrateful," and "you should remember your privileged position within the Casualty Immersion Program."

18. On or about the September 26, 2022, the Unit Manager informed Plaintiff that Plaintiff no longer would be assisting with new hire screening, and that the Unit Manager was increasing Plaintiff's claims intake by 25%.

19. On or about September 28, 2022, Plaintiff was required to attend a meeting with the Group Manager and the Unit Manager and was informed that Plaintiff's compensation request was not going to be considered at that time, but that instead, the Group Manager would reevaluate Plaintiff's compensation at the end of the year. In fact, the Group Manager did not reevaluate Plaintiff's compensation at the end of the year. Also during this September 28, 2022 meeting, the Group Manager informed Plaintiff that Plaintiff was going to be transferred to the San Diego Casualty Department, effective November 1, 2022. Plaintiff expressed her concern during this meeting that these employment actions appeared to be retaliation for Plaintiff raising concerns about pay inequity.

20. On or about March 20, 2023, Plaintiff received her Performance Assessment for the 2022 year, drafted by the Unit Manager to whom Plaintiff originally had expressed concern about pay inequity. The Manager's End of Year Comments was a single sentence submitted by this same Unit Manager. It was vague and deliberately left out major achievements Plaintiff had accomplished throughout the year, which had been a milestone year for Plaintiff because, among other achievements, Plaintiff had gone above and beyond her job duties by:

- Presenting at the Casualty Summit;
- Volunteering with the Casualty Summit planning committee;
- Creating presentation materials for several other casualty units;
- Receiving five "Be Legendary" Awards;
- Assisting different casualty teams in different casualty departments during extended team manager absences; and
- Exceeding casualty production goals on the files to which Plaintiff was assigned.

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Further, Plaintiff was marked down in areas of "Delivering Legendary Service" with no explanation. This Performance Assessment was in stark contrast with Plaintiff's previous Performance Assessments, which contained more details of Plaintiff's achievements. Despite the totality of Plaintiff's achievements that year, Plaintiff received only an average rating, which reduced Plaintiff's earnings potential for salary compensation and variable pay. On information and belief, this Performance Assessment was intended as retaliation for Plaintiff raising concerns about pay inequity.

21. On September 7, 2023, the new Group Manager met with Plaintiff to discuss Plaintiff's progress in the Casualty Immersion Program, which was established to help managers from one discipline become efficient in another discipline through a three-phase transitional program. Plaintiff had been participating in this Casualty Immersion Program since September of 2021, a full year before she noticed the pay inequity issues. During this September 7, 2023 meeting, the Group Manager advised Plaintiff that effective October 15, 2023, Plaintiff would begin reporting to the Riverside Early Response Unit as an Auto Claims Team Manager. Plaintiff was blindsided by this information and expressed her disappointment with this decision, which did not align with the career pathing Plaintiff had discussed with her superiors in previous meetings. Plaintiff informed the Group Manager that this was a less desirable position, and Plaintiff expressed her desire to stay within the casualty discipline. Plaintiff identified several upcoming openings that would be available within the following 30-45 days under Casualty. The Group Manager informed Plaintiff that such positions were not an option at that time, but Plaintiff could apply for them at the later dates. Plaintiff also explained that reporting to Riverside on such short notice would be difficult for Plaintiff, who lived in San Dimas and would need time to prepare, financially and personally, for a new 55-minute commute. The Group Manager stated that the decision has already been determined and finalized.

22. On or about September 11, 2023, Plaintiff submitted a request to postpone her transfer for 90 days to allow Plaintiff to financially prepare for the transition, and to allow Plaintiff opportunities to apply for positions that would not cause such a hardship. Plaintiff detailed how the transfer would cost Plaintiff approximately $950 per month. Shortly after Plaintiff submitted

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this request, the Group Manager telephone Plaintiff, questioned Plaintiff's motives, and stated that Plaintiff's request would not be considered.

23. As a direct, foreseeable, and proximate result of this retaliatory conduct by Defendants, Plaintiff has experienced stress, anxiety, acute depression, and a deep fear of further retaliation.

24. On information and belief, Defendants' centralized compensation policies, practices and procedures result in unequal pay on the basis of gender, gender identity, race, ethnic background, and other protected categories.

25. On information and belief, Defendants' employment policies, procedures and practices at issue are not unique or limited to any particular department/business area; rather, they apply throughout Defendants' operations and, thus, affect all employees in the same manner based on gender, gender identity, race, ethnic background, and other protected categories, regardless of the department/business area in which they work.

26. Defendants' uniform policies, procedures and practices suffer from a lack of transparency, adequate quality standards and controls, sufficient implementation metrics, management/HR review, and opportunities for redress or challenge. As a result, women employees, gender non-conforming employees, and non-white employees are assigned, evaluated, compensated, developed, and promoted within a system that is insufficiently designed, articulated, explained or implemented to consistently, reliably or equitably manage or reward employees.

27. Defendants also lack a system of accountability with respect to gender discrimination. Social science research has increasingly shown that implementing a meaningful system which holds employees accountable for making unbiased personnel decisions is an effective means of eradicating unequal pay. A meaningful system of accountability includes transparency in the distribution of opportunities and rewards, which is sorely deficient at Defendants. A meaningful system of accountability also includes regular monitoring to identify instances in which rewards and opportunities are not distributed appropriately. Decision makers should be required to justify personnel decisions, and some entity, individual or department, should be charged with addressing instances in which fair treatment has been violated, and sanctioning

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those who engage in unfair treatment. In other words, organizations need a department or individual who receives regular reports on the decisions that have been made based on gender, gender identity, race, ethnic background, and other protected categories. That individual or department must regularly monitor all personnel actions to compare how employees of different gender, ethnic, or racial backgrounds have been treated, and must have sufficient clout to remedy unfair personnel actions and appropriately sanction the decision makers who violated the organization's standards of fair behavior.

28. Like other companies that operate without transparency, consistency, and accountability, Defendants' leadership tends to value white, male, gender-conforming workers more than others. Defendants' overall corporate culture and the uniform policies, procedures and practices inevitably result in systemic pay discrimination to the disadvantage of the company's non-white, female, and/or gender non-conforming employees. Such pay discrimination is manifested in multiple ways, including, without limitation, by: (a) paying Plaintiff and other female, non-white, and/or gender-nonconforming employees less than similarly-situated white gender-conforming males; (b) failing to advance Plaintiff at the same pace as male, white, and/or gender-conforming employees performing equal or substantially similar work; and (c) other adverse employment actions.

29. Taken together, Defendants' compensation policies, procedures and practices are not valid, job-related, or justified by business necessity.

30. At all times, Defendants have known or should have known of the serious pay disparities between its female and male employees, white and non-white employees, and gender-conforming and gender-nonconforming employees, performing equal or substantially similar work, yet Defendants refused to acknowledge this fact, or to completely correct the pay disparities. Defendants' failure to pay women, non-white employees, and/or gender-nonconforming employees the same compensation paid to white, gender-conforming men for equal or substantially similar work has been and is willful.

31. On January 3, 2024, Plaintiff, through her attorney, sent letters to Defendants and their registered Agent for Service of Process, requesting personnel records and employment

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records. To date, Plaintiff has not received these records.

32. Plaintiffs bring the eighth Cause of Action as a representative action under the California Private Attorneys General Act ("PAGA") to recover civil penalties that are owed to Plaintiff, the State of California, and past and present non-exempt employees employed by Defendants in the State of California during the statute of limitations period for their PAGA claim (hereinafter referred to as the "Aggrieved Employees").

CLASS ACTION ALLEGATIONS

33. Plaintiff brings certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seek class certification under California Code of Civil Procedure § 382.

34. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

35. The proposed Class consists of and is defined as:

> **Female Subclass:** All women employed in California by Defendants at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent.
>
> **Non-White Subclass:** All non-white persons employed in California by Defendants at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent.
>
> **Gender-Nonconforming Subclass:** All person identifying as lesbian, gay, bisexual, transgender and/or queer employed in California by Defendants at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent.

36. At all material times, Plaintiff was a member of the Class.

37. Plaintiff undertakes this concerted activity to improve the wages and working conditions of all Class Members and Aggrieved Employees.

38. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

(a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical.

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The membership of the entire Class is unknown to Plaintiff at this time; however, the Class is estimated to be greater than forty (40) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;

2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;

3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and,

4) The difficulties likely to be encountered in the management of a class action.

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(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code and other statutory claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are also fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

39. There are common questions of law and fact as to the Class (and each subclass, if any) that predominate over questions affecting only individual members, including without limitation, whether, as alleged herein, Defendants have:

(a) Engaged in unlawful pay discrimination in its compensation, assignment, performance evaluation, promotion, and/or advancement policies, procedures and practices, and in the general terms and conditions of work and employment under the California Equal Pay Act;

(b) Failed to institute adequate standards, quality controls, implementation metrics, or oversight in assignment, compensation, evaluation, development, promotion and/or advancement systems violates the California Equal Pay Act;

(c) Violated the California Equal Pay Act and/or other statutes through the lack of transparency and of opportunities for redress in those systems;

(d) Failed to prevent, investigate, or properly respond to evidence and complaints of discrimination in the workplace violates the California Equal Pay Act and other statutes;

(e) Failed to produce requested employment records; and

(f) Violated California Business & Professions Code §§ 17200 *et. seq*. as a result of their illegal conduct as described above.

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40. This Court should permit this action to be maintained as a class action pursuant to California Code of Civil Procedure § 382 because:

(a) The questions of law and fact common to the Class predominate over any question affecting only individual Class Members;

(b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the Class Members;

(c) The members of the Class are so numerous that it is impractical to bring all members of the class before the Court;

(d) Plaintiff, and the other members of the Class, will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;

(e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;

(f) Without class certification, the prosecution of separate actions by individual members of the Class would create a risk of:

1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants; and/or,

2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

(g) Defendants have acted or refused to act on grounds generally applicable to

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the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

41. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class and Aggrieved Employees that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff contemplates the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and Aggrieved Employees and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(All Defendants for Violations of the California Equal Pay Act, California Labor Code § 1197.5, et seq.)

42. Plaintiff, individually and on behalf of all others similarly situated, incorporates, and realleges each allegation set forth above as if fully set forth herein.

43. Defendants have discriminated against Plaintiff and Class members and Aggrieved Employees in violation of California Labor Code § 1197.5, *et seq.* by paying Plaintiff and Class members and Aggrieved Employees less when compared against similarly situated males and/or white employees and/or gender-conforming employees who performed the same or substantially similar work when viewed as a composite of skill, effort, and responsibility, and which were performed under similar working conditions. Defendants so discriminated by subjecting them to discriminatory pay, raises, and/or bonuses, discriminatory denials of promotions and other advancement opportunities that would result in higher compensation, and other forms of discrimination in violation of the California Fair Pay Act.

44. Defendants caused, attempted to cause, contributed to, or caused the continuation of, the wage rate discrimination based on sex in violation of the California Fair Pay Act. Moreover, Defendants willfully violated the California Fair Pay Act by intentionally, knowingly, and

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deliberately paying Plaintiff and Class members and Aggrieved Employees less than similarly situated male and/or white and/or gender-conforming employees.

45. As a result of Defendants' conduct and/or Defendants' willful, knowing and intentional discrimination, Plaintiff and the Class members and Aggrieved Employees have suffered and will continue to suffer harm, including but not limited to, lost earnings, lost benefits, and other financial loss, as well as non-economic damages.

46. Plaintiff and Class members and Aggrieved Employees are therefore entitled to all legal and equitable remedies, including but not limited to compensatory damages, and liquidated damages.

47. Attorneys' fees should be awarded under California Labor Code § 1197.5.

SECOND CAUSE OF ACTION

(All Defendants for Employment Discrimination in Violation of Government Code § 12940, *et. seq.* (a), (a), (c), (i), (j)(l))

48. Plaintiff, individually and on behalf of all others similarly situated, incorporates, and realleges each allegation set forth above as if fully set forth herein.

49. Plaintiff and Class members and Aggrieved Employees were employed by Defendants during all relevant times.

50. At all times herein mentioned, California's Fair Employment and Housing Act, Cal. Government Code § 12940, *et seq.*, was in full force and effect and fully binding upon Defendants. Plaintiff and Class members and Aggrieved Employees were members of a group protected by the statute, in particular section 12940(a), prohibiting discrimination in employment based on sex/gender, and on race/ethnicity.

51. While Plaintiff and Class members and Aggrieved Employees worked for Defendants, and performed competently in their positions, Plaintiff and Class members and Aggrieved Employees were subjected to discrimination, upon their sex/gender and/or race/ethnicity.

52. These discriminatory practices created a hostile work environment in which individuals, particularly those of female sex/gender, and/or those who were not white, were

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subjected to disadvantageous terms, conditions, and/or privileges of employment, including but not limited to refusal to pay equally, based not on the content of their character or work performance, but based on sex/gender and/or race/ethnicity.

53. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff and Class members and Aggrieved Employees suffered and continue to suffer lost earnings, and other employment benefits.

54. As a further direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff and Class members and Aggrieved Employees have suffered emotional distress, humiliation, shame, and embarrassment all to Plaintiff's and the Class members' detriment causing damages in an amount to be proven at time of trial.

55. Defendants affected, facilitated, authorized, and/or ratified the systemwide actions that led Plaintiff and Class members to be subject to a policy that does not pay them equally if they identify as female, gender-nonconforming, or are not white.

56. By engaging in the discriminatory activities and by maintaining the discriminatory policies, practices and procedures more fully described above, Defendants violated the fundamental, substantial, and well-established public policies embodied in applicable law.

57. Defendants, among its representatives, knowingly and willfully conspired to cause Plaintiff and Class members and Aggrieved Employees to be deprived of equal pay due to their protected classification, with no end in sight, because of sex/gender, and to deprive Plaintiffs of the benefit and privileges of their employment as described herein. In so doing, Defendants violated the fundamental, substantial, and well-established public policies embodied in Government Code section I 2940, *et. seq.*, by aiding, abetting, inciting, compelling, or coercing the doing of any of the acts forbidden under Government Code section 12940, subsections (a) and (c), or by attempting to do so.

58. Plaintiff and Class members and Aggrieved Employees were damaged as a direct and proximate result of Defendants' willful, knowing, and intentional violations of the FEHA by discriminating against Plaintiff and Class members and Aggrieved Employees based on sex/gender and/or race/ethnicity. Plaintiff, individually and on behalf of Class members and Aggrieved

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Employees, seeks financial damages to compensate them for the monies lost for inequitable pay, as well as penalties.

59. Based on the foregoing, Plaintiff, individually and on behalf of Class members and Aggrieved Employees, seeks injunctive relief to immediately eliminate Defendants' policy of paying female, and/or non-white, and/or gender-nonconforming employees less than their male counterparts for doing similar work in similar positions. Plaintiff also seeks, individually and on behalf of Class members and Aggrieved Employees, that Defendants be required to make a complete review of all salaries and pay rates that, among other things, ensures uniformity for those that are in substantially similar positions doing substantially similar work.

60. Because a controversy has now arisen between Plaintiff and Defendants, Plaintiff further requests a judicial determination of rights and duties; specifically, Plaintiff requests, individually and on behalf of Class members and Aggrieved Employees, a declaration as to Defendants' policy being invalid and unenforceable because of its systemic nature; as it pertains to Plaintiff and Class members and Aggrieved Employees. A judicial declaration is necessary and appropriate to determine the rights and duties of the parties

THIRD CAUSE OF ACTION

(Against All Defendants for Wrongful Failure to Take Reasonable Steps to Prevent Harassment, Discrimination and Retaliation in Violation of Government Code Section 12940, *et. seq*.)

61. Plaintiff, individually and on behalf of all others similarly situated, incorporates, and realleges each allegation set forth above as if fully set forth herein.

62. At all times herein mentioned, California's Fair Employment and Housing Act, Cal. Gov't Code §§ 12900, *et seq.*, was in full force and effect and was fully binding upon Defendant. Specifically, § 12940(k) makes it an unlawful employment practice for an employer to fail to take all reasonable steps necessary to prevent discrimination from occurring.

63. While Plaintiff has worked for Defendants, Defendants failed to take reasonable steps to prevent discrimination, from occurring. Specifically, Defendants, among other things, failed to appropriately train employees in the methods by which discrimination may be prevented,

and failed to prevent such harmful activity from occurring in the first instance; failed to properly investigate claims discrimination in pay; and failed to appropriately discipline employees who were known to have committed acts of wrongful discrimination.

64. As described above, Defendants knew about the policy of harassing behavior of Defendants, but did nothing about the behavior. Defendants were informed by of the aforesaid discriminatory treatment and/or was aware of same yet failed to take any action. Defendants failed to adequately investigate the aforesaid discriminatory behavior when warned, failed to take all reasonable steps to prevent discrimination against Plaintiff and Class members and Aggrieved Employees, and did not investigate, discipline, or change polices in response to being so informed. Defendants failed to take all reasonable steps necessary to prevent discrimination from occurring in violation of § 12940(k).

65. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff and Class members and Aggrieved Employees have suffered and continue to suffer losses in earnings and other employment benefits and has incurred other economic losses. Further, Plaintiff and Class members and Aggrieved Employees suffered damages, making the ceasing of the practice by injunction necessary. Further, Plaintiff, individually and on behalf of Class members, seeks financial damages to compensate them for the monies lost for inequitable pay, as well as penalties. More, Plaintiff and Class members are entitled to reasonable attorneys' fees under the Fair Employment and Housing Act.

66. Based on the foregoing, Plaintiff, individually and on behalf of Class members and Aggrieved Employees, seeks injunctive relief to immediately eliminate Defendants' policy of paying female and/or non-white and/or gender-nonconforming employees less than their white and/or male and/or gender-conforming counterparts for doing similar work in similar positions. Plaintiff also seeks, individually and on behalf of Class members and Aggrieved Employees, that Defendants be required to make a complete review of all salaries and pay rates that, among other things, ensures uniformity for those that are in substantially similar positions doing substantially similar work.

67. Because a controversy has now arisen between Plaintiff and Defendants, Plaintiff

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further requests, individually and on behalf of Class members and Aggrieved Employees, a judicial determination of rights and duties; specifically, Plaintiff requests a declaration as to Defendants' policy being invalid and unenforceable because of its systemic nature, as it pertains to Plaintiff and Class members and Aggrieved Employees. A judicial declaration is necessary and appropriate to determine the rights and duties of the parties.

FOURTH CAUSE OF ACTION

(Against All Defendants for Failure to Produce Requested Employment Records in Violation of Cal. Lab. Code §§ 226 and 1198.5)

68. Plaintiff, individually and on behalf of all others similarly situated, incorporates, and realleges each allegation set forth above as if fully set forth herein.

69. Pursuant to California Labor Code § 226, current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request.

70. Pursuant to California Labor Code § 1198.5(a), every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions. Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars ($750), pursuant to Labor Code §§ 1198.5(k) and 226(f).

71. As set forth above, Plaintiff and the Class and Aggrieved Employees are current and former employees of Defendants.

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72. Plaintiff sent a written request through Plaintiff's counsel to Defendants for Plaintiff's personnel file, pay records, wage statements, timekeeping records, and other employment-related documents pursuant to Labor Code §§ 226 and 1198.5. However, Defendants failed to timely produce the requested employment records.

73. Defendants violated California Labor Code §§ 226, and 1198.5 by failing to timely produce the required records requested by Plaintiff.

74. On information and belief, Defendants' failure to provide Plaintiff with Plaintiff's requested employment records is not an isolated incident but was instead consistent with Defendants' practice that applied to Plaintiff and some of, but not necessarily all of, the Class and Aggrieved Employees.

75. Pursuant to California Labor Code § 1198.5, Plaintiff and some of, but not necessarily all of, the Class and Aggrieved Employees are entitled to a penalty of seven hundred fifty dollars ($750) from Defendants, injunctive relief in the form of compliance with section 1198.5, and attorneys' fees and costs.

76. Pursuant to California Labor Code § 226, Plaintiff and some of, but not necessarily all of, the Class and Aggrieved Employees are entitled to a penalty of seven hundred fifty dollars ($750) from Defendants, injunctive relief in the form of compliance with section 226, and attorneys' fees and costs.

<u>FIFTH CAUSE OF ACTION</u>

(Against All Defendants for Violation of California Business & Professions Code §§ 17200, et seq.)

77. Plaintiff, individually and on behalf of all others similarly situated, incorporates, and realleges each allegation set forth above as if fully set forth herein.

78. Defendants, and each of them, are "persons" as defined under California Business & Professions Code § 17201.

79. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff, other Class members, Aggrieved Employees, and to the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning

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of Code of Civil Procedure § 1021.5.

80. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq*.

81. A violation of California Business & Professions Code §§ 17200, *et seq*. may be predicated on the violation of any state or federal law. All of the acts described herein as violations of, among other things, the California Labor Code, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, *et seq*.

Violations of California Equal Pay Act

82. Defendants' violations of the California Equal Pay Act, California Labor Code § 1197.5, *et seq.*, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq*.

Violations of California Fair Employment and Housing Act

83. Defendants' violations of the California Fair Employment and Housing Act (Government Code § 12940, *et. seq*.) constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq*.

Failure to Prevent

84. Defendants' wrongful failure to take reasonable steps to prevent harassment, discrimination and retaliation in violation of Government Code Section 12940, Subsection (J)(1) constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq*.

Failure to Produce Employment Records

85. Defendants' failure to produce requested employment records (Cal. Lab. Code §§ 226 and 1198.5) constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq*.

86. By and through their unfair, unlawful and/or fraudulent business practices described

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herein, Defendants, have obtained valuable property, money and services from Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

87. Plaintiff and the Class Members and Aggrieved Employees suffered monetary injury as a direct result of Defendants' wrongful conduct.

88. Plaintiff, individually, and on behalf of members of the putative Class and Aggrieved Employees, is entitled to, and does, seek such relief as may be necessary to disgorge money and/or property which the Defendants have wrongfully acquired, or of which Plaintiff and the Class and Aggrieved Employees have been deprived, by means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the Class and Aggrieved Employees are not obligated to establish individual knowledge of the wrongful practices of Defendants in order to recover restitution.

89. Plaintiff, individually, and on behalf of members of the putative Class and Aggrieved Employees, is further entitled to, and does, seek a declaration that the above-described business practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them, from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the future.

90. Plaintiff, individually, and on behalf of members of the putative class and Aggrieved Employees, has no plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members and Aggrieved Employees suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually, and on behalf of members of the putative Class and Aggrieved Employees, has suffered and will continue to suffer irreparable harm unless the Defendants are restrained from continuing to engage in said unfair, unlawful and/or fraudulent business practices.

91. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth herein above, they will continue to avoid paying the appropriate taxes, insurance and other withholdings.

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92. Pursuant to California Business & Professions Code §§ 17200, *et seq*., Plaintiff and putative Class Members and Aggrieved Employees are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and Class Members and Aggrieved Employees; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

SIXTH CAUSE OF ACTION

(Against all Defendants for Wrongful Retaliation in Violation of Government Code Section 12940, Subsection (h)

93. Plaintiff, in her individual capacity, incorporates and re-alleges each allegation set forth above as if fully set forth herein.

94. At all times herein mentioned, California's Fair Employment and Housing Act ("FEHA"), Cal. Gov't Code §§ 12900, *et seq.*, was in full force and effect and was fully binding upon Defendant. Specifically, § 12940(h) makes it an unlawful employment practice for an employer to retaliate against any person because the person has opposed any practices forbidden under this part.

95. While Plaintiff worked for Defendants, the policies and procedures implemented by Defendants have created a custom and practice of discrimination and retaliation in general, and against individuals in Plaintiff's department, in particular, when she and individuals like her sought to address pay disparity problems that were based on sex/gender and/or race/ethnicity, and questioned issues related to the Defendants' practices in paying men more than women, and/or white employees more than non-white employees, and/or gender-conforming employees more than gender-nonconforming employees, for doing substantially the same work. This led to harassing and retaliatory treatment, refusal to offer equal pay or to allow salary negotiation, failure to engage in the good faith interactive process, and ultimately being ignored by supervisors and human resources. Defendants ratified these actions.

96. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff has suffered and continues to suffer losses in earnings and other employment benefits and

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has incurred other economic losses. Plaintiff has further suffered substantial emotional distress, humiliation, shame, and embarrassment, all to the Plaintiff's damage in an amount to be proven at the time of trial. Further, Plaintiff is entitled to reasonable attorneys' fees under the Fair Employment and Housing Act.

SEVENTH CAUSE OF ACTION

(Against all Defendants for Retaliation in Violation of Labor Code § 1102.5)

97. Plaintiff, in her individual capacity, incorporates and re-alleges each allegation set forth above as if fully set forth herein.

98. At all relevant times, Labor Code § 1102.5(a) was in full force and effect and was binding on Defendants. This law prohibits an employer, or any person acting on behalf of the employers, from discharging an employee or in any manner discriminating or retaliating against, or taking any adverse action against, an employee because, among other things, the employee disclosed information to a government or law enforcement agency, or to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties. Pursuant to Labor Code § 1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability company is liable for a civil penalty not exceeding ten thousand dollars ($10,000) for each violation of this section.

99. As alleged herein, on one or more occasions during her employment, Plaintiff engaged in protected activities, including but not limited to notifying her superiors of unlawful unfair pay practices based on sex/gender and/or race/ethnicity. In response, Defendants subjected Plaintiff to adverse employment actions, including, without limitation:

- Revoking her duties screening new hires;
- Transferring her to a different department;
- Subjecting her to increased scrutiny;
- Depriving her of an opportunity for advancement; and

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- Transferring her a second time to a position requiring a 55-minute one-way commute.

100. Plaintiff's reporting of these violations was a motivating and contributing factor for the adverse employment actions by Defendants against Plaintiff. This conduct violates Labor Code §§ 1102.5 and1102.6, and such violations were a proximate cause in Plaintiff's damages as stated herein.

101. Plaintiff is entitled to a civil penalty not to exceed $10,000.00 for Defendants' violations of Labor Code § 1102.5.

102. As a direct, foreseeable, and proximate result of Defendants' conduct as alleged, Plaintiff has suffered and will continue to suffer actual damages, including lost earnings and other employment benefits, in a sum in excess of the jurisdictional limit of this Court, the exact amount of which is not yet known, which amount will be proven at trial.

103. As a direct, foreseeable, and proximate result of Defendants' wrongful acts and failures to act, Plaintiff has suffered and will continue to suffer substantial emotional distress and will incur other incidental and consequential damages and losses, all in amounts to be proven at trial. Plaintiff claims all such amounts as damages, together with prejudgment interest, pursuant to any provision of law providing for prejudgment interest.

104. As a direct, foreseeable, and proximate result of Defendants' discriminatory and wrongful actions against Plaintiff as alleged, Plaintiff has suffered and will continue to suffer special damages that include, without limitation, loss of wages, salary, benefits, and/or additional amounts of money Plaintiff would have received but for Defendants' discriminatory and wrongful actions. Plaintiff continues to suffer the intangible loss of such employment-related opportunities as experience in the position Plaintiff held and advancement opportunities.

105. As a direct, foreseeable, and proximate result of said wrongful acts and failures to act by Defendants, Plaintiff has suffered and will continue to suffer humiliation, shame, despair, embarrassment, depression, and mental pain and anguish, causing Plaintiff to incur damages in an amount to be proven at trial.

106. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil

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motive amounting to malice or despicable conduct. Alternatively, Defendants' wrongful conduct was carried out with a conscious disregard for Plaintiff's rights. Further, the alleged wrongful conduct was carried out and ratified by a managing agent; or an officer, a director, or a managing agent and Defendants had advance knowledge of the unfitness of its decision-maker and employed them with a conscious disregard of Plaintiff's rights and/or authorized and/or ratified their conduct. As a result, Plaintiff is entitled to recover punitive and exemplary damages commensurate with Defendants' wrongful acts and sufficient to punish and deter future similarly reprehensible conduct.

107. Plaintiff is entitled to recover prevailing party attorney's fees pursuant to Labor Code § 1102.5 (j).

EIGHTH CAUSE OF ACTION

(By Plaintiff Against All Defendants for Civil Penalties Under the Private Attorneys General Act of 2004, Cal. Lab. Code § 2698, et seq.)

108. Plaintiff, individually and on behalf of all others similarly situated, incorporates, and realleges each allegation set forth above as if fully set forth herein.

109. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

110. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: "Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3."

111. Plaintiff gave written notice by online filing pursuant to California Labor Code § 2699.3 to the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiff and current and former Aggrieved Employees, including the facts and theories to support the violations.

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Plaintiff also paid the filing fee. Plaintiff's PAGA case number is LWDA-CM-1028419-24 (Eduardo Aguilar Jr. v. Rent Time). The Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. Plaintiff hereby commences a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

112. Based on the conduct described in this First Amended Complaint, Plaintiff is entitled to an award of civil penalties on behalf of Plaintiff, the State of California, and similarly situated Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is an amount to be shown according to proof at trial. These penalties are in addition to all other remedies permitted by law.

113. In addition, Plaintiff seeks an award of reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all other persons similarly situated, the State of California, and other aggrieved persons, by her and their attorneys, respectfully prays for relief against Defendants and DOES l through 10 inclusive, and each of them as follows:

1. For compensatory damages, including without limitation special damages, general damages, incidental damages, and consequential damages, to the extent allowed by law;

2. For liquidated damages to the extent allowed by law;

3. For nominal damages to the extent allowed by law and to the extent not subsumed in or superseded by compensatory damages or liquidated damages;

4. For restitution and/or disgorgement to the extent allowed by law;

5. For statutory penalties to the extent allowed by law, including without limitation any section, subsection, or provision of the Labor Code and/or any IWC Wage Order;

6. For civil penalties to the extent allowed by law, including without limitation any

section, subsection, or provision of the Labor Code and/or any IWC Wage Order;

7. For a preliminary injunction, permanent injunction, and/or other equitable relief to the extent allowed by law;

8. For declaratory judgment declaring the rights vis-a-vis of any and all the parties including Defendants' employees/persons or any class or subclass member;

9. For prejudgment interest at the statutory rate of 10 per cent per annum to the fullest extent allowable or required by law;

10. For costs and disbursements to the fullest extent allowable or required by law;

11. For reasonable attorneys' fees to the fullest extent allowable or required by law; and

12. For such other, further, or different relief as the Court may appear proper. Furthermore, Plaintiff, in her individual capacity, prays on the 6th and 7th causes of action as follows:

(a) For damages according to proof, and for interest thereon at the going legal rate;

(b) For costs and expenses of suit incurred herein, including statutory attorney fees, and

(c) For such other and further relief as the Court Deems just and proper.

Respectfully submitted,

Dated: November 18, 2024

WILSHIRE LAW FIRM

By: ______________________

John G. Yslas
Jeffrey C. Bils

Attorneys for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all causes of action triable by jury.

Dated: November 18, 2024

WILSHIRE LAW FIRM

By: ______________________

John G. Yslas
Jeffrey C. Bils

Attorneys for Plaintiff

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PROOF OF SERVICE

Amanda Salas v. ACSC Management Services, Inc., et al.

Case No.: 24STCV24554

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Isabel Torres, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is isabel.torres@wilshirelawfirm.com.

On **November 18, 2024,** I served the foregoing: **FIRST AMENDED CLASS ACTION COMPLAINT** on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

CSC Lawyers Incorporating Services
2710 Gateway Oaks Dr., Suite 150N
Sacramento, CA 95833

Agent for Service of Process for Defendants
ACSC Management Services, Inc., and Automobile Club of Southern California

(X) **BY MAIL:** I enclosed the above documents in a sealed envelope with postage thereon fully prepaid and placed for collection and mailing on the above date in accordance with ordinary business practices. I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service**,** and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to Cal. Code Civ. Proc. § 1013(a).

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on **November 18, 2024**, at Los Angeles, California.

Isabel Torres
Type or Print Name

Isabel Torres
Signature