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CHRISTOPHER CARRILLO, an individual

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

CHRISTOPHER CARRILLO, an
individual,

Plaintiff,

v.

HERMAN WEISSKER, INC., a
California corporation; KEVIN KARRER,
an individual; LYLE TREEND, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: CVRI 2404606

COMPLAINT FOR:

- 1. DISABILITY DISCRIMINATION;**
- 2. FAILURE TO ACCOMMODATE
PHYSICAL DISABILITY IN
VIOLATION OF GOV. CODE §12940(m);**
- 3. FAILURE TO ENGAGE IN A GOOD
FAITH INTERACTIVE PROCESS IN
VIOLATION OF GOV. CODE §12940(n);**
- 4. FAILURE TO PREVENT
DISCRIMINATION AND
RETALIATION;**
- 5. RETALIATION IN VIOLATION OF
GOV'T CODE §12940, *et seq.*;**
- 6. RETALIATION IN VIOLATION OF
LAB. CODE. § 6310;**
- 7. NEGLIGENT HIRING, SUPERVISION,
AND RETENTION;**
- 8. FAILURE TO PAY OVERTIME;**
- 9. FAILURE TO PAY WAGES DUE IN
VIOLATION OF LAB CODE §204(a);**
- 10. FAILURE TO PAY FOR REST PERIODS
NOT PROVIDED;**
- 11. FAILURE TO PAY FOR MEAL
PERIODS NOT PROVIDED;**
- 12. WAITING TIME PENALTIES;**
- 13. INACCURATE WAGE STATEMENTS;
AND**
- 14. UNFAIR COMPETITION**

AND DEMAND FOR JURY TRIAL

Plaintiff CHRISTOPHER CARRILLO, an individual hereby brings this Complaint and alleges as follows:

I. PARTIES

1. Plaintiff Christopher Carrillo is and, at all times relevant to the matters alleged herein, has been over the age of 18 and a resident of Los Angeles County.

2. Plaintiff is informed and believes and thereon alleges that Defendant HERMAN WEISSKER, INC., a California corporation is a corporation organized pursuant to the laws of the State of California, is authorized to do business and is doing business in the State of California.

3. Plaintiff is informed and believes and thereon alleges that Defendant KEVIN KARRER ("Karrer") is an individual who, at all times relevant to the matters alleged herein, has been a resident of Riverside County.

4. Plaintiff is informed and believes and thereon alleges that Defendant LYLE TREEND ("Treend") is an individual who, at all times relevant to the matters alleged herein, has been a resident of Riverside County.

5. Defendants Herman Weissker, Inc., Kevin Karrer, Lyle Treend, and Does 1 through 100 are sometimes collectively referred to as "Defendants."

6. Defendants Herman Weissker, Inc. and Does 1 through 100 are sometimes collectively referred to as "Employers."

7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 100, inclusive, and therefore Plaintiff sues these defendants by such fictitious names and capacities. Plaintiff will amend this Complaint to show their true names and capacities when they have been ascertained. Plaintiff is informed and believes and thereon alleges that at all times relevant, each of these fictitiously named DOE Defendants was an individual person who owned, controlled, or managed the business for which Plaintiff worked and/or who directly or indirectly exercised operational control over the wages, hours, and working conditions of Plaintiff. These DOE Defendants held ownership, officer, director and/or

1 executive positions with the remaining Defendants, and acted on behalf of the remaining
2 Defendants, which included decision-making responsibility for, and establishment of, illegal
3 payroll practices and policies for Defendants which have damaged Plaintiff and others similarly
4 situated. Therefore, Employers are “employers” as a matter of law and personally liable on the
5 causes of action alleged herein pursuant to California wage and hour laws and regulations as
6 alleged herein.

7 8. Plaintiff is informed and believes and thereon alleges that at least some of the
8 Defendant DOES 1 through 100 are, and at all times relevant hereto were, persons, corporations
9 or other business entities organized and existing under and by virtue of the laws of the State of
10 California, and are/were qualified to transact and conduct business in the State of California,
11 and did transact and conduct business in the State of California, and are thus subject to the
12 jurisdiction of the State of California. Specifically, said DOES 1 through 100 maintain offices,
13 operate businesses, employ persons, and conduct business in, and illegally pay employees by
14 illegal payroll practices and policies in the County of Los Angeles.

15 9. Plaintiff is informed and believes and thereon alleges, that at all times relevant
16 herein, Defendants and some of DOES 1 through 100 were the agents, employees, and/or
17 servants, masters, or employers of the remaining DOES 1 through 100, and in doing the things
18 herein alleged, were acting within the course and scope of such agency or employment, and
19 with the approval and ratification of each of the other Defendants.

20 10. Plaintiff is informed and believes and thereon alleges that at all times relevant,
21 Employers established the wages, hours and other terms and conditions of Plaintiff’s
22 employment to such a degree that Plaintiff was their employee.

23 11. An employer or other person acting on behalf of an employer, who violates, or
24 causes to be violated, a provision regulating minimum wages or hours and days of work in an
25 order of the Industrial Welfare Commission may be held liable as the employer for that
26 violation. (Lab. Code §558.1(a).) The term “other person acting on behalf of an employer” is
27 limited to a natural person who is an owner, director, officer, or managing agent of the
28

1 employer, and the term “managing agent” has the same meaning as in C.C.P. §3294(b). (Lab.
2 Code. §558.1(b).)

3 12. Plaintiff is further informed and believes, and thereon alleges, that each of the
4 fictitiously named Defendants aided and assisted the named Defendants in committing the
5 wrongful acts alleged herein, and that Plaintiff’s damages were proximately caused by each.

6 **II. FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

7 13. Starting in March 2022 and ending on or about December 1, 2023, Employers
8 employed Plaintiff as a Planning Supervisor for Employers’ business located at 1645 Brown
9 Ave., Riverside, California 92509 at an hourly rate of \$48. Plaintiff was paid on an hourly
10 basis.

11 14. On or about February 6, 2023, Plaintiff injured his knee at work. Employers
12 provided Plaintiff with medical care for approximately three (3) months thereafter, and moved
13 Plaintiff’s computer to a downstairs location so Plaintiff would not be required to use stairs. In
14 or about late April to early May, 2023, a doctor hired by Employers’ worker’s compensation
15 insurance company examined Plaintiff and stated that Plaintiff’s injury did not occur at the
16 workplace. This determination was erroneous, as Plaintiff did not suffer any injury or trauma to
17 his knee outside of the workplace. Employers told Plaintiff they would no longer be assisting
18 him with medical care, forcing Plaintiff to utilize his own health insurance. Plaintiff also filed a
19 workers compensation case.

20 15. On or about May 18, 2023, Plaintiff’s own doctor diagnosed him with a torn
21 meniscus which would require surgical repair. Plaintiff was placed off work for twelve (12)
22 weeks. Employers approved Plaintiff’s leave of absence. On or about August 12, 2023,
23 Plaintiff’s doctors extended his leave of absence for an additional three (3) months. On
24 November 2, 2023, Plaintiff’s leave of absence was further extended through December 11,
25 2023. In or about late November Plaintiff was told that he would likely require additional time
26 off work, and Plaintiff told Employers that his leave would likely be extended again.

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1 16. Employers terminated Plaintiff's employment on or about December 1, 2023,
2 while Plaintiff was still on an approved and protected medical leave, with the stated reason that
3 they were unable to further extend his leave of absence.

4 17. At all times relevant herein, Industrial Welfare Commission ("IWC") Wage
5 Order No. 4 (8 Cal. Code Regs. §11040), established minimum standards pertaining to wages,
6 hours, and working conditions for all persons employed in the "Professional, Technical,
7 Clerical, Mechanical and Similar Occupations."

8 18. Plaintiff routinely worked more than 8 hours per day and more than 40 hours per
9 week and did not receive compensation for all of the overtime hours worked. Employers,
10 through Karrer and Treend, regularly required Plaintiff to stay at work after his scheduled shift
11 ended and incorrectly told Plaintiff that he was paid "salary."

12 19. Plaintiff's meal and rest breaks were often interrupted, and Plaintiff was not
13 permitted to take a second meal period when he worked ten (10) hours or more.

14 20. Throughout Plaintiff's employment, Employers failed to provide Plaintiff with
15 itemized wage statements that properly and accurately itemized the number of hours Plaintiff
16 worked at the effective regular pay rates and the effective overtime pay rates, or with the
17 required additional hour of pay to compensate Plaintiff for meal and rest period violations.

18 21. Upon termination of Plaintiff's employment, Employers failed to pay Plaintiff
19 all wages due and owing to him and the balance of Plaintiff's wages remain unpaid.

20 22. On August 19, 2024, Plaintiff filed a California Fair Employment and Housing
21 Act ("FEHA") claim. That same day, he obtained a Right to Sue letter regarding this matter
22 from the Department of Fair Employment and Housing ("DFEH").

23 23. Pursuant to the California Labor Code, Plaintiff intends to file a notice with
24 Labor and Workforce Development Agency (LWDA) and pursue claims against Defendants
25 under the Private Attorney General Act (PAGA). As such, Plaintiff further reserves the right to
26 amend this Complaint once he completes and complies with the provisions under the law.

27 **FIRST CAUSE OF ACTION**

28 **(Disability Discrimination – Gov. Code §12940, *et seq.* Against Employers)**

1 24. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

2 25. Upon learning about Plaintiff's disability, and not wanting to accommodate him

3 regarding his disability, and not wanting a disabled employee and not wanting to accommodate

4 Plaintiff, Employers terminated Plaintiff's employment in violation of Cal. Gov't Code §12940.

5 26. Plaintiff suffered from physical limitations as set forth above and was therefore a

6 member of the class of persons protected from disability discrimination under Cal. Gov't Code

7 §12940(a).

8 27. Employers regularly employ five or more persons.

9 28. Within the statutorily required date from the most recent act of discrimination,

10 Plaintiff filed a charge of discrimination with the DFEH and received a right to sue notice.

11 29. As a direct and proximate result of the Employers' conduct, individually and

12 collectively, Plaintiff has suffered and continues to suffer substantial losses in income, earnings,

13 and benefits and has been damaged in his capacity to earn a salary, and he has lost and will

14 continue to lose employment benefits.

15 30. Employers' disability discrimination acts against Plaintiff as set forth herein are

16 and were unlawful, discriminatory and retaliatory in violation of *Cal. Gov. Code* §12940 *et seq.*,

17 and resulted in damages and injury to Plaintiff, as alleged herein, including but not limited to

18 lost wages and benefits according to proof at the time of trial, but in an amount not less than

19 \$89,856.00.

20 31. As an additional direct and proximate result of Employers' disability

21 discrimination acts against Plaintiff, Plaintiff was caused to suffer special damages of lost

22 wages according to proof at the time of trial, but in an amount not less than \$89,856.00 due to

23 the wrongful reduction in Plaintiff's hours.

24 32. As a direct and proximate result of Employers' and each of their actions,

25 Plaintiff has suffered severe and serious injury to his person, all to his damage in a sum within

26 the jurisdiction of this Court and to be shown according to proof, but in an amount not less than

27 \$1,000,000.00.

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33. Employers' conduct in discriminating against Plaintiff because of his disability subjected him to cruel and unjust hardship in conscious disregard of his rights, as it was anticipated by Employers that Plaintiff would be unable to find comparable employment in the foreseeable future.

34. Plaintiff is informed and believes, and thereon alleges, that his termination by Employers was done with the intent to cause him injury. As a consequence of the aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof.

SECOND CAUSE OF ACTION

**(Failure to Accommodate Physical Disability in Violation of Gov. Code §12940(m) -
Against Employers)**

35. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

36. As alleged herein, Plaintiff requested that Employers make a reasonable accommodation for his physical disability so that he would be able to perform the essential job requirements.

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

38. Employers refused said accommodation and refused to discuss any other potential reasonable accommodation they might afford to Plaintiff.

39. By refusing to afford Plaintiff a reasonable accommodation, Employers violated *Gov. Code* §12940(m).

40. As a direct and proximate result of Defendants' conduct, individually and collectively, Plaintiff suffered and continues to suffer substantial losses in income, earnings, and benefits and has been damaged in his capacity to earn his salary, and he has lost and will continue to lose employment benefits.

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1 41. As a direct and proximate result of Defendants' actions, Plaintiff has suffered
2 severe and serious injury to his person, all to his damage in a sum within the jurisdiction of this
3 Court and to be shown according to proof, but in an amount not less than \$1,000,000.00.

4 42. As a result of Employers' oppressive, malicious and despicable conduct,
5 Plaintiff is entitled to recover punitive damages in a sum to be shown according to proof.

6 43. Pursuant to *Gov. Code* §12965(b), Plaintiff requests an award of attorneys' fees
7 in this action.

8 **THIRD CAUSE OF ACTION**

9 **(Failure to Engage in a Good Faith Interactive Process in violation of Gov. Code**
10 **§12940(n) - Against Employers)**

11 44. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

12 45. At all times hereto, FEHA, including in particular Gov. Code §12940(n), was in
13 full force and effect and was binding on Employers. This subsection imposes a duty on
14 Employers to engage in a timely, good faith, interactive process with an employee to determine
15 reasonable accommodation, if any, in response to a request for a reasonable accommodation by
16 an employee with a known physical disability.

17 46. At all relevant times, Plaintiff was a member of a protected class within the
18 meaning of *Gov. Code* §12940(a) *et seq.* because he had a disability, due to injuries suffered, of
19 which Employers had both actual and constructive notice.

20 47. Plaintiff reported his disability to Employers, triggering Employers' obligation
21 to engage in a good faith interactive process with Plaintiff, but at all times herein, Employers
22 failed and refused to do so.

23 48. Employers breached their statutory duty under FEHA to engage in a timely good
24 faith interactive process to determine a reasonable accommodation for Plaintiff's physical
25 disability. Plaintiff further alleges that: (1) that Employers were Plaintiff's employer; (2) that
26 Plaintiff was an employee of Employers; (3) that Plaintiff sustained an injury that required
27 reasonable accommodation and which injury was known to Employers; (4) that Plaintiff
28 requested that Employers make reasonable accommodation for his injury and/or physical

condition so that he would be able to perform the essential functions of his job requirements; (5) that Plaintiff was willing to participate in the interactive process to determine whether reasonable accommodation could be made so that he would be able to perform the essential job requirements; (6) that Employers failed to participate in a timely good faith interactive process with Plaintiff to determine whether reasonable accommodation could be made; (7) that Plaintiff was harmed financially; and (8) that Employers' failure to engage in a good faith interactive process was a substantial factor in causing Plaintiff's damage and harm.

49. The above acts of Employers constitute violations of the FEHA and were a proximate cause in Plaintiff's damages.

50. As a direct and proximate result of Employers' violations of the FEHA, Plaintiff suffered and continues to suffer substantial losses in income, earnings, and benefits and has been damaged in his capacity to earn his salary, and he has lost and will continue to lose employment benefits.

51. Employers' failures to engage in the good faith interactive process as set forth herein are and were unlawful, discriminatory and retaliatory in violation of *Cal. Gov. Code* §12940 *et seq.*, and resulted in damages and injury to Plaintiff, as alleged herein, including but not limited to lost wages and benefits according to proof at the time of trial, but in an amount not less than \$89,856.00.

52. As an additional direct and proximate result of Employers' failures to engage in the good faith interactive process as set forth herein caused Plaintiff to suffer special damages of lost wages according to proof at the time of trial, but in an amount not less than \$89,856.00 due to the wrongful reduction in Plaintiff's hours.

53. As a direct and proximate result of Employers' actions, Plaintiff has suffered severe and serious injury to his person, all to his damage in a sum within the jurisdiction of this Court and to be shown according to proof, but in an amount not less than \$1,000,000.00.

54. As a result of Employers' oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof.

55. Pursuant to *Government Code* §12965(b), Plaintiff requests a reasonable award of attorneys' fees and costs.

FOURTH CAUSE OF ACTION

(Failure to Prevent Discrimination and Retaliation Against Employers)

56. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

57. Cal. Gov't Code §12940(k) provides that it shall be an unlawful employment practice for an employer to fail to take all reasonable steps necessary to prevent discrimination and retaliation from occurring.

58. Employers violated their duty under the FEHA by failing to take all reasonable measures to prevent discrimination and retaliation against Plaintiff.

59. As a direct, proximate, and legal result of Employers' failure to take preventative steps, Plaintiff suffered harm, including emotional distress in an amount not less than \$1,000,000.00 and lost income, and Employers' conduct was a substantial factor in causing Plaintiff's harm.

60. Pursuant to Cal. Gov't Code §12965, Plaintiff is entitled to recover against Employers the emotional distress and lost income directly caused by Employers' conduct, for attorney's fees and for costs.

61. All actions of Employers were known, ratified and approved by the officers or managing agents of Employers. Therefore, Plaintiff is entitled to punitive or exemplary damages against the Employers in an amount to be determined at the time of trial.

FIFTH CAUSE OF ACTION

(Retaliation in Violation of Gov't Code §12940, *et seq.* Against Employers)

62. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

63. Employers' adverse actions taken against Plaintiff as set forth herein occurred in retaliation for Plaintiff's being injured at work, for having a subsequent medical condition, for seeking accommodations, and for exercising his rights under the FEHA. Such actions are and were unlawful, discriminatory and retaliatory in violation of *Cal. Gov. Code* §12940 *et seq.*, and resulted in damages and injury to Plaintiff, as alleged herein, including but not limited to lost

1 wages and benefits according to proof at the time of trial, but in an amount not less than
2 \$89,856.00.

3 64. As an additional proximate result of Employers' wrongful reduction in
4 Plaintiff's hours, Plaintiff was caused to suffer special damages of lost wages according to
5 proof at the time of trial, but in an amount not less than \$89,856.00.

6 65. As a proximate result of this retaliatory conduct, Plaintiff was caused to suffer,
7 and continues to suffer, from humiliation, anxiety, severe emotional distress, worry, fear, and
8 special damages all to his special and general damage according to proof at the time of trial, but
9 in an amount not less than \$1,000,000.00.

10 66. Employers did the things hereinabove alleged, intentionally, oppressively, and
11 maliciously with an evil and malevolent motive to injure Plaintiff. These acts, which resulted in
12 Plaintiff's wrongful termination, were obnoxious, despicable, and ought not to be suffered by
13 any member of the community.

14 67. All actions of Employers were known, ratified and approved by the officers or
15 managing agents of Employers. Therefore, Plaintiff is entitled to punitive or exemplary
16 damages against the Employers in an amount to be determined at the time of trial.

17 **SIXTH CAUSE OF ACTION**

18 **(Retaliation in Violation of Labor Code §6310, *et seq.* Against Employers)**

19 68. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

20 69. Employer's actions in discriminating against, failing to accommodate, failing to
21 engage in a good faith interactive process, and ultimately terminating Plaintiff's employment
22 constitute unlawful discrimination and retaliation in violation of *Labor Code* § 6310.

23 70. As a direct and proximate result of Employers' actions and omissions,
24 individually and collectively, Plaintiff suffered and continues to suffer severe mental and
25 emotional anguish, depression, anxiety, and fear.

26 71. As an additional proximate result of Employers' wrongful termination of
27 Plaintiff, Plaintiff was caused to suffer special damages of lost wages according to proof at the
28 time of trial, but in an amount not less than \$89,856.00.

72. As a direct and proximate result of Employers' actions and omissions, Plaintiff suffered severe and serious injury to his person, all to his damage in a sum within the jurisdiction of this Court and to be shown according to proof, but in an amount not less than \$1,000,000.00.

SEVENTH CAUSE OF ACTION

(Negligent Hiring, Supervision, and Retention Against Employers)

73. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

74. Upon information and belief, and at all times mentioned in this complaint, Employers, when hiring employees who job duties entailed supervising, managing, and administering subordinate employees and following California labor law and anti-discrimination laws, failed to conduct an adequate background check into the prospective employee's training and experience such that the people Employers hired were qualified or competent to undertake the responsibilities required when working their respective job positions.

75. Upon information and belief, and at all times mentioned in this complaint, Employers failed to verify that the prospective employees' assertions that they had sufficient education, training, and/or job experience and that their claimed experience, training, etc. was true and accurate. Also, upon information and belief, Employers failed to make sure that the prospective employees would be able to comply with California law, and they failed to make sure that the prospective employees would not discriminate against, retaliate against, etc. other employees based upon their protected status (e.g., disability).

76. Upon information and belief and at all times mentioned in this complaint, Employers failed to train, or at a minimum train properly, those employees who would be responsible for supervising other employees such as Plaintiff. Employers failed to train their respective employees in how to make sure that their managers and supervisors would follow California law and that they would not discriminate, retaliate against, etc. other employees based upon their disability.

1 77. Upon information and belief and at all times mentioned in this complaint,
2 Employers failed to discharge or terminate those employees who could not or would not follow
3 California law and who engaged in discriminatory conduct.

4 78. Employers breached their duty to exercise reasonable care and acted negligently
5 and carelessly in the hiring, training, supervision, and retention of their supervisors, managers,
6 or both by failing to give them proper training in following California law and refraining from
7 engaging in discriminatory conduct.

8 79. Consequently, Employers failed to take reasonable steps to protect Plaintiff from
9 being harassed and wrongfully terminated.

10 80. As a direct and proximate result of Employers' actions and omissions,
11 individually and collectively, Plaintiff suffered and continues to suffer severe mental and
12 emotional anguish, depression, anxiety, and fear.

13 81. As a direct and proximate result of Employers' actions and omissions, Plaintiff
14 suffered severe and serious injury to his person, all to his damage in a sum within the
15 jurisdiction of this Court and to be shown according to proof, but in an amount not less than
16 \$1,000,000.00.

17 **EIGHTH CAUSE OF ACTION**

18 **(Failure to Pay Overtime Against all Defendants)**

19 82. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

20 83. During Plaintiff's entire employment with Employers, pursuant to Cal. Lab.
21 Code §§200, 510, 1194, and 1198, and IWC Wage Order No. 4, Employers were required to
22 compensate Plaintiff with premium pay for all overtime work performed, for hours worked in
23 excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8)
24 hours on the seventh (7th) consecutive day of any work week, and double time after twelve (12)
25 hours in any single workday and/or after eight (8) hours on the seventh (7th) consecutive day of
26 any work week.

27 84. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
28 who had not been paid overtime compensation could recover the unpaid balance of the full

1 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
2 fees and costs of suit.

3 85. Within at least the last year preceding the filing of this Complaint, Employers
4 employed Plaintiff. Defendants Karrer and Treend routinely directed Plaintiff to work overtime
5 and falsely claimed that Plaintiff was paid on "salary" despite knowing, as supervisors of
6 Plaintiff, that Plaintiff was paid on an hourly basis. Defendants Karrer and Treend knew that
7 Plaintiff would not be paid overtime.

8 86. Throughout Plaintiff's employment, Employers failed and refused to pay and
9 properly calculate overtime compensation to Plaintiff as required by law.

10 87. The foregoing overtime compensation is owed and unpaid. As a direct and
11 proximate result of Employers' failure and refusal to pay overtime, Plaintiff suffered damages
12 in an amount to be proven at trial. Employers refused to produce Plaintiff's time records and
13 paystubs which prevents Plaintiff from calculating the exact amount of his unpaid overtime.

14 88. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal
15 counsel in order to enforce Plaintiff's rights to overtime pay, is entitled to recover Plaintiff's
16 attorneys' fees, costs and interest.

17 **NINTH CAUSE OF ACTION**

18 **(Failure to Pay Wages Due Against Employers)**

19 1. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

20 2. During his entire employment with Employers, pursuant to Labor Code §§202,
21 204, 206, 218.5, 218.6, Plaintiff performed work as required for Employers. Plaintiff received
22 regular wage payments; however, these payments did not include compensation for all wages
23 due.

24 3. Plaintiff has demanded full payment of the wages he is owed, and Employers
25 have refused to pay amounts due to Plaintiff.

26 4. The foregoing unpaid compensation is owed and unpaid. As a direct and
27 proximate result of Employers' failure and refusal to pay compensation owed, Plaintiff suffered
28 damages in an amount to be proven at trial but not less than the estimated amount of

1 \$24,192.00, plus any applicable interest at the rate specified in Civil Code § 3289, plus
2 attorney's fees, and costs associated with this action. Plaintiff is not in possession of all of his
3 detailed timecards and paystubs to fully calculate the value of his wage claims.

4 **TENTH CAUSE OF ACTION**

5 **(Failure to Pay for Rest Periods Not Provided Against Employers)**

6 5. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

7 6. Pursuant to Cal. Lab. Code §226.7 and IWC Wage Order No. 4, Employers were
8 required to authorize and permit employees such as Plaintiff to take rest periods, based upon the
9 total hours worked at a rate of ten (10) minutes net rest time per four (4) hours or major fraction
10 thereof, with no deduction from wages.

11 7. During Plaintiff's employment, Employers failed and refused to authorize and
12 permit Plaintiff to take 10-minute rest periods for every four hours worked or major fraction
13 thereof, in violation of IWC Wage Order No. 4.

14 8. Employers further violated IWC Wage Order No. 4, and Cal. Lab. Code §226.7
15 by failing to pay Plaintiff one hour of pay at the regular rate of pay for each rest period not
16 provided, and thus Plaintiff is owed compensation in an amount according to proof but in an
17 amount not less than \$6,048.00. This amount remains owed and unpaid.

18 **ELEVENTH CAUSE OF ACTION**

19 **(Failure to Pay for Meal Periods Not Provided Against Employers)**

20 9. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

21 10. Cal. Lab. Code §512 and IWC Wage Order No. 4 generally require an employer
22 to provide a meal period of not less than 30 minutes for employees who work a period of more
23 than five hours per day, and a second meal period of not less than 30 minutes for employees
24 who work more than 12 hours per day.

25 11. Employers violated Labor Code §512 and IWC Wage Order No. 4 by failing to
26 provide Plaintiff the requisite 30-minute meal periods required by law.

27 12. Employers further violated IWC Wage Order No. 4, and Labor Code §226.7 by
28 failing to pay one hour of compensation to Plaintiff at the individual and regular rate of pay for

each work day that the meal period was not provided, in an amount according to proof but in an amount not less than \$6,048.00. This amount remains owed and unpaid.

TWELFTH CAUSE OF ACTION

(Waiting Time Penalties Against Employers)

13. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

14. By willfully failing to pay Plaintiff separate amounts owed for overtime pay, and for rest and meal periods not provided, as set forth above, in a timely manner as required by Cal. Lab. Code §§201 & 202, Employers are liable to Plaintiff for penalties pursuant to Cal. Lab. Code §203, in an amount equal to 30 days of Plaintiff's per diem wage rate in an amount according to proof, but not less than \$11,520.00

THIRTEENTH CAUSE OF ACTION

(Inaccurate Wage Statement Against Employers)

15. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

16. At all times relevant herein, Employers issued payroll statements to Plaintiff which violated Cal. Lab. Code §226(a), in that Employers failed to properly and accurately itemize the number of hours Plaintiff worked at the effective regular pay rates and the effective overtime pay rates. Upon information and belief, the incorrect payroll statements were a result of Employers' accounting procedures, not due to clerical error.

17. Employers knowingly and intentionally failed to comply with Cal. Lab. Code §226(a), causing damage to Plaintiff. These damages, including but not limited to costs expended calculating the true hours worked, and the amount of employment taxes which were not properly paid to state and federal tax authorities, are difficult to estimate. Therefore, Plaintiff elects to recover liquidated damages of \$50.00 for the initial pay period in which the violation occurred, and \$100.00 for each violation in subsequent pay periods pursuant to Cal. Lab. Code §226(e), in the amount of \$4,000.00 plus reasonable attorney's fees and costs.

18. Plaintiff requests a permanent injunction to stop this unlawful conduct, plus attorneys' fees and costs in obtaining the injunction, pursuant to Cal. Lab. Code §226(g).

1 **FOURTEENTH CAUSE OF ACTION**

2 **(Unfair Competition Against Employers)**

3 19. Plaintiff repeats and realleges each of the allegations set forth in this complaint.

4 20. Cal. Bus. & Prof. §17200 *et seq.* prohibits acts of unfair competition, which shall
5 mean and include any “unlawful and unfair business practices.”

6 21. Defendants’ conduct as alleged herein has been and continues to be unfair,
7 unlawful, and deleterious to Plaintiff. Plaintiff hereby seeks to enforce important rights
8 affecting the public interest within the meaning of the Cal. Code of Civ. Proc. §1021.5.

9 22. Plaintiff is a “person” within the meaning of Cal. Bus. & Prof. Code §17204, and
10 therefore has standing to bring this suit for restitution.

11 23. The prompt payment of overtime is a fundamental public policy of the State of
12 California. It is also the public policy of this State to enforce minimum labor standards, to
13 ensure that employees are not required or permitted to work under substandard and unlawful
14 conditions, and to protect those employers who comply with the law from losing competitive
15 advantage to other employers who fail to comply with labor standards and requirements.

16 24. Through the conduct alleged herein, Defendants acted contrary to these public
17 policies and have thus engaged in unlawful and/or unfair business practices in violation of Cal.
18 Bus. & Prof. Code §§17200 *et. seq.*, depriving Plaintiff of the rights, benefits, and privileges
19 guaranteed to employees under California law.

20 25. Defendants regularly and routinely violated the following statutes and
21 regulations with respect to Plaintiff:

22 a. Cal. Lab. Code §§510 and 1194 and IWC Wage Order No. 4 as amended
23 (failure to pay overtime);

24 b. Cal. Lab. Code §226 (failing to provide accurate wage statements to
25 employees at the time of payment);

26 c. Cal. Lab. Code §§201, 202 and 203 (failure to pay wages due on
27 termination);
28

- 1 d. Cal. Lab. Code §§226.7 and 512, and IWC Wage Order No. 4 (failure to
2 provide meal and rest periods);
3 e. Cal. Lab. Code §218.5 and IWC Wage Order No. 4 (failure to
4 compensate for all hours worked);
5 f. Cal. Lab. Code §1197 and IWC Wage Order No. 4 (failure to pay
6 minimum wages); and
7 g. California Fair Employment and Housing Act (FEHA);

8 26. By engaging in these business practices, which are unfair business practices
9 within the meaning of Cal. Bus. & Prof. Code §§17200 *et seq.*, Defendants harmed Plaintiff and
10 gained an unfair competitive edge. Under Cal. Bus. & Prof. Code §17203, Plaintiff is entitled to
11 obtain restitution of these funds.

12
13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor
15 and against Defendants, and each of them, as follows:

16 1. For compensatory damages in the amount of unpaid overtime and/or wages due
17 to Plaintiff, according to proof, but in an amount not less than \$89,856.00.

18 2. For an award of consequential damages in Plaintiff's favor and against
19 Defendants, in an amount to be proven at trial, but in an amount not less than \$89,856.00;

20 3. For an award of general damages according to proof at the time of trial, but in an
21 amount not less than \$1,000,000.00;

22 4. For compensation of one hour at the regular rate of pay for each rest period
23 denied in violation of Cal. Lab. Code §226.7 and Wage Order No. 4, according to proof, but in
24 an amount not less than \$6,048.00;

25 5. For compensation of one hour at the regular rate of pay for each meal period
26 denied in violation of Cal. Lab. Code §§226.7, 512 and Wage Order No. 4, according to proof,
27 but in an amount not less than \$6,048.00;
28

6. For inaccurate wage statement statutory damages pursuant to Cal. Lab. Code §226, according to proof, but in an amount not less than \$4,000.00;
7. For statutory penalties pursuant to Cal. Lab. Code §558, according to proof;
8. For payment to Plaintiff of waiting time penalties pursuant to Cal. Lab. Code §203, in an amount equal to Plaintiff's respective daily rates of pay at the time of termination or layoff, multiplied by the total amount of days elapsed between the date of the involuntary termination, and/or 72 hours after notice of the voluntary termination, up to a maximum of 30 days' pay, according to proof, but in an amount not less than \$11,520.00;
9. For specific relief enforcing waiting time penalties of 30 days of per diem wages pursuant to Cal. Bus. & Prof. Code §17200 and Cal. Lab. Code §203, according to proof;
10. For prejudgment interest accrued on all due and unpaid overtime wages from the date that wages were due and payable, pursuant to Cal. Lab. Code §§218.6 and 1194(a), according to proof;
11. For reasonable costs, including attorneys' fees, in an amount according to proof pursuant to Cal. Lab. Code §1194;
12. For a preliminary and permanent injunction ordering Defendants to disclose Plaintiff's payroll records;
13. For reasonable costs, including attorneys' fees, in an amount according to proof pursuant to Cal. Gov't Code §12965(b);
14. For reasonable costs, including attorneys' fees, in an amount according to proof pursuant to Cal. Code of Civ. Proc. §1021.5;
15. For disgorgement of profits;
16. For punitive and exemplary damages in a sum to be determined at trial; and
17. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Christopher Carrillo demands trial by jury in this action of all issues so triable.

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Date: August 19, 2024

LIPELES LAW GROUP, APC

By: 
Kevin A. Lipeles
Attorneys for Plaintiff,
CHRISTOPHER CARRILLO