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David W. Slayton,
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Attorneys for Plaintiff,
DAMIAN PEDRAZA REYES

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

DAMIAN PEDRAZA REYES, an
individual,

Plaintiff,

vs.

JD FASHION, INC., a California
corporation; DU FASHION, INC., an entity
of unknown form; DANIEL DOE, an
individual; NERY VASQUEZ, an
individual; JOHN DOE, an individual; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 24STCV25520

COMPLAINT FOR:

- 1. FAILURE TO PAY MINIMUM WAGE** (*Labor Code* §§ 204, 1194 and 1197; IWC Wage Order No. 1);
- 2. FAILURE TO PAY FOR MEAL PERIODS NOT PROVIDED** (Cal. *Labor Code* §§ 226.7, 512; IWC Wage Order No. 1);
- 3. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS** (Cal. *Labor Code* §226);
- 4. FAILURE TO PAY ALL WAGES DUE ON TERMINATION** (Cal. *Labor Code* §203);
- 5. FAILURE TO REIMBURSE BUSINESS EXPENSES** (Cal. *Labor Code* §2802);
- 6. FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS** (Cal. *Labor Code* §1198.5);
- 7. UNFAIR COMPETITION** (Cal. *Bus. & Prof. Code* §§17200 et seq.);
- 8. DISCRIMINATION BASED ON PHYSICAL DISABILITY IN VIOLATION OF GOVT. CODE §12940(a);**
- 9. HARASSMENT BASED ON PHYSICAL DISABILITY IN**

- VIOLATION OF GOVT. CODE
§12940(a);
10. HOSTILE WORK
ENVIRONMENT IN VIOLATION
OF GOVT. CODE §12940 *ET. SEQ.*;
11. FAILURE TO ACCOMMODATE
PHYSICAL DISABILITY IN
VIOLATION OF GOVT. CODE
§12940(m);
12. FAILURE TO ENGAGE IN A
GOOD FAITH INTERACTIVE
PROCESS IN VIOLATION OF
GOVT. CODE §12940(n);
13. RETALIATION IN VIOLATION
OF GOVT. CODE §12940 *ET SEQ.*;
14. FAILURE TO PREVENT
DISCRIMINATION FROM
OCCURRING IN VIOLATION OF
GOVT. CODE §12940(K); and
15. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC
POLICY, GOVT. CODE §12940 *ET
SEQ.*

DEMAND FOR A JURY TRIAL

Damian Pedraza Reyes ("Plaintiff") alleges the following:

I. JURISDICTION AND VENUE

1. This action is brought pursuant to California Government Code §12920 *et seq.*, and the rules, regulations and directives implementing those statutes. This Court also has jurisdiction over this Complaint under *Code of Civil Procedure* §410.10 and *Business & Professions Code* §§ 17200 *et seq.*

2. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and 395.5, because the claims made, and the *Labor Code* violations as against the persons identified

herein, occurred in the County of Los Angeles and because Defendants JD Fashion, Inc. and Du Fashion, Inc. owned and operated their business in the County of Los Angeles.

II. PARTIES

3. At all times relevant hereto, Plaintiff Damian Pedraza Reyes (hereinafter “Plaintiff”) was an individual over age 18 and a resident of Los Angeles County, California.

4. Plaintiff is informed and believes and thereon alleges that at all times material hereto, Defendant JD Fashion, Inc. (hereinafter “JD”), has been, and is, a California corporation, with a principal place of business at 212 E. 8th Street, Los Angeles, California 90014. At all times material hereto, JD has been, and is, a clothing company. Plaintiff is informed and believes and thereon alleges that at all times material hereto JD has been authorized to do business and has been doing business in the State of California.

5. Plaintiff is informed and believes and thereon alleges that at all times material hereto, Defendant Du Fashion, Inc. (hereinafter “DU”), has been, and is, a California corporation, with a principal place of business at 212 E. 8th Street, Los Angeles, California 90014. At all times material hereto, DU has been, and is, a clothing company. Plaintiff is informed and believes and thereon alleges that at all times material hereto DU has been authorized to do business and has been doing business in the State of California.

6. Plaintiff is informed and believes and thereon alleges that Defendant Daniel Doe (“Daniel”) is an individual, who at all times relevant herein, was a resident of Los Angeles County. Daniel was the owner of JD and DU.

7. Plaintiff is informed and believes and thereon alleges that Defendant Nery Vasquez (“Nery”) is an individual, who at all times relevant herein, was a resident of Los Angeles County. Nery was Plaintiff’s manager.

8. Plaintiff is informed and believes and thereon alleges that Defendant John Doe (“John”) (collectively with JD, DU, Daniel and Nery “Defendants”) is an individual, who at all times relevant herein, was a resident of Los Angeles County. John is the current owner of JD and DU.

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

6 10. Plaintiff is ignorant of the true names and capacities of Defendants sued herein
7 as DOES 1 through 100, inclusive, and therefore Plaintiff sues these Defendants by such
8 fictitious names and capacities. Plaintiff will amend his Complaint to show their true names
9 and capacities when they have been ascertained. Plaintiff is informed and believes and thereon
10 alleges that at all times relevant, each of these fictitiously named DOE Defendants was an
11 individual person who owned, controlled, or managed the business for which Plaintiff worked
12 and/or who directly or indirectly exercised operational control over the working conditions of
13 Plaintiff. These DOE Defendants held ownership, officer, director and/or executive positions
14 with the remaining Defendants, and acted on behalf of the remaining Defendants, which
15 included decision-making responsibility for, and establishment of, discrimination and
16 harassment practices and policies for Defendants which have damaged Plaintiff. Therefore,
17 DOES 1 through 100, in addition to the remaining Defendants, are Plaintiff's "employers" as a
18 matter of law and liable on the causes of action alleged herein pursuant to the Lab. Code's
19 wage and hour laws and regulations, and FEHA as alleged herein.

20 11. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
21 through 100 are, and at all times relevant hereto were, persons, corporations or other business
22 entities organized and existing under and by virtue of the laws of the State of California, and
23 are/were qualified to transact and conduct business in the State of California, and did transact
24 and conduct business in the State of California, and are thus subject to the jurisdiction of the
25 State of California. Specifically, DOES 1 through 100 maintain offices, operate businesses,
26 employ persons, and conduct business and illegally pay employees by illegal payroll practices
27 and policies and engage in harassment and discrimination in the County of Los Angeles.

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

5 **III. FACTUAL ALLEGATIONS THAT ARE COMMON TO ALL CAUSES OF**
6 **ACTION**

7 **Employment Information**

8 13. Plaintiff was an employee of JD/DU since in or about 2013. Plaintiff worked as
9 a Warehouse Associate. Plaintiff sewed clothing and prepared clothing. On or about July 11,
10 2024, Plaintiff was wrongfully terminated due to his disability.

11 14. Throughout his employment with JD/DU, Plaintiff worked 5 days per week, 8
12 hours per day and was paid approximately \$16.00 per hour.

13 15. The employment by Defendant of Plaintiff is governed by Industrial Welfare
14 Commission Wage Order 1, which covers those persons employed in the manufacturing
15 industry.

16 **Wage and Hour Violations**

17 16. Defendants JD/DU routinely denied Plaintiff timely meal periods. His meal
18 breaks were afforded late.

19 17. Defendants JD/DU routinely failed to provide Plaintiff with itemized wage
20 statements that properly and accurately itemized the number of hours he worked at the effective
21 regular rates of pay.

22 18. Defendants JD/DU failed to pay Plaintiff all wages due on termination.

23 19. Plaintiff was not reimbursed his necessary business expenses.

24 20. Plaintiff was not provided his personnel records.

25 **Discrimination, Harassment and Wrongful Termination**

26 21. Plaintiff was denied a work environment free of disability discrimination and
27 was targeted for wrongful termination on or about July 11, 2024.
28

1 22. In or about December 2018, after JD/DU moved to a new address, Daniel started
2 reducing Plaintiff's hours. At times, Plaintiff did not have any work for weeks at a time.

3 23. In 2019, Plaintiff told Daniel that his eyesight was deteriorating. Daniel advised
4 Plaintiff to purchase glasses for \$5.00.

5 24. Further, due to repetitive motion while sewing over the years, Plaintiff began
6 developing pain in his back, hands and shoulder. Moreover, Plaintiff's eyesight further
7 deteriorated. As such, these conditions, singularly and in the aggregate, constitute physical
8 disabilities, as that term is defined in *Government Code* § 12926(l)(1)(A), (B).

9 25. Plaintiff complained to Daniel about these physical disabilities on numerous
10 occasions, requesting help, but nothing was ever done to rectify the situation.

11 26. In or about July 2024, the pain became overwhelming, and Plaintiff decided to
12 open a workers compensation lawsuit.

13 27. Thereafter, John ascertained that Plaintiff filed a workers compensation lawsuit
14 and he complained to Plaintiff about that and told Plaintiff "If you are so injured then you
15 can't work here". Then John stopped placing Plaintiff on the schedule.

16 28. At all times material hereto, Defendants JD/DU regularly employed five or more
17 persons and therefore are employers, as that term is defined in *Government Code* § 12926(d).

18 29. On October 1, 2024, Plaintiff filed an administrative complaint with the
19 Department of Fair Employment and Housing ("DFEH") alleging discrimination based on
20 physical disability by JD/DU, Daniel, Nery and John. On October 1, 2024, the DFEH issued to
21 Plaintiff a Right to Sue Notice as to JD/DU, Daniel, Nery and John.

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

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1 **FIRST CAUSE OF ACTION**

2 **(Failure to Pay Minimum Wages in Violation of Labor Code §§ 1194, 1197, 1197.1, 1198,**
3 **119, IWC Wage Order 1 – By Plaintiff Against Defendants JD/DU and Does 1 through**
4 **100)**

5 31. Plaintiff realleges and incorporates by reference all of the allegations set forth in
6 this Complaint.

7 32. *Labor Code* § 1197 states the California requirement that employees must be
8 paid at least the minimum wage fixed by the Commission, and any payment of less than the
9 minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving
10 less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of
11 the full amount of this minimum wage.” IWC Wage Order 1-2001 also obligates employers to
12 pay each employee minimum wages for all hours worked. These minimum wage standards
13 apply to each hour employees worked for which they were not paid. Therefore, an employer’s
14 failure to pay for any particular hour of time worked by an employee is unlawful, even if
15 averaging an employee’s total pay over all hours worked, paid or not, results in an average
16 hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324
17 (2005).

18 33. Here, Plaintiff was not paid minimum wages that were due to him due to
19 JD/DU’s failure to afford compliant meal breaks.

20 34. *Labor Code* § 1194 provides, in part, that any employee receiving less than the
21 legal minimum wage is entitled to recover in a civil action the unpaid balance of the minimum
22 wage, including interest thereon, reasonable attorneys’ fees, and costs of suit.

23 35. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
24 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
25 *Code* § 1194. Where an employee, such as Plaintiff is not paid for all hours worked under
26 *Labor Code* § 1194, the employee may recover minimum wages for the time associated with
27 the overtime for which they received no compensation. *See Sillah v. Command Int’l Sec. Servs.*,
28 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure to pay overtime

1 could recover liquidated damages under § 1194.2 if they also showed they were paid less than
2 minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F. Supp. 3d 1115, 1132-33
3 (N.D. Cal. 2016).

4 36. Plaintiff suffered and continues to suffer losses related to the use and enjoyment
5 of compensation due and owing to him as a direct result of Defendants JD/DU 's unlawful acts
6 and Labor Code violations in the amount of at least \$97,920.00, to be shown according to proof
7 at trial.

8 37. *Labor Code* § 1197.1(a) mandates a civil penalty for failure to pay minimum
9 wages against employers and those individuals acting in their behalf. Plaintiff requests that this
10 Court assess said penalty against Defendants JD/DU in an amount to be proven at trial.

11 38. Therefore, pursuant to Labor Code §§ 200, 203, 218.5, 226, 558, 1194 and
12 1194.2, Plaintiff is entitled to recover the unpaid balances of the minimum wages JD/DU owe
13 him, plus interest, penalties, attorneys' fees, expenses and costs of suit, in the amount of
14 \$97,920.00.

15 39. Under *Labor Code* § 1194.2, Plaintiff is entitled to recover as liquidated
16 damages, amounts equal to the wages unlawfully unpaid and interest thereon.

17 **SECOND CAUSE OF ACTION**

18 **(Compensation for Required Meal Periods Not Provided - Cal. Lab. Code §§ 226.7, 512 –** 19 **By Plaintiff Against Defendants JD/DU and Does 1 through 100)**

20 40. Plaintiff realleges and incorporates by reference all of the allegations set forth in
21 this Complaint.

22 41. California Labor Code § 226.7(a) prohibits an employer from requiring an
23 employee to work during any meal period mandated by an applicable Industrial Wage Order.
24 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
25 employee to work during a meal or rest break or recovery period mandated pursuant to an
26 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
27 Commission..."

1 42. California Labor Code § 1198 makes unlawful the employment of an employee
2 under conditions the IWC prohibits.

3 43. IWC Wage Order No. 1 provides, in relevant part: "No employer shall employ
4 any person for a work period of more than five (5) hours without a meal period of not less than
5 30-minutes, except that when a work period of not more than six (6) hours will complete the
6 day's work the meal period may be waived by mutual consent of the employer and the
7 employee."

8 44. IWC Wage Order No. 1 further provides, in relevant part: "Unless the employee
9 is relieved of all duty during a 30-minute meal period, the meal period shall be considered an
10 'on duty' meal period and counted as time worked."

11 45. Section 512(a) of the California Labor Code provides, in relevant part, that:
12 An employer may not employ an employee for a work period of more than five
13 hours per day without providing the employee with a meal period of not less
14 than 30-minutes, except that if the total work period per day of the employee is
15 no more than six hours, the meal period may be waived by mutual consent of
16 both the employer and employee. An employer may not employ an employee for
17 a work period of more than 10 hours per day without providing the employee
18 with a second meal period of not less than 30-minutes, except that if the total
19 hours worked is no more than 12 hours, the second meal period may be waived
20 by mutual consent of the employer and the employee only if the first meal
21 period was not waived.

22 46. The Labor Code and Wage Order provisions cited above require California
23 employers to provide employees with off-duty 30-minute meal periods on or before the fifth
24 hour of their shifts. To satisfy this obligation, California employers must: (1) make employees
25 aware of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and
26 (2) ensure that employees are actually free of job duties for thirty minutes per day on or before
27 the fifth hour of their shifts.

1 47. JD/DU violated Labor Code § 512 and IWC Wage Order No. 1 by routinely
2 failing to provide Plaintiff timely meal breaks. Plaintiff's meal breaks were afforded after the
3 fifth hour.

4 48. JD/DU further violated IWC Wage Order No. 1 and Labor Code § 226.7 by
5 failing to pay one hour of compensation to Plaintiff at his individual and regular rate of pay for
6 each work day that the meal period was not provided, in the amount of \$97,920.00. This
7 amount remains owed and unpaid.

8 49. Cal. Labor Code § 218 authorizes Plaintiff to bring a private right of action to
9 recover wages due based on the deprivation of timely meal periods under Cal. Labor Code
10 § 226.7(b).

11 50. As a direct and proximate result of JD/DU's unlawful conduct as alleged
12 herein, Plaintiff has sustained economic damages, including but not limited to unpaid wages
13 and lost interest, in an amount to be established at trial, and is entitled to recover economic and
14 statutory damages, attorneys' fees and penalties and other appropriate relief due to JD/DU's
15 violations of the California Labor Code and IWC Wage Order No. 1.

16 **THIRD CAUSE OF ACTION**

17 **(For Violation of Cal. Lab. Code §226 – By Plaintiff Against Defendants JD/DU and Does**
18 **1 through 100)**

19 51. Plaintiff realleges and incorporates by reference all of the allegations set forth in
20 this Complaint.

21 52. At all times relevant herein, Defendants JD/DU issued payroll statements to
22 Plaintiff which violated Cal. Lab. Code §226(a), in that Defendants failed to properly and
23 accurately itemize the number of hours he worked at the effective regular rates of pay.

24 53. Defendants JD/DU knowingly and intentionally failed to comply with Cal. Lab.
25 Code §226(a), causing damage to Plaintiff. These damages, including but not limited to costs
26 expended calculating his true hours worked, and the amount of employment taxes which were
27 not properly paid to state and federal tax authorities, are difficult to estimate. Therefore,
28 Plaintiff elects to recover liquidated damages of \$50.00 for the initial pay period in which the

1 violation occurred, and \$100.00 for each violation in subsequent pay periods pursuant to Cal.
2 Lab. Code § 226(e), in an amount to be proven at trial, plus reasonable attorneys' fees and
3 costs.

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

6 **FOURTH CAUSE OF ACTION**

7 **(Failure to Pay All Wages Due on Termination - Cal. Lab. Code §203 - By Plaintiff**
8 **Against Defendants JD/DU and Does 1 through 100)**

9 55. Plaintiff realleges and incorporates by reference all of the allegations set forth in
10 this Complaint.

11 56. Labor Code § 201(a) provides that a discharged employee's unpaid wages are
12 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns
13 from employment, unpaid wages are due and payable within 72 hours of resignation.

14 57. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as
15 mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until
16 paid, not to exceed thirty days.

17 58. Plaintiff was wrongfully terminated from Defendants JD/DU's employ and
18 Defendants willfully failed to pay Plaintiff wages due to him.

19 59. Under Labor Code § 203(a), Plaintiff is entitled to one day's wages for each day
20 she was not timely paid, not to exceed 30 days' wages.

21 60. By willfully failing to pay Plaintiff separate amounts owed for minimum wages
22 and meal breaks not timely afforded, as set forth above, in a timely manner as required by Cal.
23 Lab. Code §§ 201 & 202, Defendant JD/DU are liable to him for penalties pursuant to Cal. Lab.
24 Code § 203, in an amount equal to 30 days of his per diem wage rate in an amount according to
25 proof. Plaintiff requests to recover those waiting time penalties under Labor Code §203.

26 **FIFTH CAUSE OF ACTION**

27 **(For Reimbursement of Business Expenses in violation of Cal. Lab. Code §2802 - By**
28 **Plaintiff Against Defendants JD/DU and Does 1 through 100)**

61. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

62. Labor Code § 2802 requires employers to indemnify employees for all necessary expenditures incurred by employees in the discharge of her duties.

63. At all times relevant herein, JD/DU were aware that Plaintiff was purchasing tools for business, but failed to indemnify Plaintiff for all his business-related expenses, in accordance with Labor Code § 2802.

64. As a result of JD/DU's conduct, Plaintiff suffered damages in an amount, subject to proof, to the extent he was not reimbursed for all of his business-related expenses incurred in the discharge of his duties.

65. Pursuant to Labor Code § 2802, Plaintiff is entitled to recover the full amount of her unreimbursed business expenses, reasonable attorneys' fees and costs of suit, in an amount according to proof at trial.

SIXTH CAUSE OF ACTION

(Failure to Allow Inspection of Employment Records in violation of Cal. Lab. Code §1198.5 - By Plaintiff Against Defendants JD/DU and Does 1 through 100)

66. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

67. California Labor Code Section 1198.5 provides:

(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.

(b) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing

1 to a date beyond 30 calendar days to inspect the records, and the agreed-upon
2 date does not exceed 35 calendar days from the employer's receipt of the written
3 request to inspect the records. Upon a written request from a current or former
4 employee, or his or her representative, the employer shall also provide a copy of
5 the personnel records ... later than 30 calendar days from the date the employer
6 receives the request...

7 (k) If an employer fails to permit a current or former employee, or his or her
8 representative, to inspect or copy personnel records within the times specified I
9 this section... the current or former employee may recover a penalty of seven
10 hundred fifty dollars (\$750) from the employer.

11 (1) A current or former employee may also bring an action for injunctive relief
12 to obtain compliance with this section, and may recover costs and reasonable
13 attorney's fees in such an action.

14 68. Additionally, pursuant to IWC Wage Order No. 1, at section 7 re: Records,
15 employers are required to keep accurate payroll records on each employee, and such records
16 must be made readily available for inspection by the employee upon reasonable request. The
17 employer must also maintain accurate production records.

18 69. On or about October 1, 2024, Plaintiff's counsel issued a written request to
19 JD/DU for copies of his personnel records.

20 70. Under California Labor Code Sections 226, 432 and 1198.5, such records were
21 to include all records relating to Plaintiff's hours worked, wage statements and compensation.
22 Plaintiff's counsel and JD/DU did not enter into an agreement to enlarge the time for JD/DU's
23 compliance, and JD/DU have failed and refused to permit Plaintiff copies of his records.

24 71. As a direct result and consequence of JD/DU's failure and refusal to permit
25 Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or
26 decree mandating JD/DU's compliance. Plaintiff has suffered and will suffer harm as a result of
27 JD/DU's ongoing refusal to comply. Plaintiff also seeks recovery of the statutory penalty of
28 \$750 based upon JD/DU's violation of §1198.5.

1 **SEVENTH CAUSE OF ACTION**

2 **(For Unfair Competition in Violation of Unfair Business Practices, Cal. Bus. &**
3 **Prof. Code §17200 et. seq. – By Plaintiff Against Defendants JD/DU and Does 1**
4 **through 100)**

5 72. Plaintiff realleges and incorporates by reference all of the allegations set forth in
6 this Complaint.

7 73. California Business & Professions Code § 17200 *et seq.* prohibits acts of unfair
8 competition, which shall mean and include any "unlawful and unfair business practices."
9

10 74. Defendants' conduct as alleged herein has been and continues to be unfair,
11 unlawful, and deleterious to Plaintiff. Plaintiff hereby seeks to enforce important rights
12 affecting the public interest within the meaning of the Cal. Code of Civ. Proc. § 1021.5.
13 Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and
14 therefore has standing to bring this suit for restitution.

15 75. Paying minimum wages, affording employees timely meal breaks,
16 reimbursement of business expenses are fundamental public policies of the State of California.
17 It is also the public policy of this State to enforce minimum labor standards, to ensure that
18 employees are not required or permitted to work under substandard and unlawful conditions,
19 and to protect those employers who comply with the law from losing competitive advantage to
20 other employers who fail to comply with labor standards and requirements.

21 76. Defendants failed to pay minimum wages, allow Plaintiff to take timely meal
22 breaks, to issue accurate wage statements, pay all wages on termination and reimburse business
23 expenses.

24 77. Through the conduct alleged herein, Defendants acted contrary to these public
25 policies and has thus engaged in unlawful and/or unfair business practices in violation of
26 Business & Professions Code §§ 17200 *et. seq.*, depriving Plaintiff of the rights, benefits, and
27 privileges guaranteed to employees under California law.
28

1 78. Defendants regularly and routinely violated the following statutes and
2 regulations with respect to Plaintiff:

3 *Labor Code* § 1197 and IWC Wage Order No. 1 (failure to pay minimum
4 wages);

5 Cal. Lab. Code § 226 (failure to provide accurate wage statements to employees
6 at the time of payment);

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

8 Cal. Lab. Code §§ 226.7 and 512, and IWC Wage Order No. 1 (failure to
9 provide timely meal periods);

10 Cal. Lab. Code § 2802 (failure to reimburse business expenses); and

11 Cal. Lab. Code § 1198.5 (failure to allow inspection of personnel records).

12 79. By engaging in these business practices, which are unfair business practices
13 within the meaning of Bus. & Prof. Code §§ 17200 *et seq.*, Defendants harmed Plaintiff and
14 gained an unfair competitive edge. Under the Business & Professions Code § 17203, Plaintiff is
15 entitled to obtain restitution of these funds.
16

17 **EIGHTH CAUSE OF ACTION**

18 **(Physical Disability Discrimination in Violation of *Government Code* § 12940(a) – By**
19 **Plaintiff Against Defendants JD/DU and Does 1 through 100)**

20 80. Plaintiff realleges and incorporates by reference all of the allegations set forth
21 above in the Complaint.

22 81. Under the California Fair Employment and Housing Act ("FEHA"),
23 *Government Code* § 12940(a), an employer cannot discriminate against an employee, because
24 of a physical disability.

25 82. Plaintiff suffered from the physical limitations as set forth above and was
26 therefore a member of the class of persons protected from disability discrimination under
27 California *Government Code* § 12940(a).
28

83. Upon learning about Plaintiff's disability, and not wanting a disabled employee, on or about July 11, 2024, JD/DU terminated Plaintiff's employment in violation of California Government Code § 12940.

84. By terminating Plaintiff because of his physical disability, JD/DU violated Government Code § 12940(a).

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

86. As a direct and proximate result of JD/DU's 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.

87. JD/DU's conduct in discriminating against Plaintiff because of his physical disability subjected him to cruel and unjust hardship in conscious disregard of his rights, as it was anticipated by JD/DU that Plaintiff would be unable to find comparable employment in the foreseeable future. Plaintiff is informed and believes, and thereon alleges, that his wrongful termination by JD/DU was done with the intent to cause his 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.

88. Pursuant to California Government Code §12965(b), Plaintiff requests an award of attorneys' fees in this action.

NINTH CAUSE OF ACTION

**(Harassment Due to Physical Disability in Violation of Govt. Code §12940(a)– By Plaintiff
against all Defendants and Does 1 through 100)**

89. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

1 90. Beginning on or about January 3, 2022 and continuing thereafter, Plaintiff was
2 harassed by the actions, conduct and comments of Defendants JD/DU's employees, Daniel,
3 Nery and John, which actions, conduct and comments combined to create and allow a pattern
4 of discriminatory treatment towards him due to his disability. Defendants' actions constituted a
5 continuing violation of Cal. Gov. Code § 12940, et seq.

6 91. Defendants negligently and in bad faith failed to properly investigate Plaintiff's
7 claims of harassment and take appropriate remedial action.

8 92. Defendants, and each of them, engaged in retaliatory actions against Plaintiff for
9 complaining about and participating in the investigation of the above-referenced illegal
10 conduct. Because of his complaints about the illegal conduct as aforesaid, Plaintiff was
11 subjected to unfair and hostile treatment by Defendants and each of them.

12 93. All of the conduct by Defendants, and each of them, was done with the full
13 knowledge and ratification of the management employees of JD/DU, and was consistent with
14 the recognized policies and procedures of JD/DU, which tolerated and encouraged such
15 discriminatory conduct.

16 94. At all times herein mentioned, Defendants, and each of them were legally
17 required to refrain from discriminating against and harassing any employee on the basis of
18 physical disability, among other things. Within the time provided by law, Plaintiff filed a
19 complaint with the DFEH, in full compliance with these sections, and received a right to sue
20 letter.

21 95. Defendants' conduct resulted in the damages and injuries to Plaintiff as alleged
22 in this Complaint. As a direct and proximate result of the conduct of Defendants and each of
23 them, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental
24 and physical pain and anguish, all to his damage in a sum according to proof.

25 96. Defendants did the things hereinabove alleged, intentionally, oppressively, and
26 maliciously with an evil and malevolent motive to injure Plaintiff. These acts, which resulted
27 in Plaintiff's wrongful termination against public policy, were obnoxious, despicable, and
28 ought not to be suffered by any member of the community.

97. All actions of Defendants, and each of them, were known, ratified and approved by the officers or managing agents of JD/DU, and each of them. Therefore, Plaintiff is entitled to punitive or exemplary damages against the Defendants, and each of them, in an amount to be determined at the time of trial.

TENTH CAUSE OF ACTION

(Hostile Work Environment in Violation Govt. Code §12940 *et seq.*– By Plaintiff Against Defendants JD/DU and Does 1 through 100)

98. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

99. The offensive conduct to which Plaintiff was subjected constitutes a hostile work environment in violation to FEHA, California Government Code §12940 et seq. During his employment, Defendants violated FEHA, California Government Code §12940 (j), by discrimination against Plaintiff due to his physical disability.

100. Defendants JD/DU's harassment was hostile, abusive, continuous and pervasive to create a hostile work environment for the Plaintiff.

101. Defendants JD/DU's harassment was unwelcome, humiliating, offensive and adversely affected the terms of Plaintiff's employment.

102. Plaintiff was subjectively offended by Defendant JD/DU's conduct and any reasonable person in Plaintiff's position would perceive Defendant JD/DU's conduct as being offensive, hostile and abusive.

103. As a direct result of Defendants JD/DU's failure to take all reasonable steps necessary to prevent discrimination and harassment, Plaintiff has suffered and will continue to suffer pain and suffering, extreme and severe mental anguish and emotional distress, loss of earnings and earning capacity. Plaintiff is hereby entitled to general and compensatory damages in amounts to be proven at trial.

104. Pursuant to California Government Code §12965(b), Plaintiff requests an award of attorneys' fees in this action.

1 105. All actions of Defendants JD/DU were known, ratified and approved by the
2 officers or managing agents of JD/DU. Therefore, Plaintiff is entitled to punitive or exemplary
3 damages against Defendants JD/DU in an amount to be determined at the time of trial.

4 **ELEVENTH CAUSE OF ACTION**

5 **(Failure to Accommodate Physical Disability in Violation of *Government Code***
6 **§ 12940(m) – By Plaintiff Against Defendants JD/DU and Does 1 through 100)**

7 106. Plaintiff realleges and incorporates by reference all of the allegations set forth
8 above in the Complaint.

9 107. In January 2022 and on numerous occasions thereafter, Plaintiff requested that
10 Defendants JD/DU make a reasonable accommodation for his physical disability so that he
11 would be able to perform the essential job requirements. Defendants JD/DU refused said
12 accommodation and refused to discuss any other potential reasonable accommodation it might
13 afford to Plaintiff, wrongfully terminating Plaintiff instead on or about July 11, 2024.

14 108. By refusing to afford Plaintiff a reasonable accommodation, Defendants JD/DU
15 violated *Government Code* § 12940(m).

16 109. As a direct and proximate result of Defendants JD/DU's conduct, individually
17 and collectively, Plaintiff has suffered and continues to suffer substantial losses in income,
18 earnings, and benefits and has been damaged in his capacity to earn his salary, and has lost and
19 will continue to lose employment benefits.

20 110. As a direct and proximate result of Defendants JD/DU's actions, Plaintiff has
21 suffered severe and serious injury to his person, all to his damage in a sum within the
22 jurisdiction of this Court and to be shown according to proof.

23 111. All actions of Defendants JD/DU were known, ratified and approved by the
24 officers or managing agents of JD/DU. Therefore, Plaintiff is entitled to punitive or exemplary
25 damages against Defendants JD/DU in an amount to be determined at the time of trial.

26 112. Pursuant to California Government Code §12965(b), Plaintiff requests an award
27 of attorneys' fees in this action.
28

1 **TWELFTH CAUSE OF ACTION**

2 **(Failure to Engage in a Good Faith Interactive Process in Violation of *Government Code***
3 **§12940(n) – By Plaintiff Against Defendants JD/DU and Does 1 through 100)**

4 113. Plaintiff realleges and incorporates by reference all of the allegations set forth
5 above in the Complaint.

6 114. At all times hereto, FEHA, including in particular Government Code §12940(n),
7 was in full force and effect and was binding on Defendant JD/DU. This subsection imposes a
8 duty on Defendants JD/DU to engage in a timely, good faith, interactive process with the
9 employee to determine reasonable accommodation, if any, in response to a request for a
10 reasonable accommodation by an employee with a known physical disability or known
11 medical condition.

12 115. At all relevant times, Plaintiff was a member of a protected class within the
13 meaning of Government Code §12940(a) *et seq.* because he had a disability, due to injuries
14 suffered, of which Defendants JD/DU had both actual and constructive notice.

15 116. Plaintiff reported his disability to Defendants JD/DU, triggering Defendants
16 JD/DU's obligation to engage in a good faith interactive process with Plaintiff, but at all times
17 herein, Defendants JD/DU failed and refused to do so.

18 117. Defendants breached their statutory duty under FEHA to engage in a timely
19 good faith interactive process to determine a reasonable accommodation for Plaintiff's
20 physical disability. Plaintiff further alleges: (1) that JD/DU were the Plaintiff's employers; (2)
21 that Plaintiff was an employee of JD/DU; (3) that Plaintiff sustained an injury that required
22 reasonable accommodation and which injury was known to Defendants; (4) that Plaintiff
23 requested that Defendants make reasonable accommodation for his injury and/or physical
24 condition so that he would be able to perform the essential functions of his job requirements;
25 (5) that Plaintiff was willing to participate in the interactive process to determine whether
26 reasonable accommodation could be made so that he would be able to perform the essential
27 job requirements; (6) that Defendants failed to participate in a timely good faith interactive
28 process with Plaintiff to determine whether reasonable accommodation could be made; (7) that

1 Plaintiff was harmed financially; and (8) that Defendants' failure to engage in a good faith
2 interactive process was a substantial factor in causing Plaintiff's damage and harm. Instead of
3 engaging in a good faith interactive process, JD/DU, wrongfully terminated Plaintiff on or
4 about July 11, 2024.

5 118. The above acts of Defendant JD/DU constitute violations of FEHA, and were a
6 proximate cause in Plaintiff's damages as stated below.

7 119. All actions of Defendants JD/DU were known, ratified and approved by the
8 officers or managing agents of JD/DU. Therefore, Plaintiff is entitled to punitive or exemplary
9 damages against Defendants JD/DU in an amount to be determined at the time of trial.

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

12 **THIRTEENTH CAUSE OF ACTION**

13 **(Retaliation in Violation of *Government Code* §§12940 *et seq.* – By Plaintiff Against** 14 **Defendant JD/DU and Does 1 through 100)**

15 121. Plaintiff realleges and incorporates by reference all of the allegations set forth
16 above in the Complaint.

17 122. This cause of action is brought pursuant to the FEHA, Govt. Code §12940(h),
18 which provides that it is unlawful to retaliate against a person "because the person has opposed
19 any practices forbidden under [Government Code sections 12900 through 12966] or because
20 the person has filed a complaint, testified, or assisted in any proceeding under the FEHA."

21 123. As a result of his disabilities, Plaintiff was denied the right to work in an
22 environment free of discrimination, was denied accommodation for his work injuries and was
23 wrongfully terminated by Defendants JD/DU.

24 124. Defendants JD/DU's retaliatory conduct toward Plaintiff caused him emotional
25 injury, including, but not limited to, humiliation, anxiety, fear, and loss of self-esteem.
26 Defendants JD/DU's retaliatory conduct was a substantial factor and the proximate of
27 Plaintiff's damages.

28 125. Plaintiff's disability was the reason Defendants JD/DU retaliated against him.

126. Plaintiff has suffered monetary damages, lost wages and privileges of employment illegally caused by Defendants JD/DU's discriminatory conduct in an amount according to proof.

127. Defendants JD/DU's conduct was the proximate cause of the Plaintiff's damages.

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

129. Pursuant to California Government Code §12965(b), Plaintiff requests an award of attorneys' fees in this action.

FOURTEENTH CAUSE OF ACTION

(Failure to Prevent Retaliation from Occurring in Violation of *Government Code* §12940(k) – By Plaintiff Against Defendants JD/DU and Does 1 through 100)

130. Plaintiff realleges and incorporates by reference all of the allegations set forth above in the Complaint.

131. Defendants JD/DU's conduct in subjecting Plaintiff to discriminatory conduct due to Plaintiff's disability constituted breach of their duty under FEHA, including the duty to take immediate and appropriate corrective action and to take all reasonable steps to prevent discrimination and retaliation from occurring pursuant to California Government Code Section 12940(k).

132. Defendants JD/DU failed to take measures to prevent discrimination and retaliation.

133. As a direct result of the Defendants JD/DU's failure to take all reasonable steps necessary to prevent discrimination, Plaintiff has suffered and will continue to suffer pain and suffering, extreme and severe mental anguish and emotional distress, loss of earnings and earning capacity. Plaintiff is hereby entitled to general and compensatory damages in amounts to be proven at trial.

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

135. Pursuant to California Government Code §12965(b), Plaintiff requests an award of attorneys' fees in this action.

FIFTEENTH CAUSE OF ACTION

(Wrongful Termination in Violation of Public Policy, Govt. Code §§12940 *et seq.*– By Plaintiff Against Defendants JD/DU and Does 1 through 100)

136. Plaintiff realleges and incorporates by reference all of the allegations set forth above in the Complaint.

137. Plaintiff alleges that significant policies exist in the State of California that prohibit discrimination and wrongfully terminating an employee for being disabled. Among others, the right to be free from discrimination and retaliation are codified in the California and United States Constitutions and the provisions of Government Code §§12900 *et seq.*

138. Defendants JD/DU, acting through its employees and supervisors, intentionally created and knowingly permitted the discrimination based on disability.

139. Defendants JD/DU wrongfully terminated Plaintiff in violation of important and well-established public policies, including, but not limited to, policies against employment discrimination based upon disability.

140. These policies are set forth in various laws including but not limited to Government Code §§12940 (a), 12940 (n), 12940(m); Cal. Const. Art. 1, §8 (employment discrimination).

141. Defendants JD/DU's wrongful conduct proximately caused Plaintiff to suffer general, special and statutory damages in an amount to according to proof.

142. As a further proximate result of the unlawful acts of Defendants JD/DU, as alleged above, Plaintiff has been harmed in that he has suffered humiliation, mental anguish, and emotional and physical distress that a reasonable person would suffer upon losing his job.

1 As a result of such actions and consequent harm, Plaintiff has suffered such damages in an
2 amount according to proof.

3 143. The above acts of Defendants JD/DU constituted a wrongful termination of
4 Plaintiff and were in violation of public policy as described above. Such termination was a
5 substantial factor in causing damage and injury to Plaintiff as set forth below.

6 144. Plaintiff believes and thereon alleges that engaging in protected activity,
7 including, but not limited to and requesting a reasonable accommodation, were factors in
8 Defendants JD/DU's conduct as alleged hereinabove.

9 145. All actions of Defendants JD/DU were known, ratified and approved by the
10 officers or managing agents of JD/DU. Therefore, Plaintiff is entitled to punitive or exemplary
11 damages against Defendants JD/DU in an amount to be determined at the time of trial.

12 146. Pursuant to California Government Code §12965(b), Plaintiff requests an award
13 of attorneys' fees in this action.

14 **PRAYER FOR RELIEF**

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

17 1. For compensatory damages in the amount of unpaid minimum wages due to
18 Plaintiff, in an amount of \$97,920.00;

19 1. For compensatory damages for lost wages and employment benefits, in an
20 amount according to proof;

21 2. For compensatory damages for physical injury and emotional distress, in an
22 amount according to proof;

23 3. For an award of consequential damages, in an amount to be proven at trial;

24 4. For general damages in Plaintiff's favor and against Defendants, according to
25 proof;

26 5. For compensation of one hour at the regular rate of pay for each meal period
27 denied in violation of *Cal. Lab. Code* §§ 226.7, 512 and IWC Wage Order No. 1, according to
28 proof;

- 1 6. For compensatory damages in the amount of Plaintiff's out of pocket tool
- 2 expenses and/or reimbursement of monies incurred while performing Defendants' business-
- 3 related duties plus interests, costs and attorneys' fees pursuant to *Cal. Code Civ. Proc.*
- 4 §2802(c), in an amount according to proof;
- 5 7. For payment of unpaid wages in accordance with California labor and
- 6 employment law, in the amount of \$97,920.00;
- 7 8. For statutory damages pursuant to *Cal. Lab. Code* § 226, according to proof;
- 8 9. For statutory penalties pursuant to *Cal. Lab. Code* §§ 203.1, 558, 226.7, 226.8,
- 9 according to proof;
- 10 10. For payment to Plaintiff of waiting time penalties pursuant to *Cal. Lab. Code*
- 11 § 203, in an amount equal to his daily pay rate at the time of termination, multiplied by the total
- 12 amount of days elapsed between the date of involuntary termination, and/or 72 hours after
- 13 notice of the voluntary termination, up to a maximum of 30 days' pay, according to proof;
- 14 11. For specific relief enforcing waiting time penalties of 30 days of per diem wages
- 15 pursuant to *Business & Professions Code* § 17200 and *Labor Code* § 203, according to proof;
- 16 12. For injunctive relief requiring Defendants to comply with Labor Code
- 17 1198.5(b)(1);
- 18 13. For an award of restitution of wages to Plaintiff in an amount equal to the
- 19 amount of minimum wages owed and unpaid, according to proof;
- 20 14. For an award of liquidated damages pursuant to *Cal. Lab. Code* § 1194.2, to
- 21 Plaintiff in an amount equal to the wages unlawfully unpaid and interest thereon;
- 22 15. For punitive and exemplary damages, in a sum to be determined at trial;
- 23 16. For attorneys' fees under *Government Code* § 12965(b), *Cal. Labor Code* §§
- 24 218.5, 1194, 2802, 1198.5 and/or *California Code of Civil Procedure* § 1021.5, according to
- 25 proof;
- 26 17. For prejudgment interest, according to proof;
- 27 18. For reasonable costs of suit, in an amount according to proof;
- 28 19. For such other and further relief as this Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff Damian Pedraza Reyes hereby respectfully requests a trial by jury for all claims and issues raised in his Complaint that may be entitled to a jury trial.

LIPELES LAW GROUP, APC

Date: October 1, 2024

By:



Thomas H. Schelly
Attorneys for Plaintiff
Damian Pedraza Reyes