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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 JACARI F. POLK, an individual, on behalf of
13 himself and in his representative capacity as a
14 private attorney general

15 Plaintiff,

16 vs.

17 HANWHA IMPACT PARTNERS INC., a
18 domestic corporation, HANWHA
19 SOLUTIONS USA HOLDINGS
20 CORPORATION, a domestic corporation,
21 HANWHA CORP, a foreign corporation, and
22 DOES 1 through 100, inclusive,

23 Defendants.

Case No.: **24STCV25772**

**REPRESENTATIVE ACTION
COMPLAINT AND INDIVIDUAL
COMPLAINT FOR:**

- (1) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA") [Lab. Code § 2698 *et seq.*]
- (2) Discrimination (Gov't Code § 12940)
- (3) Retaliation (Gov't Code § 12940(m))
- (4) Failure to Accommodate (Gov't Code § 12940)
- (5) Failure to Engage in the Interactive Process (FEHA) (Gov't Code § 12940)
- (6) Failure to Prevent Discrimination and Retaliation (Gov't Code § 12940(k))
- (7) Violations of the California Family Rights Act ("CFRA")
- (8) Wrongful Termination
- (9) Retaliation (Labor Code § 1102.5)
- (10) Failure to Reimburse Business Expenses (Labor Code § 2802)
- (11) Failure to Pay Waiting Time Penalties (Labor Code §§ 201-203, and 227.3)
- (12) Violations of the Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*)

JURY TRIAL DEMANDED

COMES NOW Plaintiff Jacari F. Polk (“Polk” or “Plaintiff”), individually and on behalf of other members of the general public who have been aggrieved, and as a private attorney general, who alleges and complains, based upon facts that either have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery, as follows:

I. INTRODUCTION

1. Plaintiff and other Aggrieved Employees (defined below) were employed by Defendants (defined below) and worked for them throughout California, including Orange County, and San Francisco County, as exempt employees. Plaintiff worked for Defendants from approximately April 2022, through approximately July 2023.

2. Upon information and belief, HANWHA CORP aka HANWHA CORPORATION aka HANWHA GROUP (here, “HANWHA CORP”) is a foreign corporation, headquartered in Seoul, South Korea, operating as a conglomerate for multiple types of businesses globally. HANWHA (through its many affiliates and subsidiaries) employs many individuals throughout the United States, and many people in the state of California. Plaintiff is informed and believes that Defendants generally employs more than fifty (50) employees working within California.

3. Upon information and belief, HANWHA SOLUTIONS USA HOLDINGS CORPORATION (“HANWHA SOLUTIONS”) is domestic corporation, headquartered in San Francisco, California, operating as a subsidiary of HANWHA CORP and as a parent to HANWHA IMPACT PARTNERS INC. (“HIP”) and other subsidiary companies. HANWHA SOLUTIONS employs individuals throughout the United States, and many people in the state of California.

4. Upon information and belief, HIP is a domestic corporation, headquartered in California, operating as a subsidiary of HANWHA CORP and HANWHA SOLUTIONS. HANWHA CORP, HANWHA SOLUTIONS, and HIP are referred to here collectively as the HANWHA DEFENDANTS.

5. Plaintiff brings this action, in part, as a Representative Action on behalf of the LWDA and other aggrieved employees against the HANWHA DEFENDANTS, and DOES 1 through 100 (collectively “Defendants”) for PAGA penalties based on Defendants’: (a) failure to reimburse their

1 current and former employees for their expenses incurred on behalf of the HANWHA
2 DEFENDANTS in California for which they have not been fully or even partially reimbursed, (b)
3 failure to track or pay all or some vested vacation at the appropriate rate of pay, (c) failure to timely
4 pay final wages at the appropriate rate of pay, and (d) failure to timely respond to requests for
5 employment records. As a result of the foregoing, Defendants have violated California Labor Code
6 section 2802, 227.3, 201-203, and 226, and 1198.5, among other Labor Code sections, as described
7 below.

8 6. The “PAGA Period” is designated as the period from the date Plaintiff first provided
9 notice to Defendants of Plaintiff’s PAGA claims, through the present.

10 7. Defendants operate and, at all times during the PAGA Period, has done and does
11 business in California. Defendants, in the course of operating their businesses in California during
12 the PAGA Period, employed Plaintiff and the Aggrieved Employees.

13 8. Plaintiff further brings this action, in part, arising from the unlawful treatment he
14 received as an employee of Defendants up to, and including, the wrongful termination of his
15 employment.

16 **II. THE PARTIES**

17 9. Plaintiff is a resident of Orange County, California. Plaintiff worked for Defendants
18 throughout California, including doing work in Orange County, and occasionally other Counties
19 (including Los Angeles and San Francisco County), as an exempt employee, from approximately
20 April 2022 to July 2023.

21 10. Plaintiff represents the State of California and the following group of employees: all
22 California residents who are or were employed by Defendants and who suffered one or more of the
23 same violations of the Labor Code as described in this Complaint (the “Aggrieved Employees”).

24 11. Plaintiff is informed and believes that Defendant HANWHA CORP is and was a
25 corporation authorized to transact, and transacting, business in the State of California and County of
26 Orange, County of Los Angeles, and County of San Francisco, among others. Plaintiff is informed
27 and believes that Defendant HANWHA CORP generally employs more than ten (10) employees
28

1 working within California and that its employees work throughout California, including Orange
2 County, Los Angeles County, San Francisco County, and potentially other California counties.

3 12. Plaintiff is informed and believes that Defendant HANWHA SOLUTIONS is and
4 was a corporation authorized to transact, and transacting, business in the State of California and
5 County of Orange, County of Los Angeles, and County of San Francisco, among others. Plaintiff is
6 informed and believes that Defendant HANWHA SOLUTIONS generally employs more than ten
7 (10) employees working within California and that its employees work throughout California,
8 including Orange County, Los Angeles County, San Francisco County, and potentially other
9 California counties.

10 13. Plaintiff is informed and believes that Defendant HIP is and was a corporation
11 authorized to transact, and transacting, business in the State of California and County of Orange,
12 County of Los Angeles, and County of San Francisco, among others. Plaintiff is informed and
13 believes that Defendant HIP generally employs more than ten (10) employees working within
14 California and that its employees work throughout California, including Orange County, Los
15 Angeles County, San Francisco County, and potentially other California counties.

16 14. The true names and capacities of the defendants named herein as Does 1 through 100,
17 inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff who
18 therefore sues such defendants by fictitious names pursuant to California Code of Civil Procedure
19 section 474. Plaintiff is informed and believes that all of the Doe defendants are California residents.
20 Plaintiff will amend this Complaint to show such true names and capacities when they have been
21 determined.

22 15. Plaintiff is informed and believes that at all times relevant herein, each Defendant
23 designated, including Defendants HANWHA CORP, HANWHA SOLUTIONS, HIP, and Does 1
24 through 100, was the agent, managing agent, principal, owner, partner, joint venturer, representative,
25 manager, servant, employee and/or co-conspirator of each of the other defendants, and was at all
26 times mentioned herein acting within the course and scope of said agency and employment, and that
27 all acts or omissions alleged herein were duly committed with the ratification, knowledge,
28 permission, encouragement, authorization and consent of each Defendants designated herein.

1 Defendants, if not separately noted, are collectively liable under either a joint employer or a single
2 enterprise theory, or in the alternative that each is an alter ego of one another.

3 16. Defendants are, and at all times herein mentioned were, (a) conducting business in
4 the County of Orange, County of Los Angeles, and County of San Francisco, among others, State
5 of California, and (b) the employer (or other person acting on behalf of the employer) of Plaintiff
6 consistent with the California Labor Code and Industrial Welfare Commission Wage Orders (“Wage
7 Orders”).

8 17. Plaintiff further alleges that Defendants directly or indirectly controlled or affected
9 the working conditions, wages, working hours, and conditions of employment of Plaintiff so as to
10 make each of said Defendants jointly liable under the statutory provisions set forth herein.

11 **III. DESCRIPTION OF WRONGFUL EMPLOYMENT PRACTICES**

12 18. Polk was hired at Hanwha on March 31, 2022, and moved to San Francisco to begin
13 his employment on April 25, 2022, as Director, HR. Polk held that position until his wrongful
14 termination in mid-July 2023. Hanwha classified Polk as an exempt employee and paid him a salary
15 along with other employee benefits. Polk reasonably expected his pay to steadily increase over time.

16 19. Unfortunately, throughout his employment with Defendants, Polk experienced
17 various instances of discriminatory treatment and unlawful harassment from Hanwha and its
18 managerial employees. This included, among other things, (1) being excluded from meetings and
19 lunch events, (2) having high-level executives exclude him from conversations by speaking in a
20 foreign language that they knew Polk did not speak, (3) referring to Polk’s “wife,” despite employees
21 knowing that Polk is married to his husband, (4) asking Polk to “jump off” meetings with the C-
22 Suite executives, despite his importance as a Director, (5) retaliating against Polk based on his
23 association with an individual with a disability, and other similar discriminatory acts and indignities.

24 20. Polk raised these concerns but was essentially brushed off and largely ignored. To
25 make matters worse, Polk was tending to his own medical issues, in addition to his husband’s, and
26 took time off to address them. But instead of providing reasonable accommodations for Polk’s
27 requests for leave of absence and for remote work in Southern California, Hanwha terminated Polk’s
28 employment abruptly and filled his position with someone who, on information and belief, was

1 working remotely in Southern California, showing that Defendants easily could have accommodated
2 Polk's request for remote work. The abrupt termination occurred even though Polk had a substantial
3 bank of PTO and Sick Time available.

4 21. After Polk's employment ended, Defendants continued to engage in further Labor
5 Code violations including: (a) not fully reimbursing Plaintiff for returning equipment to Defendants;
6 (b) failing to timely provide Plaintiff with Plaintiff's personnel file and payroll records; and (c)
7 failing to pay Plaintiff properly for his final wages, resulting in up to 30 days of waiting time
8 penalties, among other things.

9 **IV. DESCRIPTION OF WRONGFUL WAGE & HOUR PRACTICES**

10 22. Throughout the relevant time period, Defendants have failed to maintain California
11 compliant policies and procedures related to the claims asserted by Plaintiff. This is readily apparent
12 when evaluating Defendants' employment agreements, employee handbook, pay stubs, and related
13 documents.

14 **UNLAWFUL VACATION PAY PRACTICES**

15 23. Defendants' vacation policy permits employees to accrue vacation time during their
16 employment at various rates.

17 24. Under California law, earned vacation time is considered wages, and vacation time
18 is earned, or vests, as labor is performed. For example, if an employee is entitled to two weeks (10
19 work days) of vacation per year, after six months of work he or she will have earned five days of
20 vacation. Vacation pay accrues (adds up) as it is earned, and cannot be forfeited, even upon
21 termination of employment, regardless of the reason for the termination. (*Suastez v. Plastic Dress*
22 *Up* (1982) 31 C3d 774). An employer can place a reasonable cap on vacation benefits that prevents
23 an employee from earning vacation over a certain amount of hours. (*Boothby v. Atlas Mechanical*
24 (1992) 6 Cal.App.4th 1595) And, unless otherwise stipulated by a collective bargaining agreement,
25 upon termination of employment all earned and unused vacation must be paid to the employee at his
26 or her final rate of pay. Labor Code Section 227.3.

27 25. In California, because paid vacation is a form of wages, it is earned as labor is
28 performed. An employer's vacation plan may provide for the earning of vacation benefits on a day-

1 by-day, by the week, by the pay period, or some other period basis. For example, an employer's
2 policy may provide that an employee will earn a proportionate share of his or her annual vacation
3 entitlement for each week of a calendar year in which the employee either works at least one full
4 day or receives at least one full days' pay during such week. Thus, for example, if an employee is
5 entitled to two weeks (10 work days) annual vacation, and works full-time, eight hours per day, 40
6 hours per week, in the above example for each week the employee works at least one full day, he or
7 she will earn 1.538 hours of paid vacation. In contrast to how vacation pay may be earned, the
8 calculation of vacation pay for terminating employees (a quit, discharge, death, end of contract, etc.)
9 who have earned and accrued and unused vacation on the books at the time of termination must be
10 prorated on a daily basis and must be paid at the final rate of pay in effect as of the date of the
11 separation.

12 26. Under California law, unless otherwise stipulated by a collective bargaining
13 agreement, whenever the employment relationship ends, for any reason whatsoever, and the
14 employee has not used all of his or her earned and accrued vacation, the employer must pay the
15 employee at his or her final rate of pay for all of his or her earned and accrued and unused vacation
16 days. Labor Code Section 227.3. Because paid vacation benefits are considered wages, such pay
17 must be included in the employee's final paycheck.

18 27. Throughout the relevant time period, Defendants failed to properly track, record,
19 calculate and/or pay Plaintiff's, and other Aggrieved Employees', vacation wages. This violated
20 Defendants' own policy and California law. As a result, Plaintiff and the other similarly situated
21 Aggrieved Employees are entitled to receive the full amount of unpaid accrued vacation and any/all
22 related civil penalties.

23 28. Throughout the relevant time period, Defendants failed to properly track, record,
24 calculate and/or pay Plaintiff's, and other Aggrieved Employees', vacation wages because the wage
25 statements did not display vacation time being accrued incrementally.

26 29. Throughout the relevant time period, Defendants failed to properly track, record,
27 calculate and/or pay Plaintiff's, and other Aggrieved Employees', vacation wages because exempt
28 employees were often required to work partial days during the relevant time period, but still received

1 deductions in their vacation bank, which effectively results in an improper deduction from the
2 exempt employee's salary when unaddressed.

3 30. At all pertinent times during the applicable limitations period, Defendants have
4 implemented a uniform policy to underpay exempt employees earned but unused vacation wages at
5 the appropriate rate of pay.

6 31. Plaintiff alleges that Plaintiff and the Aggrieved Employees were subjected to
7 violations of the Labor Code stemming from Defendants' failure to pay vested vacation at the "final
8 rate" of pay pursuant to Labor Code § 227.3, as well as the corresponding failure to timely pay all
9 wages due and owing upon separation of employment pursuant to Labor Code §§ 201 – 203.

10 32. Plaintiff was employed by Defendants from approximately April 2022 through
11 approximately July 2023.

12 33. At all relevant times, Defendants utilized a policy and practice through which
13 Plaintiff and the Represented Employees accrued vacation and/or PTO hours (collectively, "vacation
14 hours"). However, on the occasions when Plaintiff and the Aggrieved Employees had accrued but
15 unused vacation hours upon separation of employment, Defendants failed to pay for these earned
16 wages at the employee's "final rate" as required by Labor Code § 227.3.

17 34. To illustrate, at the time of (and leading up to) Plaintiff's termination, Plaintiff was
18 paid a base salary plus additional incentive compensation in the form of bonuses and similar pay.
19 However, despite that Plaintiff's "final rate" at the time his employment ended was composed of
20 their base salary plus any additional earned bonuses, Defendants paid Plaintiff's accrued and unused
21 vacation at an incorrect rate.

22 35. The Department of Labor Standards Enforcement ("DLSE") in an Opinion Letter
23 dated January 28, 2003, entitled "Re: Waiting Time Penalties and Unused Vacation," the DLSE
24 states with respect to an employee who earns a base salary and additional compensation during the
25 year and where a contract of employment bases the vacation pay to be received by the employee on
26 a calculation which includes the base salary and the bonuses, "the employee would, of course, be
27 entitled to recover unused vacation pay based on the base salary "at the final rate" and the bonus
28 based on the rate at which the bonus was calculated.

1 36. As a result, Plaintiff and the Aggrieved Employees did not receive compensation for
2 all accrued but unused vacation hours at the “final rate” upon separation of employment – in
3 violation of Labor Code § 227.3.

4 37. Additionally, because of the failure to pay vested vacation at the proper rate of pay,
5 Defendants failed to pay all wages due and owing to Plaintiff and the Aggrieved Employees upon
6 separation of employment, in violation of Labor Code §§ 201 – 203.

7 **UNLAWFUL FAILURE TO TIMELY PAY FINAL WAGES**

8 38. Labor Code section 201 provides “if an employer discharges an employee, the
9 wages earned and unpaid at the time of discharge are due and payable immediately. Labor Code
10 section 202 provides “If an employee not having a written contract for a definite period quits his
11 or his employment, his or his wages shall become due and payable not later than 72 hours
12 thereafter, unless the employee has given 72 hours previous notice of his intention to quit, in
13 which case the employee is entitled to his wages at the time of quitting.” Labor Code section
14 208 requires that all final wages be paid to an employee who is terminated at the place of
15 discharge and to an employee who voluntarily resigns at the place where the employee has been
16 working.

17 39. Defendants have violated California Labor Code sections 201 and 202 by
18 willfully failing to timely pay all compensation due and owing to Plaintiff at the time
19 employment was terminated because of, as noted herein, Defendants did not fully compensate
20 Plaintiff resulting in unpaid or underpaid vacation time wages, and/or partially or fully
21 unreimbursed work-related expenses, among others.

22 40. California Labor Code §§ 201 & 227.3 require an employer who discharges an
23 employee to pay all compensation due and owing to that employee immediately upon discharge.
24 Cal. Labor Code § 202 requires an employer to pay all compensation due and owing to an
25 employee who quits within 72 hours of that employee quitting, unless the employee provides at
26 least 72 hours notice of quitting, in which case all compensation is due at the end of the
27 employee’s final day of work. Cal. Labor Code § 203 provides that if an employer willfully fails
28

1 to pay compensation promptly upon discharge, as required by § 201 or § 202, then the employer
2 is liable for waiting time penalties in the form of continued compensation of up to 30 work days.

3 41. Defendants' numerous failures to pay accurate and timely wages triggers liability
4 and exposure for 203 and 226 penalties, as confirmed by the California Supreme Court in
5 *Naranjo v. Spectrum Security Services, Inc.* 13 Cal.5th 93 (2022).

6 42. Defendants willfully failed and refused to timely pay compensation and wages,
7 including unpaid expenses and sums wrongfully withheld from compensation, to Plaintiff.
8 These unpaid amounts are outstanding. Defendants willfully failed to pay all compensation due
9 upon termination of employment as required under California Labor Code sections 201 and 202.
10 Pursuant to sections 203 and 256 of the Labor Code, Plaintiff and similarly situated individuals
11 are now entitled to recover up to thirty (30) days of wages due to Defendants' willful failure to
12 comply with the statutory requirements of sections 201 and 202 of the Labor Code. In addition,
13 because Defendants violated California Labor Code sections 201, 202, and 203, Defendants are
14 liable for civil penalties pursuant to California Labor Code section 2698 *et seq.*

15 43. The DLSE's FAQ on the Waiting Time Penalty explains "how the daily rate of
16 pay is calculated when two different types of wages are earned." In a case involving a salaried
17 employee who also earned commissions, it states the fact finder must first determine the
18 employee's monthly base salary and the employee's average monthly commission. The fact
19 finder must then add the monthly base salary and the average monthly commission to determine
20 the employee's average monthly wages. The average monthly wages are then multiplied by
21 twelve months to arrive at an annual salary. The annual salary is then divided by fifty-two weeks
22 to arrive at a weekly salary, which is then divided by five to arrive at a daily wage rate.

23 44. Similarly, in a DLSE Opinion Letter dated January 28, 2003, entitled "Re:
24 Waiting Time Penalties and Unused Vacation," the DLSE states with respect to an employee
25 who earns a base salary and additional compensation during the year, "that the California courts,
26 if faced with the question, would conclude that a commission or bonus owed to the employee ...
27 must be included in the calculation" of the employee's Waiting Time Penalty.

28 ///

1 45. Based on the DLSE's instructions regarding how to calculate the Waiting Time
2 Penalty for employees who earn two different types of wages, it follows that salaried exempt
3 employees who receive bonuses or other compensation during their employment in addition to
4 any base salary would be entitled to receive a Waiting Time Penalty that incorporates all types
5 of wages earned by the employee as a result of their efforts for the employer. Accordingly, any
6 Waiting Time Penalties paid to exempt employees which do not include the exempt employee's
7 total compensation, rather than merely the base rate of compensation, result in underpayment of
8 the Waiting Time Penalty to the employee.

9 46. Here, Defendants have failed to pay Plaintiff all appropriate wages during his
10 employment, failed to pay Plaintiff his proper accrued but unused vacation wages, and failed to
11 properly pay Plaintiff any related Waiting Time Penalties.

12 **UNLAWFUL REIMBURSEMENT PRACTICE**

13 47. Labor Code § 2802 and the applicable IWC Wage Orders require an employer to
14 reimburse employees for any work-related expenses.

15 48. During the relevant time period, Plaintiff and the other Aggrieved Employees, at
16 the direction of Defendants and with Defendants' knowledge and acquiescence, have incurred
17 work-related expenses. Such expenses include but are not limited to and cellular phone, internet,
18 and associated data costs, as well as mileage expenses for travel to and from various locations
19 in the state.

20 49. Plaintiff and the other Aggrieved Employees necessarily incurred these expenses
21 and losses as a direct result of performing job duties for Defendants.

22 50. California Labor Code section 2802 requires an employer to "indemnify his or
23 her employee for all necessary expenditures or losses incurred by that employee in direct
24 consequence of the discharge of his or her duties." See Cal. Labor Code section 2802(a); see
25 also 2802(c) where necessary is defined to include all "reasonable" costs. "The elements of a
26 claim under Section 2802 are: (i) the employee made expenditures or incurred losses; (ii) the
27 expenditures or losses were incurred in direct consequence of the employee's discharge of his
28 or her duties, or obedience to the directions of the employer; and (iii) the expenditures or losses

1 were reasonable and necessary.” *Marr v. Bank of America*, 2011 U.S. Dist. LEXIS 24868 (N.D.
2 March 8, 2011) (citing *Gattuso v. HarteHanks Shoppers, Inc.*, 42 Cal.4th 554, 568 (2007)).

3 51. In addition, to trigger an affirmative obligation to reimburse employees, the
4 employer ““must either know or have reason to know that the employee has incurred [the]
5 expense.”” *Id.* (citing *Stuart v. RadioShack Corp.*, 641 F.Supp. 2d 901 (N.D.Cal. 2009). Where
6 an employer has knowledge that employees are incurring a reimbursable expense, the employer
7 must “exercise due diligence to ensure each employee is reimbursed.” *Marr*, at *1.

8 52. The right of an employee to expense reimbursements is not waivable. See Cal.
9 Labor Code sections 2804 and 219(a). Any contract to waive them is null and void. *Edwards v.*
10 *Arthur Anderson*, 44 Cal.4th 937, 951 (2008).

11 53. Furthermore, under Labor Code section 2802, employers must reimburse
12 employees for all reasonable work-related expenses, regardless of whether or not the employees
13 incurred any additional out-of-pocket expense from that work-related use. See, *Cochran v.*
14 *Schwan’s Home Service, Inc.*, 228 Cal.App.4th 1137 (Cal. Aug. 12, 2014) (“We hold that when
15 employees must use their personal cell phones for work-related calls, Labor Code section 2802
16 requires the employer to reimburse them. Whether the employees have cell phone plans with
17 unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of
18 their cell phone bills).

19 54. Throughout the relevant time period, Plaintiff and the other Aggrieved
20 Employees, at the direction of Defendants and with Defendants’ knowledge and acquiescence,
21 have incurred work-related home office expenses including, among other things, home internet
22 service, equipment, telephone, and electricity in order to perform necessary work-related duties.
23 This included, for a period of time, Defendants’ policy requiring its employees to work remotely,
24 but failing to compensate them for any of the expenses that necessarily arise out of remote work.

25 55. In order to perform their job functions remotely, Defendants required and caused
26 Plaintiff and the other Aggrieved Employees to have, without limitation, a computer or mobile
27 device and an operating system capable of receiving, accessing, displaying, and either printing
28 or storing information, as well as a home internet connection, and internet browser software to

1 receive electronic notices from Defendants. Defendants also instructed and caused Aggrieved
2 Employees to use telecommunication devices, computer peripherals, and other home-office
3 expenses in furtherance of the discharge of their employment duties for Defendants.

4 56. Plaintiff and the other Aggrieved Employees were thus expected by Defendants
5 to pay for, and have personally paid for, among other things, home internet service, electricity,
6 and the purchase and maintenance of hardware used for work-purposes, including, upon
7 information and belief, personal laptops or desktop computers, keyboards, mice, and
8 Bluetooth headsets in the discharge of their job duties (the “home office expenses”). Thus,
9 Defendants not only instructed Aggrieved Employees to work from home, but also required,
10 instructed, and caused them to incur expenses in connection with the above-described items in
11 order to perform their job functions without reimbursing a reasonable portion of such expenses.

12 57. Defendants failed to indemnify or reimburse Plaintiff, in whole or in part, for
13 these expenditures and losses. By requiring Plaintiff to pay expenses and cover losses that
14 Plaintiff incurred in direct consequence of the discharge of Plaintiff’s duties for Defendants
15 and/or in obedience to Defendants’ direction, Defendants violated the applicable IWC Wage
16 Orders and Labor Code § 2802.

17 58. Here, Plaintiff and other similarly situated employees were either not reimbursed,
18 or not fully reimbursed, for all necessary and reasonable business expenses during their
19 employment.

20 **FAILURE TO PROVIDE EMPLOYMENT RECORDS**

21 59. Plaintiff incorporates by this reference the relevant allegations contained in this
22 pleading as if fully set forth herein.

23 60. On or about September 12, 2023, Plaintiff requested from Defendants copies of
24 Plaintiff’s personnel and payroll records, along with any signed documents, in accordance with
25 California Labor Code §§ 226, 432, and 1198.5.

26 61. Pursuant to California Labor Code §§ 226, 432, and 1198.5, an employer is
27 required to provide an employee, upon request, a copy of any document signed by the employee,
28 the employee’s personnel records, and the employee’s payroll records.

1 62. Despite Plaintiff's request, Defendants willfully and knowingly failed to provide
2 Plaintiff with copies of Plaintiff's personnel and payroll records within the time frame required
3 by law.

4 63. As a direct and proximate result of Defendants' unlawful actions, Plaintiff
5 suffered economic harm, including but not limited to the inability to verify wages, hours worked,
6 and other employment-related information.

7 64. As a result of Defendants' intentional failure to comply with these Labor Code
8 requirements and Plaintiff's resulting harm, Plaintiff is entitled to recover civil penalties, as well
9 as costs and reasonable attorneys' fees as permitted by law.

10 65. Plaintiff requests relief as described below.

11 66. For over 50 years, California's courts and legislature have recognized that this
12 State's wage-and-hour laws serve a compelling public interest of fostering a stable job market.
13 Wages are not ordinary debts. Because of the economic position of the average worker and his
14 or her family, it is essential to the public welfare that employers obey the wage-and-hour laws
15 so that employees are promptly paid the minimum wages that the Legislature has required for
16 employees. So fundamental are California's wage-and-hour laws that the Legislature has
17 criminalized certain types of violations.

18 67. Plaintiff brings this action pursuant to PAGA and seeks to obtain all applicable
19 relief for Defendants' violations, including all available relief under PAGA and the applicable
20 Labor Code provisions or other law enforceable through PAGA.

21 **V. FACTUAL ALLEGATIONS**

22 68. Polk was hired at Hanwha on March 31, 2022, and moved to San Francisco to
23 begin his employment on April 25, 2022, as Director, HR. Polk held that position until his
24 wrongful termination in mid-July 2023. Hanwha classified Polk as an exempt employee and
25 paid him a salary along with other employee benefits. Polk reasonably expected his pay to
26 steadily increase over time. Upon information and belief, and likely due to Defendants' ties to
27 the parent corporation in South Korea, the majority of Defendants' workforce were of Korean
28 and spoke Korean as either their primary or secondary language. Moreover, upon information

1 and belief, no other employee with whom Polk interacted was in a same-sex relationship. Polk
2 is not Korean, he does not speak Korean, and is in a same-sex relationship with his husband.

3 69. When Polk initially arrived in San Francisco, Defendants' office was not open for
4 in-person meetings or other business and, as a result, Polk was forced to work remotely for an
5 initial period of time. But despite the fact Defendants required Polk to work remotely,
6 Defendants failed to provide him any of the necessary reimbursement he was entitled to as a
7 result of his remote work. Once the San Francisco office had opened, Polk worked in office for
8 several months.

9 70. Polk has been a successful Human Resources professional for many years. But
10 despite Polk's qualifications and work ethic, Defendants and their managerial employees began
11 subjecting Polk to various instances of discriminatory treatment and unlawful harassment, which
12 appeared to be based on Polk's race, national origin, and/or sexual orientation, and/or Polk's
13 disability / medical condition and/or association with a person who had a disability / medical
14 condition, which required that Polk be on a medical leave of absence as required by Polk's
15 physician.

16 71. Upon information and belief, Defendants are part of Hanwha Group, a large
17 business conglomerate founded and headquartered in South Korea. The named Defendants are
18 part of Hanwha Group's operations in the United States and, specifically, in California.

19 72. Upon information and belief, Defendants workforce in their California locations
20 is majority Korean. Early on in Polk's employment, Defendants' connection to the Hanwha
21 Group parent company in South Korea became obvious. For example, whenever Polk had to
22 raise issues needing approval from Defendants' internal leadership team, the issue had to be
23 presented to the leadership team in Seoul, Korea. This was the case for virtually every company
24 decision made by Defendants.

25 73. Because Polk is not Korean and does not speak Korean, he was frequently
26 excluded from meetings and company lunches. This is despite the fact that Polk held a Director
27 position within the company and should have been included in these meetings and other events.
28 In fact, when Polk was on meetings with C-suite executives, he would frequently be asked to

1 “jump off” the calls despite his position as a Director. Because Defendants were excluding Polk
2 from key meetings and ostracising him – all of which appears to have stemmed from the fact
3 that Polk is not Korean and does not speak or understand Korean, or due to his sexual orientation,
4 which Defendants and its agents appeared to take issue with – Defendants seemingly were setting
5 Polk up to fail.

6 74. Despite being excluded and ostracised, Polk worked diligently in his position and
7 helped HIP specifically build out its presence in California. Polk interfaced with leadership
8 throughout the company, interfaced with the headquarters in South Korea, and worked with
9 outside vendors to execute in his role as a Director.

10 75. The exclusion and mistreatment of Polk accelerated towards the end of 2022, and
11 progressively got worse in the months thereafter, because of Polk’s requests for various
12 accommodations. More specifically, in November 2022, because of needing to tend to the
13 medical condition of his husband, Polk negotiated a remote working arrangement with his then-
14 manager, Harris Lee, enabling Polk to move back to Southern California, to be a provider and
15 caretaker for his husband. Polk’s understanding was that this arrangement would be in place for
16 approximately 6 to 12 months. During the initial time period, Polk was performing his work
17 duties satisfactorily for Defendants and Polk was able to complete virtually all of his work
18 remotely.

19 76. In or around March/April 2023, Defendants’ in-house counsel, Richard Kim,
20 stated that Defendants intended to revoke the remote work arrangement and require Polk to
21 return to the San Francisco office in April 2023. Polk responded by providing some information
22 about his husband’s medical condition and reminding Defendants of the original agreement for
23 Polk to work remotely for between 6 and 12 months. Polk also indicated that a return to the
24 office in April 2023 was not realistic, but that he could likely return in July 2023. Kim objected
25 to the additional time, and requested Polk return to the office in San Francisco by the end of May
26 2023, unless further leave was required.

27 77. During the next few months, Polk continued to work for Defendants and perform
28 his job remotely while attending to his husband’s medical condition. As an exempt employee,

1 Polk was often working hours that exceeded a normal 9 to 5 schedule and rarely took any time
2 off.

3 78. In or around May 2023, Polk suffered from a physical injury that impacted his
4 ability to work for Defendants. As a result, towards the end of May 2023, Polk obtained a
5 doctor's note and requested a leave of absence to address his own physical disability, advising
6 the company that he required a leave of absence through July 30, 2023.

7 79. In early July 2023, Defendants reached out to Polk requesting that he return to the
8 office by July 10, 2023. This request was made despite the fact Polk's medical note had placed him
9 off work through July 30, 2023. Defendants also requested Polk provide a second opinion regarding
10 Polk's need for a leave of absence through the end of July 2023, which Polk stated he was willing to
11 do. Yet despite Polk's willingness to obtain a second opinion and provide additional proof of his
12 need for a leave of absence, Defendants terminated his employment in mid-July 2023, before he was
13 able to obtain the appropriate documentation. In short, Defendants set Polk up for failure by
14 excluding him from key meetings because of his race and/or national origin and/or sexual
15 orientation, harassed him because of his sexual orientation, and ultimately terminated his
16 employment because it no longer wanted to provide him with a reasonable accommodation.

17 **VI. JURISDICTION AND VENUE**

18 80. Plaintiff's First Cause of Action is brought as a representative action on behalf of
19 himself and certain other current and former employees of Defendants against whom one or more
20 of the alleged violations was committed (hereinafter collectively referred to as the "Aggrieved
21 Employees") pursuant to California Labor Code sections 2698, *et seq.* Plaintiff is an aggrieved
22 employee against whom one or more of the alleged violations occurred. The civil penalties and
23 other restitution sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and
24 will be established according to proof at trial.

25 81. This Court has jurisdiction over this matter under PAGA and this Court's general
26 powers granted by statutory law and the California Constitution. This Court has jurisdiction over
27 this action pursuant to the California Constitution Article VI section 10, which grants the California
28 Superior Court original jurisdiction in all causes except those given by statute to other courts.

1 82. Plaintiff is a resident and citizen of the State of California and domiciled in the State
2 of California.

3 83. Defendants are residents of California, have sufficient minimum contacts in
4 California, and/or otherwise intentionally avails itself of the California market so as to render the
5 exercise of jurisdiction over them by the California Courts consistent with traditional notions of
6 fair play and substantial justice.

7 84. Venue is proper in this county under section 395.5 of the California Code of Civil
8 Procedure as the allegations herein took place within the County of Orange, San Francisco, and
9 Los Angeles. Further, Defendants keeps and maintains offices in Los Angeles, California. Many
10 of the Aggrieved Employees were employed and/or performed work during the PAGA Period by
11 Defendants in Orange County, San Francisco County, and Los Angeles County. Further, many of
12 the acts alleged herein including Defendants' failure to reimburse Plaintiff and Aggrieved
13 Employees for a reasonable portion of their home office expenses, occurred in these Counties.

14 85. Venue is proper in this Court because upon information and belief, one or more of
15 the Defendants reside, transact business, or have offices in this County and the acts or omissions
16 alleged herein took place in this County.

17 86. Venue is proper in PAGA cases in any county in which any aggrieved employee
18 worked and Labor Code violations allegedly occurred. (*Crestwood Behavioral Health, Inc. v.*
19 *Superior Court*, 60 Cal. App. 5th 1069, 1075.)

20 87. Given the above, venue is therefore proper in this County.

21 **VII. EXHAUSTION**

22 88. Plaintiff complied with the notice requirements pursuant to California Labor Code §
23 2699.3 and gave written notice via online filing and certified mail of the specific provisions alleged
24 to have been violated to the Labor and Workforce Development Agency ("LWDA") and Defendants.
25 Plaintiff's LWDA Case Number is LWDA-CM-1042010-24.

26 89. Upon information and belief, the LWDA has not provided notice of its intention to
27 investigate Defendants' violations.

28 ///

1 90. Accordingly, Plaintiff has fully satisfied the administrative prerequisites to suit under
2 the PAGA.

3 91. Plaintiff complied with the notice requirements pursuant to California Civil Rights
4 Division (“CRD”) and received an immediate right to sue notice, Case No. 202410-26524703.

5 **VIII. LEGAL CLAIMS**

6 **FIRST CAUSE OF ACTION**

7 **Violation of California Labor Code § 2698 *et seq.***

8 **(By Plaintiff Against All Defendants)**

9 92. Plaintiff incorporates by this reference the relevant allegations contained in this
10 pleading as if fully set forth herein.

11 93. Plaintiff is an “Aggrieved Employee” under the PAGA, as Plaintiff was employed by
12 Defendants during the applicable statutory period and suffered one or more of the Labor Code
13 violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all other
14 current and former Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable
15 attorney’s fees and costs.

16 94. Plaintiff seeks to recover the PAGA civil penalties through a representative action
17 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal 4th 969
18 (2009). Therefore, class certification of the PAGA claims is not required.

19 95. PAGA specifically provides for a private right of action to recover civil penalties
20 for violations of the Labor Code as follows: “Notwithstanding any other provision of law, any
21 provision of this code that provides for a civil penalty to be assessed and collected by the Labor
22 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
23 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
24 civil action brought by an aggrieved employee on behalf of himself or herself and other current or
25 former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code §
26 2699(a).

27 96. Plaintiff was employed by Defendants and the Labor Code violations alleged above
28 were committed against Plaintiff during Plaintiff’s time of employment. Plaintiff is therefore an

1 “aggrieved employee” under PAGA.

2 97. Plaintiff, on behalf of the LWDA and all Aggrieved Employees, re-allege and
3 incorporate by reference each and every allegation set forth in the preceding paragraphs.

4 98. Based on the above allegations incorporated by reference, Defendants have violated
5 Labor Code § 2802 by failing to reimburse Plaintiff and the Aggrieved Employees for a reasonable
6 percentage of their necessary business expenses associated with their home offices during the PAGA
7 Period.

8 99. As a result of the acts alleged above, Plaintiff seek penalties under Labor Code §
9 2699, et. seq., because of Defendants’ violations of the Labor Code.

10 100. As set forth in detail above, during all times relevant to this Action, Defendants have
11 routinely subjected Plaintiff and the Aggrieved Employees to violations of California Labor Codes
12 by:

- 13 a. Failing to reimburse Plaintiff and the Aggrieved Employees for necessary
14 business-related expenses in violation of Labor Code §§ 2800 and 2802.
- 15 b. Failing to pay Plaintiff and the Aggrieved Employees vacation wages at their
16 “final rate” of pay in violation of Labor Code § 227.3.
- 17 c. Failing to timely pay Plaintiff and the Aggrieved Employees all wages at the
18 end of their employment in violation of Labor Code §§ 201-203.
- 19 d. Failing to timely provide records relating to Plaintiff and the Aggrieved
20 Employees’ in accordance with California Labor Code §§ 226, 432, and
21 1198.5.

22 101. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff, individually
23 and on behalf of the Aggrieved Employees and the State of California, request and are entitled to
24 recover penalties against Defendants for the Labor Code violations described above, including but
25 not limited to penalties under California Code of Regulations Title 8 section 11010, penalties under
26 California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3 and 1174.5, and 1197.1, and any
27 and all additional penalties and sums as provided by the California Labor Code and/or other statutes.
28

1 The exact amount of the applicable penalties, in all, is in an amount to be shown according to proof
2 at trial.

3 102. Plaintiff was compelled to retain the services of counsel to file this court action to
4 protect Plaintiff's interests and the Aggrieved Employees, and to assess and collect the civil penalties
5 owed by Defendants. Plaintiff therefore seek an award of reasonable attorneys' fees and costs
6 pursuant to Labor Code § 2699(g)(1), and any other applicable statute.

7 103. Plaintiff may amend this complaint as a matter of right pursuant to California Labor
8 Code § 2699.3 as this complaint has been filed within sixty days of the time periods specified in
9 Labor Code §2699.3.

10 **SECOND CAUSE OF ACTION**

11 **Discrimination Based on Actual/Perceived Physical Disability and/or Medical Condition**

12 **(California Government Code § 12940(a))**

13 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

14 104. Plaintiff incorporates by this reference the relevant allegations contained in this
15 pleading as if fully set forth herein.

16 105. At all times herein mentioned, California Fair Employment and Housing Act
17 Government Code §§ 12940, *et seq.* ("FEHA"), was in full force and effect and was binding on
18 Defendants. Plaintiff was, at all times material hereto, an employee covered by the provisions and
19 protections of the FEHA. These sections require Defendants to refrain from discriminating against
20 an employee on the basis of an Actual/Perceived Physical Disability and/or Medical Condition,
21 among other things.

22 106. The foregoing conduct by Defendants violates the FEHA, Government Code §
23 12940(a), which provides that discrimination of employees on the basis of an Actual/Perceived
24 Physical Disability and/or Medical Condition is an unlawful employment practice. The
25 discrimination by Defendants of Plaintiff based on his physical disability violates Government Code
26 § 12940(a).

27 107. Plaintiff's Actual/Perceived Physical Disability and/or Medical Condition was a
28 motivating factor in Defendant Hanwha's decision to discriminate against and harass Plaintiff, and

1 his disability was a motivating factor in Defendant's decision to terminate Plaintiff. Such
2 discrimination violates Government Code § 12940(a) and has resulted in damage to Plaintiff.

3 108. In addition, as an alternative theory, Plaintiff alleges facts and pursues a "mixed
4 motive" legal theory pursuant to *Harris v. City of Santa Monica*, 56 Cal.4th 203, 211 (2013) as set
5 forth in California CACI Jury Instruction No. 2512.

6 109. As a legal result of the discrimination of Plaintiff described above, Plaintiff has
7 suffered and will continue to suffer humiliation, embarrassment, mental anguish, and severe
8 emotional and physical distress, all causing him damages in an amount to be determined at trial and
9 according to proof.

10 110. As a direct and proximate result of the discriminatory conduct of Defendants, Plaintiff
11 suffered substantial harm. Plaintiff suffered economic and non-economic damages and continues to
12 suffer humiliation, emotional distress, and mental and physical pain and anguish.

13 111. Plaintiff has incurred and continues to incur legal expenses and attorney's fees.
14 Pursuant to Government Code §§ 12940, *et seq.*, and/or other applicable law, Plaintiff is entitled to
15 be reimbursed said legal expenses and attorney's fees.

16 112. The acts of Defendants alleged above were done maliciously and/or oppressively. The
17 foregoing acts directed toward Plaintiff were carried out by managerial employees, officers, and
18 directors, and were directed and ratified by Defendants, with a conscious disregard of Plaintiff's rights
19 and with the intent to vex, injury, and annoy Plaintiff, such as to constitute oppression, fraud, or
20 malice pursuant to California Civil Code § 3294, entitling Plaintiff to punitive damages in an amount
21 appropriate to punish and set an example of said Defendants.

22 113. Plaintiff requests relief as described below.

23 **THIRD CAUSE OF ACTION**

24 **Retaliation – Based on Request for Accommodation, Protected Leave of Absence**

25 **(California Government Code § 12940(h) and 1294(m))**

26 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

27 114. Plaintiff incorporates by this reference the relevant allegations contained in this
28 pleading as if fully set forth herein.

1 115. At all times herein mentioned, California's Fair Employment and Housing Act
2 Government Code §§ 12940, *et seq.* was in full force and effect and was binding on Defendants.

3 116. Plaintiff was, at all times material hereto, an employee covered by the provisions and
4 protections of the FEHA. Sections 12940(h) and (m) require an employer not to retaliate against an
5 employee based on his or her physical disability, among other grounds.

6 117. The foregoing conduct violates the FEHA, Government Code §§ 12940(h) and (m),
7 as Defendants retaliated against Plaintiff for objecting to discrimination based on his disability by
8 terminating his employment, and for retaliating against Plaintiff for taking a protected leave of
9 absence.

10 118. As a legal result of the discrimination of Plaintiff described above, Plaintiff has
11 suffered and will continue to suffer humiliation, embarrassment, mental anguish, and severe
12 emotional and physical distress, all causing him damages in an amount to be determined at trial and
13 according to proof.

14 119. As a direct and proximate result of the discriminatory conduct of Defendants, Plaintiff
15 suffered substantial harm. Plaintiff suffered economic and non-economic damages and continues to
16 suffer humiliation, emotional distress, and mental and physical pain and anguish.

17 120. Defendants' conduct was a substantial factor in causing the aforementioned harm.

18 121. Plaintiff has incurred and continues to incur legal expenses and attorney's fees.
19 Pursuant to Government Code §§ 12940, *et seq.*, and/or other applicable law, Plaintiff is entitled to
20 be reimbursed said legal expenses and attorney's fees.

21 122. The acts of Defendants alleged above were done maliciously and/or oppressively. The
22 foregoing acts directed toward Plaintiff were carried out by managerial employees, officers, and
23 directors, and were directed and ratified by Defendants, with a conscious disregard of Plaintiff's rights
24 and with the intent to vex, injury, and annoy Plaintiff, such as to constitute oppression, fraud, or
25 malice pursuant to California Civil Code § 3294, entitling Plaintiff to punitive damages in an amount
26 appropriate to punish and set an example of said Defendants.

27 123. Plaintiff requests relief as described below.

28 ///

1
2 **FOURTH CAUSE OF ACTION**

3 **Failure to Accommodate**

4 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

5 124. Plaintiff incorporates by this reference the relevant allegations contained in this
6 pleading as if fully set forth herein.

7 125. During Plaintiff's employment with Defendants, Plaintiff was required to take care of
8 his husband's medical condition and, thereafter, his own medical condition. Defendants were aware
9 of Plaintiff's condition, because Plaintiff notified Defendants of his need to work remotely and to
10 take a leave of absence to address his own medical condition.

11 126. Defendants refused to reasonably accommodate Plaintiff's disabilities and/or
12 retaliated against Plaintiff by subjecting Plaintiff to adverse employment actions, and ultimately,
13 terminated Plaintiff's employment because of it.

14 127. Defendants' failure to accommodate Plaintiff's disabilities constitutes unlawful
15 discrimination in employment on account of disability and unlawful failure to accommodate, in
16 violation of the provisions of the FEHA.

17 128. The FEHA requires an employer to make reasonable accommodations for the
18 disability of employees to enable them to perform a position's essential functions, unless doing so
19 would produce undue hardship to the employer's operations. Government Code § 12940(m).

20 129. California regulations require an employer to consider "any and all reasonable
21 accommodations of which it is aware or that are brought to its attention," beyond just a recuperative
22 leave. Defendants failed to engage in an appropriate interactive process or evaluate "any and all"
23 reasonable accommodation that could have helped Polk

24 130. From the date Plaintiff was hired through Plaintiff's date of termination, she was able
25 to perform the essential functions of Plaintiff's job with or without a reasonable accommodation, and
26 Polk performed competently and capably.

27 131. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
28 has been harmed in that Plaintiff has suffered actual, consequential, and incidental financial losses,

1 including without limitation, loss of salary and benefits, and the intangible loss of employment-
2 related opportunities and damage to Plaintiff's professional reputation, all in an amount subject to
3 proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment interest
4 pursuant to California Civil Code §§ 3287, 3288, and/or any other provision of law providing for
5 prejudgment interest.

6 132. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
7 has suffered and continues to suffer physical sickness, severe anxiety, worry, embarrassment,
8 humiliation, shame, mental anguish, and emotional distress. Plaintiff is informed and believes and
9 thereon alleges that she will continue to experience said emotional suffering for a period in the future
10 she cannot presently ascertain, all in an amount subject to proof at the time of trial.

11 133. The above recited actions of Defendants in discriminating against and failing to
12 reasonably accommodate Plaintiff's disabilities were done with malice, fraud, and/or oppression and
13 in reckless disregard of the rights of Plaintiff under the FEHA. Plaintiff is informed and believes and
14 on that basis alleges that the acts taken towards Plaintiff were carried out by officers, directors, and/or
15 managing agents of Defendants and/or with the ratification and approval of officers, directors, and/or
16 managing agents of Defendants in a malicious, oppressive, and fraudulent manner in order to harm
17 Plaintiff, or with a willful and conscious disregard of Plaintiff's rights, thereby causing Plaintiff unjust
18 hardship, humiliation, and/or emotional distress. Such conduct was despicable and justifies an award
19 of punitive damages against Defendants in an amount sufficient to punish and make an example of
20 Defendants, and each of them, and to deter them from engaging in such conduct again in the future,
21 in an amount according to proof at time of trial.

22 134. Plaintiff requests relief as described below.

23 **FIFTH CAUSE OF ACTION**

24 **Failure to Engage in a Good Faith Interactive Process**

25 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

26 135. Plaintiff incorporates by this reference the relevant allegations contained in this
27 pleading as if fully set forth herein.

28 136. Government Code § 12940(n) requires employers to engage in a timely, good faith,

1 interactive process with an employee to determine effective reasonable accommodations for an
2 employee with a disability. The interactive process is the key mechanism for facilitating the
3 integration of disabled employees in the workplace and liability may be imposed on the employer
4 for failing to engage in the process.

5 137. As a result of Plaintiff's disability, Plaintiff was in need of reasonable
6 accommodation associated with Plaintiff's above-mentioned disability. Despite having notice of
7 Plaintiff's disability and Plaintiff's need for accommodation, Defendants, and each of them, by and
8 through their agents and employees, engaged in an unlawful employment practice when they failed
9 and refused to engage in the interactive process, in violation of the FEHA.

10 138. Defendants failed to engage in a timely, good faith interactive process with Plaintiff
11 to determine effective reasonable accommodations for Plaintiff's disabilities in response to
12 Plaintiff's disclosures and requests for reasonable accommodation and in response to Defendants'
13 own knowledge of Plaintiff's need for accommodation. Defendants, by and through their agents
14 and employees, failed to offer any suggestion and failed to express any willingness to discuss
15 possible accommodation. Instead, they retaliated against Plaintiff for Plaintiff's requests and need
16 for reasonable accommodation.

17 139. Defendants' failure to engage in a timely, good faith interactive process with Plaintiff
18 to determine effective reasonable accommodations for Plaintiff's disabilities and their retaliation
19 against Plaintiff for Plaintiff's need and request for a reasonable accommodation (i.e., a leave of
20 absence to address a medical condition) constitutes a violation of the provisions of the FEHA.

21 140. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
22 has been harmed in that Plaintiff has suffered actual, consequential, and incidental financial losses,
23 including without limitation, loss of salary and benefits, and the intangible loss of employment-
24 related opportunities and damage to Plaintiff's professional reputation, all in an amount subject to
25 proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment
26 interest pursuant to California Civil Code sections 3287, 3288, and/or any other provision of law
27 providing for prejudgment interest.

28 141. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff

1 has suffered and continues to suffer physical sickness, severe anxiety, worry, embarrassment,
2 humiliation, shame, mental anguish, and emotional distress. Plaintiff is informed and believes and
3 thereon alleges that she will continue to experience said emotional suffering for a period in the future
4 she cannot presently ascertain, all in an amount subject to proof at the time of trial.

5 142. The above recited actions of Defendants in discriminating against and failing to
6 engage in timely, good faith interactive process were done with malice, fraud, and/or oppression
7 and in reckless disregard of the rights of Plaintiff under the FEHA. Plaintiff is informed and believes
8 and on that basis alleges that the acts taken towards Plaintiff were carried out by officers, directors,
9 and/or managing agents of Defendants and/or with the ratification and approval of officers, directors
10 and/or managing agents of Defendants in a malicious, oppressive, and fraudulent manner in order
11 to harm Plaintiff, or with a willful and conscious disregard of Plaintiff's rights, thereby causing
12 Plaintiff unjust hardship, humiliation, and/or emotional distress. Such conduct was despicable and
13 justifies an award of punitive damages against Defendants in an amount sufficient to punish and
14 make an example of Defendants, and each of them, and to deter them from engaging in such conduct
15 again in the future, in an amount according to proof at time of trial.

16 143. Plaintiff requests relief as described below.

17 **SIXTH CAUSE OF ACTION**

18 **Failure to Prevent Harassment, Discrimination and/or Retaliation**

19 **(California Government Code § 12940(k))**

20 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

21 144. Plaintiff incorporates by this reference the relevant allegations contained in this
22 pleading as if fully set forth herein.

23 145. Plaintiff incorporates by this reference the relevant allegations contained in this
24 pleading as if fully set forth herein.

25 146. At all times herein mentioned, California's Fair Employment and Housing Act
26 Government Code §§ 12940, *et seq.* was in full force and effect and was binding on Defendants.
27 Plaintiff was, at all times material hereto, an employee covered by the provisions and protections of
28 the FEHA. These sections require Defendants to refrain from discriminating against an employee

1 on the basis of physical disability, among other things.

2 147. The foregoing conduct violates Government Code § 12940(k), as Defendants
3 “fail[ed] to take all reasonable steps necessary to prevent discrimination and harassment from
4 occurring.”

5 148. As a legal result of the discrimination of Plaintiff described above, Plaintiff has
6 suffered and will continue to suffer humiliation, embarrassment, mental anguish, and severe
7 emotional and physical distress, all causing him damages in an amount to be determined at trial and
8 according to proof.

9 149. As a direct and proximate result of the discriminatory conduct of Defendants,
10 Plaintiff suffered substantial harm. Plaintiff suffered economic and non-economic damages and
11 continues to suffer humiliation, emotional distress, and mental and physical pain and anguish.

12 150. Plaintiff has incurred and continues to incur legal expenses and attorney’s fees.
13 Pursuant to Government Code §§ 12940, *et seq.*, and/or other applicable law, Plaintiff is entitled to
14 be reimbursed said legal expenses and attorney’s fees.

15 151. The acts of Defendants alleged above were done maliciously and/or oppressively.
16 The foregoing acts directed toward Plaintiff were carried out by managerial employees, officers,
17 and directors, and were directed and ratified by Defendants, with a conscious disregard of Plaintiff’s
18 rights and with the intent to vex, injury, and annoy Plaintiff, such as to constitute oppression, fraud,
19 or malice pursuant to California Civil Code § 3294, entitling Plaintiff to punitive damages in an
20 amount appropriate to punish and set an example of said Defendants.

21 152. Plaintiff requests relief as described below.

22 **SEVENTH CAUSE OF ACTION**

23 **Violations of the California Family Rights Act**

24 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

25 153. Plaintiff incorporates by this reference the relevant allegations contained in this
26 pleading as if fully set forth herein.

27 154. Upon information and belief, Defendants are employers that regularly employ five
28 (5) or more persons and subject to California Government Code section 12945.2, commonly known

1 as the “California Family Rights Act” or “CFRA.”

2 155. During the relevant time period, Plaintiff was employed by Defendant and Plaintiff
3 performed competently and capably in Plaintiff’s position.

4 156. Prior to the termination of Plaintiff’s employment, Plaintiff was employed by
5 Defendants for more than twelve months; he worked at least 1,250 hours during the previous twelve
6 months and was employed at a worksite where 5 or more employees were employed by Defendants.

7 157. Plaintiff requested CFRA-protected medical leave for Plaintiff’s serious medical
8 condition and in connection with this request, Plaintiff provided Defendants with appropriate and
9 supporting documents.

10 158. Plaintiff provided reasonable notice to Defendants as soon as practicable of
11 Plaintiff’s need for CFRA-protected leaves, when the leaves would begin, and how long they were
12 expected to last.

13 159. Defendants terminated Plaintiff’s employment in mid-July 2023.

14 160. Plaintiff’s written and/or verbal notifications provided sufficient notice to
15 Defendants that Plaintiff qualified for leave(s) under CFRA.

16 161. Upon information and belief, Defendants, and each of them, failed to provide
17 Plaintiff with Plaintiff’s rights and responsibilities under the CFRA. An employee is entitled to
18 leave of absence under the California Family Rights Act because of a serious medical condition.

19 162. Pursuant to Gov. Code § 12945.2(a) and California Code of Regulations (“CCR”) §§
20 11089 (a) and (c), an employer must reinstate an employee to the same or a comparable position at
21 the conclusion of the leave.

22 163. It is an unlawful employment practice for Defendants, and each of them, to violate
23 an employee’s rights under the California Family Rights Act. Gov. Code § 12945.2(a). This
24 includes failing or refusing to grant a request for leave to an eligible employee, failing or refusing
25 to designate that employee’s leave as a CFRA-protected leave, interfering with the employee’s
26 rights under CFRA, and failing or refusing to provide an employee with Plaintiff’s rights and
27 responsibilities under CFRA. *Id.*; 2 Cal. Code of Regulations § 11091 (a)(1)(A); see also 29 CFR §
28 825.300. In addition, an employer may not discriminate, retaliate against, refuse to hire, and/or

1 discharge an employee for exercising any right under the CFRA. Gov. Code § 12945.2(l) and 2 CCR
2 § 11094.

3 164. In failing to provide Plaintiff with Plaintiff's rights and responsibilities under CFRA,
4 retaliating against Plaintiff because Plaintiff exercised Plaintiff's rights under CFRA, interfering
5 with Plaintiff's rights under CFRA and terminating Plaintiff's employment for requesting and/or
6 taking CFRA-protected medical leave, Defendants, and each of them, violated Gov. Code § 12945.2
7 and the corresponding CCR, including, without limitation, Sections 11088, *et seq.*

8 165. The acts of Defendants alleged above were done maliciously and/or oppressively.
9 The foregoing acts directed toward Plaintiff were carried out by managerial employees, officers,
10 and directors, and were directed and ratified by Defendants, with a conscious disregard of Plaintiff's
11 rights and with the intent to vex, injury, and annoy Plaintiff, such as to constitute oppression, fraud,
12 or malice pursuant to California Civil Code § 3294, entitling Plaintiff to punitive damages in an
13 amount appropriate to punish and set an example of said Defendants.

14 166. Plaintiff requests relief as described below.

15 **EIGHTH CAUSE OF ACTION**

16 **Wrongful Termination in Violation of Public Policy**

17 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

18 167. Plaintiff incorporates by this reference the relevant allegations contained in this
19 pleading as if fully set forth herein.

20 168. Throughout all times relevant herein, Defendant Hanwha engaged in a number of
21 improper employment practices including, but not limited to, discriminating against Plaintiff
22 because of his Physical Disability and/or Protected Activity, and the other practices described in this
23 Complaint. These improper employment practices were encouraged, maintained, and approved by
24 Defendant Hanwha's management.

25 169. Plaintiff's Physical Disability/Protected Activity was a motivating reason for
26 Hanwha's decision to terminate Plaintiff's employment.

27 170. Defendant Hanwha's adverse employment actions against Plaintiff and termination
28 of Plaintiff's employment violated the public policy of the State of California against discrimination

1 based on physical disability. California's public policy against discrimination in employment
2 decisions is reflected in numerous laws, including but not limited to Government Code §§ 12940,
3 *et seq.*, which forbids discrimination based on physical disability, among other things.

4 171. Defendant Hanwha's termination of Plaintiff's employment in violation of the public
5 policy of the State of California was a substantial factor in causing Plaintiff's harm.

6 172. As a proximate result of the wrongful acts of Defendant Hanwha, Plaintiff has been
7 harmed in that Plaintiff has suffered actual, consequential, and incidental financial losses, including
8 without limitation, loss of salary and benefits, and the intangible loss of employment-related
9 opportunities and damage to his professional reputation, all in an amount subject to proof at the time
10 of trial. Plaintiff claims such amounts as damages together with prejudgment interest pursuant to
11 California Civil Code §§ 3287, 3288, and/or any other provision of law providing for prejudgment
12 interest.

13 173. As a proximate result of the wrongful acts of Defendant Hanwha, Plaintiff has
14 suffered and continues to suffer severe anxiety, worry, embarrassment, humiliation, shame, mental
15 anguish, and emotional distress. Plaintiff is informed and believes and thereon alleges that he will
16 continue to experience said emotional suffering for a period in the future he cannot presently
17 ascertain, all in an amount subject to proof at the time of trial.

18 174. The acts of Defendants alleged above were done maliciously and/or oppressively.
19 The foregoing acts directed toward Plaintiff were carried out by managerial employees, officers,
20 and directors, and were directed and ratified by Defendants, with a conscious disregard of Plaintiff's
21 rights and with the intent to vex, injury, and annoy Plaintiff, such as to constitute oppression, fraud,
22 or malice pursuant to California Civil Code § 3294, entitling Plaintiff to punitive damages in an
23 amount appropriate to punish and set an example of said Defendants.

24 175. Plaintiff requests relief as described below.

25 **NINTH CAUSE OF ACTION**

26 **Retaliation in Violation of Labor Code (Labor Code § 1102.5)**

27 **(By Plaintiff Against All DEFENDANTS)**

28 176. Plaintiff incorporates by this reference the relevant allegations contained in this

1 pleading as if fully set forth herein.

2 177. Plaintiff claimed, protested, and complained about Defendants' unlawful practices
3 and procedures of repeatedly violating California Government Code and Labor Code laws including
4 but not limited to laws prohibiting discrimination based on physical disabilities and/or medical
5 conditions; failure to accommodate physical disabilities and/or medical condition; and creation of a
6 hostile work environment. In response, Defendants retaliated against Plaintiff by, among other
7 things, refusing to investigate Plaintiff's claims of harassment, retaliation, and hostile work
8 environment and, ultimately, by terminating Plaintiff's employment.

9 178. Defendants retaliated against Plaintiff for disclosing information to a person with
10 authority over Plaintiff or another employee who had the authority to investigate, discover or correct
11 what Plaintiff had reasonable cause to believe were violations of, or noncompliance with state or
12 federal statute(s) or local, state, or federal rule(s) or regulation(s), including, but not limited to, laws
13 prohibiting harassment, retaliation and the creation and maintenance of a hostile work environment.
14 Defendants' conduct accordingly violated the provisions of California Labor Code section
15 1102.5(b).

16 179. Defendants' conduct violated the provisions of California Labor Code section
17 1102.5.

18 180. Defendants are also liable for a civil penalty not exceeding ten thousand dollars
19 (\$10,000) for each violation of Labor Code section 1102.5.

20 181. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
21 has been harmed in that Plaintiff has suffered actual, consequential, and incidental financial losses,
22 including without limitation, loss of wages and benefits, and the intangible loss of employment-
23 related opportunities and damage to Plaintiff's professional reputation, all in an amount subject to
24 proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment
25 interest pursuant to California Civil Code sections 3287, 3288, and/or any other provision of law
26 providing for prejudgment interest.

27 182. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and
28 continues to suffer severe anxiety, worry, embarrassment, humiliation, shame, mental anguish, and

1 emotional distress. Plaintiff is informed and believes and thereon alleges that Plaintiff will continue
2 to experience said emotional suffering for a period in the future Plaintiff cannot presently ascertain,
3 all in an amount subject to proof at the time of trial.

4 183. The above recited actions of Defendants were done with malice, fraud, and/or
5 oppression and in reckless disregard of the rights of Plaintiff. Plaintiff is informed and believes and
6 on that basis alleges that the acts taken towards Plaintiff were carried out by officers, directors,
7 and/or managing agents of Defendants and/or with the ratification and approval of officers,
8 directors, and/or managing agents of Defendants in a malicious, oppressive, and fraudulent manner
9 in order to harm Plaintiff, or with a willful and conscious disregard of Plaintiff's rights, thereby
10 causing Plaintiff unjust hardship, humiliation, and/or emotional distress. Such conduct was
11 despicable and justifies an award of punitive damages against Defendants in an amount sufficient
12 to punish and make an example of Defendants, and each of them, and to deter them from engaging
13 in such conduct again in the future, in an amount according to proof at time of trial.

14 184. Plaintiff requests relief as described below.

15 **TENTH CAUSE OF ACTION**

16 **Failure to Reimburse Business Expenses (Labor Code §§ 2800, 2802)**

17 **(By Plaintiff Against All DEFENDANTS)**

18 185. Plaintiff incorporates by this reference the relevant allegations contained in this
19 pleading as if fully set forth herein.

20 186. Labor Code § 2802 requires an employer to reimburse employees for any work-
21 related expenses.

22 187. While acting on the direct instructions of DEFENDANTS and discharging duties,
23 Plaintiff incurred work-related expenses. Such expenses include, but are not limited to, the amounts
24 Plaintiff expended for repairs to his truck, which he used to fulfill his job responsibilities.

25 188. Plaintiff necessarily incurred these expenses and losses as a direct result of
26 performing job duties for Defendant Hanwha.

27 189. DEFENDANTS failed to indemnify or reimburse Plaintiff for these expenditures and
28 losses. By requiring Plaintiff to pay expenses and cover losses that Plaintiff incurred in direct

1 consequence of the discharge of Plaintiff's duties for Defendant Hanwha and/or in obedience to
2 Hanwha's direction, DEFENDANTS violated the applicable IWC Wage Order and Labor Code §
3 2802.

4 190. As a direct and proximate result of DEFENDANTS' conduct, Plaintiff is entitled to
5 damages in the amount of Plaintiff's substantial losses, as well as pre-judgment interest, costs, and
6 attorneys' fees for the prosecution of this action.

7 191. Plaintiff requests relief as described below.

8 **ELEVENTH CAUSE OF ACTION**

9 **Failure to Timely Pay Wages at End of Employment (Waiting Time Penalties)**

10 **(Labor Code §§ 201, 203, and 227.3)**

11 **(By Plaintiff Against All DEFENDANTS)**

12 192. Plaintiff incorporates by this reference the relevant allegations contained in this
13 pleading as if fully set forth herein.

14 193. Labor Code § 201 requires an employer who discharges a California employee to
15 pay all compensation due and owing to that employee immediately upon discharge.

16 194. Labor Code § 203 provides that if an employer willfully fails to pay compensation
17 promptly upon discharge, as required by section 201, then the employer is liable for waiting time
18 penalties in the form of continued compensation in the amount of the employee's average daily
19 wage for up to 30 workdays.

20 195. DEFENDANTS willfully failed to timely pay compensation and wages to Plaintiff
21 when Plaintiff's employment was terminated. As a result, DEFENDANTS are liable to Plaintiff for
22 waiting time penalties, together with reasonable attorneys' fees and costs, under Labor Code § 203.

23 196. Plaintiff requests relief as described below.

24 **TWELFTH CAUSE OF ACTION**

25 **Violations of the Unfair Competition Law (Bus. & Prof. Code §§ 17200, *et seq.*)**

26 **(By Plaintiff Against Defendant HANWHA, and Does 1 through 100)**

27 197. Plaintiff incorporates by this reference the relevant allegations contained in this
28 pleading as if fully set forth herein.

1 198. California Business & Professions Code § 17200 prohibits unfair competition in the
2 form of any unlawful, unfair, or fraudulent business act or practice.

3 199. California Business & Professions Code § 17204 allows any person acting “for the
4 interests of itself, its members or the general public” to prosecute a civil action for violation of the
5 UCL.

6 200. Throughout the relevant time period, Defendant Hanwha improperly, fraudulently,
7 and/or unlawfully violated the Labor Codes described herein and thereby committed unlawful,
8 unfair, and/or fraudulent business acts and practices as defined by California Business & Professions
9 Code § 17200, by engaging, among other things, in the aforementioned practices.

10 201. Defendant Hanwha’s violations of these laws were unlawful, unfair, and/or
11 fraudulent predicate acts and practices for purposes of California Business and Professions Code §
12 17200.

13 202. As a direct and proximate result of Defendant Hanwha’s unlawful, unfair, and/or
14 fraudulent acts and practices described herein, Defendant Hanwha received and continues to hold
15 ill-gotten gains belonging to Plaintiff. As a direct and proximate result of Hanwha’s unlawful
16 business practices, Plaintiff suffered economic injuries including, but not limited to, unreimbursed
17 out-of-pocket business expenses and unpaid wages, among other things. Defendant Hanwha profited
18 from these unlawful, unfair, and/or fraudulent acts and practices in the amount of those business
19 expenses and compensation.

20 203. Plaintiff is entitled to restitution pursuant to California Business & Professions Code
21 §§ 17203 and 17208 for all unpaid business expenses, rest and meal period compensation, unpaid
22 minimum wages, unpaid sick leave, and interest.

23 204. Plaintiff is entitled to enforce all applicable penalty provisions of the California
24 Labor Code pursuant to California Business & Professions Code § 17202.

25 205. By all of the foregoing alleged conduct, Defendant Hanwha has committed, and is
26 continuing to commit, ongoing unlawful, unfair and fraudulent business practices within the
27 meaning of California Business & Professions Code § 17200, *et seq.*

28 206. As a direct and proximate result of the unfair business practices described above,

1 Plaintiff has suffered significant losses and Defendant Hanwha has been unjustly enriched.

2 207. Pursuant to California Business & Professions Code § 17203, Plaintiff is entitled to:
3 (a) restitution of money acquired by Defendant Hanwha by means of their unfair business practices;
4 and (b) a declaration that Hanwha's business practices are unfair and unlawful.

5 208. Plaintiff has assumed the responsibility of enforcement of the laws and lawful claims
6 specified herein. There is a financial burden incurred in pursuing this action which is in the public
7 interest. Therefore, reasonable attorneys' fees are appropriate pursuant to California Code of Civil
8 Procedure § 1021.5.

9 209. Plaintiff requests relief as described below.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general
12 public similarly situated, and as private attorneys general, pray for relief and judgment against
13 Defendants, jointly and severally, as follows:

14 **As to the First Cause of Action**

- 15 1. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor
16 Code;
17 2. For the imposition of civil penalties pursuant to California Labor Code §§ 2699,
18 210, 558, 558.1, 226, 226.3, 1174.5, 1197.1, and all other penalties allowed by the California Labor
19 Code and/or other applicable statutes; and
20 3. Pre-judgment and post-judgment interest;
21 4. Punitive and/or exemplary damages, if allowed;
22 5. Such other and further relief that the Court deems proper.

23 **As to the Second through Twelfth Causes of Action**

- 24 1. All actual, consequential, and incidental financial losses, including but not limited to
25 loss of earnings and benefits, according to proof, together with prejudgment interest pursuant to the
26 Civil Code §§ 3287 and/or 3288;
27 2. Emotional distress and general damages in a sum in excess of the jurisdictional
28 minimum of the Superior Court;

- 1 3. Wages, civil penalties, and applicable statutory penalties;
- 2 4. Prejudgment and post-judgment interest;
- 3 5. Attorneys' fees and costs reasonably incurred pursuant to the California Labor Code
- 4 §§ 218.5, and 1102.5(j), Government Code § 12965, Code of Civil Procedure § 1021.5, or any other
- 5 provision allowed by law;
- 6 6. Punitive and/or exemplary damages;
- 7 7. Equitable relief in the nature of declaratory relief and restitution of all monies due to
- 8 Plaintiffs, disgorgement of profits from Defendants' unlawful business practices, and an accounting;
- 9 and
- 10 8. Such other and further relief that the Court deems proper.

11

12 DATED: October 3, 2024

WORRELL LAW FIRM, APC

13

14 By: 

15 KYLE C. WORRELL
16 *Attorneys for Plaintiff*
17 JACARI F. POLK
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all claims and causes of action so triable in this lawsuit.

Dated: October 3, 2024

WORRELL LAW FIRM, APC

By: 
KYLE C. WORRELL
Attorneys for Plaintiff
JACARI F. POLK