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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

HAN PARKER,

Plaintiff,

vs.

NAPA VALLEY FORD LINCOLN
MERCURY, INC., a Delaware Corporation;
RJM BRUXIE DAVIS LLC, a California
Limited Liability Company; KEVIN MASSIE,
an individual; RYAN STRANGE, an
individual; and DOES 1 to 100, inclusive,

Defendants.

Case No. 25CV007558

COMPLAINT FOR DAMAGES:

- 1. Failure to Pay Overtime Wages**
- 2. Failure to Pay Minimum Wages**
- 3. Meal Period Violations**
- 4. Rest Period Violations**
- 5. Wage Statement Violations**
- 6. Waiting Time Penalties**
- 7. Failure to Reimburse Expenses**
- 8. Unfair Competition**
- 9. Disability Discrimination in Violation of FEHA**
- 10. Failure to Provide Reasonable Accommodation and Engage in the Interactive Process**
- 11. Retaliation in Violation of FEHA**
- 12. Failure to Prevent Discrimination**
- 13. Wrongful Discharge in Violation of Public Policy**
- 14. Private Attorneys General Act**

DEMAND FOR JURY TRIAL

Plaintiff HAN PARKER (“Plaintiff”) hereby files this Complaint against Defendants NAPA VALLEY FORD LINCOLN MERCURY, INC., a Delaware Corporation; RJM BRUXIE DAVIS

1 LLC, a California Limited Liability Company; KEVIN MASSIE, an individual; RYAN STRANGE,
2 an individual; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as “Defendants”).
3 On information and belief, Plaintiff alleges the following:

4 **INTRODUCTION**

5 1. This is an individual and a Private Attorneys General Act (“PAGA”) lawsuit brought by
6 Plaintiff for unpaid overtime and minimum wages, unpaid meal and rest period premiums, unpaid
7 reimbursement expenses, and derivative penalties for inaccurate wage statements and inaccurate time
8 records. Plaintiff brings individual claims under the Fair Employment and Housing Act, Government
9 Code section 12900 *et seq.* (“FEHA”), for disability discrimination, failure to provide reasonable
10 accommodation and to engage in the interactive process, failure to prevent discrimination and
11 retaliation, and wrongful discharge in violation of public policy.

12 **JURISDICTION AND VENUE**

13 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
14 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
15 Labor Code, California Business and Professions Code, and Wage Order No. 5, the Fair Employment
16 and Housing Act (“FEHA”), California Labor Code, California Health & Safety Code, and California
17 common law.

18 3. Venue is proper pursuant to Civil Procedure Code sections 395(a) and 395.5, in that key
19 acts and violations of law asserted herein occurred within Sacramento County, and Defendants’
20 obligation to pay wages arose in Sacramento County pursuant to *Madera Police Officers Assn. v. City of*
21 *Madera*, 36 Cal.3d 403, 414 (1984).

22 4. For all causes of action falling within the Fair Employment and Housing Act,
23 Government Code section 12900 *et seq.* (“FEHA”), Plaintiff has exhausted administrative remedies by
24 filing a claim with the Department of Fair Employment and Housing against Defendants concerning all
25 claims asserted against Defendants herein. Plaintiff received notice of the right to sue on August 22,
26 2024, and is filing this lawsuit within one (1) year of receiving the right to sue notice.

27 5. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
28 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf

1 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
2 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
3 (“LWDA”) on approximately November 18, 2024. Plaintiff provided facts and legal bases for his
4 claims within the notice to the LWDA on all violations asserted under the Private Attorneys General Act
5 cause of action. Plaintiff also submitted the \$75.00 filing fee. The November 18, 2024, notice was also
6 sent via certified mail to Defendants on the same day. To date, the LWDA has not provided any
7 response to Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative
8 remedies pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf
9 of himself and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code §
10 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19
11 (2005). Aggrieved Employees include, but are not limited to, the following: all non-exempt employees
12 who worked, or continue to work, for Defendants in California at any time between November 18, 2023,
13 to the present.

14 **PARTIES**

15 6. HAN PARKER is an individual over the age of eighteen (18) and is a resident of the
16 State of California.

17 7. On information and belief, Plaintiff alleges NAPA VALLEY FORD LINCOLN
18 MERCURY, INC. is now and/or at all times mentioned in this Complaint was a Delaware
19 Corporation and the owner and operator of an industry, business and/or facility doing business in the
20 State of California.

21 8. On information and belief, Plaintiff alleges RJM BRUXIE DAVIS LLC is now and/or
22 at all times mentioned in this Complaint was a California Limited Liability Company and the owner
23 and operator of an industry, business and/or facility doing business in the State of California.

24 9. On information and belief, Plaintiff alleges, KEVIN MASSIE, is now and/or at all times
25 mentioned in this Complaint was an individual and the owner and operator of an industry, business
26 and/or facility doing business in the State of California. Plaintiff further alleges that KEVIN MASSIE is
27 an owner, director, officer, and/or managing agent of NAPA VALLEY FORD LINCOLN MERCURY,
28 INC. and RJM BRUXIE DAVIS LLC, and is responsible for the first through seventh causes of action.

1 As such KEVIN MASSIE is individually liable pursuant to California Labor Code Section 558.1.
2 Pursuant to California Labor Code Section 558.1, NAPA VALLEY FORD LINCOLN MERCURY,
3 INC. and RJM BRUXIE DAVIS LLC, are jointly and severally liable for each cause of action asserted
4 herein. On information and belief, Plaintiff alleges that KEVIN MASSIE trained subordinate staff to
5 implement and carry out the policies and practices identified herein. KEVIN MASSIE was responsible
6 for the violations stated herein as he was in a position of authority with the power and responsibility to
7 monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead.

8 10. On information and belief, Plaintiff alleges, RYAN STRANGE, is now and/or at all times
9 mentioned in this Complaint was an individual and the owner and operator of an industry, business
10 and/or facility doing business in the State of California. Plaintiff further alleges that KEVIN MASSIE is
11 an owner, director, officer, and/or managing agent of RJM BRUXIE DAVIS LLC, and is responsible for
12 the first through seventh causes of action. As such, RYAN STRANGE is individually liable pursuant to
13 California Labor Code Section 558.1. Pursuant to California Labor Code Section 558.1, NAPA
14 VALLEY FORD LINCOLN MERCURY, INC. and RJM BRUXIE DAVIS LLC, are jointly and
15 severally liable for each cause of action asserted herein. On information and belief, Plaintiff alleges that
16 RYAN STRANGE trained subordinate staff to implement and carry out the policies and practices
17 identified herein. RYAN STRANGE was responsible for the violations stated herein as he was in a
18 position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful
19 practices, but chose to ratify them instead.

20 11. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
21 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
22 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
23 names and capacities of these DOE Defendants when they are ascertained.

24 12. At all times mentioned herein, each Defendant was the agent or employee of each of the
25 other Defendants and was acting within the course and scope of such agency or employment. The
26 Defendants are jointly and severally liable to Plaintiff.

27 13. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
28 were members of and/or engaged in a joint employment, joint venture, partnership and common

enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership and common enterprise.

14. Defendants, and each of them, now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

15. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

GENERAL ALLEGATIONS

16. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 15 as though fully set forth herein.

17. Plaintiff was employed by Defendants and worked at Bruxie, a chicken and waffles restaurant in Davis, California, from November 6, 2023, to April 18, 2024, as a General Manager.

18. Defendants misclassified Plaintiff as a salaried employee. Upon hire, Plaintiff was given a salary of \$60,000.00 per year by Ryan Strange.

19. Plaintiff did not clock in and clock out because he was wrongfully classified as a salaried exempt employee. From November 6, 2023, to November 20, 2023, Plaintiff attended mandatory training in Los Angeles, California. The training consisted of shadowing a General Manager at an open restaurant in Los Angeles for approximately 10 hours per day, six days per week. During this time, Plaintiff did not receive overtime pay, reimbursement for personal use of his cell phone and vehicle, nor did he receive meal and rest breaks.

20. Prior to hire, Plaintiff notified Kevin Massie and Mr. Strange that he had diabetes and was required to be on an eating schedule to help regulate his high blood sugar.

21. Beginning on November 20, 2023, Plaintiff started to perform job duties to prepare for the opening of Bruxie.

22. From November 20, 2023, to March 8, 2024, Plaintiff worked from his home, located in Citrus Heights California in Sacramento County, receiving and analyzing staff applications which he used to hire approximately 19 employees. Plaintiff also performed projections for labor costs, purchasing and sales, and attended mandatory meetings approximately three or four times per week, primarily *via* Zoom.

23. Plaintiff used his personal computer, phone, and Internet for the benefit of Defendants. Plaintiff was never reimbursed for such expenses.

24. During this time, Plaintiff worked five days per week, approximately 8 hours per day and sometimes more. Mr. Massie, and Mr. Strange cultivated a friendly environment for Plaintiff with chit chat, jokes, and expressing personal interest in Plaintiff's life and wellbeing.

25. On or about March 11, 2024, Plaintiff began working at Bruxie's location in Davis, prior to its grand opening.

26. On March 11, 2024, Plaintiff was at Bruxie from approximately 8:00 a.m. to 6:00 p.m. waiting for deliveries and prepping the restaurant for its opening. During the rest of the week, Plaintiff arrived at the restaurant at approximately 7:00 a.m. and typically stopped work at 8:00 p.m. (working approximately 11 hours per day). His job tasks included washing all dishes, organizing the restaurant, accepting and processing deliveries, running inventory, and doing production rate estimates.

27. On or about March 18, 2024, Plaintiff started training approximately 19 new employees.

28. During the following two weeks, Plaintiff arrived at Bruxie at 6:00 a.m. to unlock the doors and get ready for training. He asked staff to arrive at 8:00 a.m. and provided training and/or simulations until 8:00 p.m. Thus, Plaintiff worked from 6:00 a.m. to 8:00 p.m. (14 hours per day), often without meals or rest breaks. He was available at Bruxie and answered staff and vendor questions and problems from 6:00 a.m. to approximately 8:00 p.m.

29. On or about April 1, 2024, Bruxie opened.

30. From April 1, 2024, to his termination, Plaintiff's schedule intensified. He arrived at 6:00 a.m. to open the restaurant and would finish his responsibilities at approximately 10:00 p.m. or 11:00 p.m. (approximately 16 - 17 hours per day).

31. Plaintiff was working six days per week (approximately 80-96 hours per week).

32. Plaintiff does not recall taking any full thirty-minute meal breaks or ten-minute rest breaks free of performing job tasks and free of responding to employee questions.

33. To carry out his employment duties, Plaintiff used his personal cell phone to communicate with vendors and employees, as well as Mr. Strange.

1 34. Defendants did not provide Plaintiff with a company phone despite requiring Plaintiff to
2 download several apps, like 7Shifts, Sysco, Toast, and a 360 Security App for work.

3 35. Mr. Strange even provided Plaintiff's personal cell number to other employees.

4 36. Plaintiff was never reimbursed for his cell phone use.

5 37. In addition, Plaintiff was required to use his personal vehicle to carry out his employment
6 duties. Defendants did not reimburse Plaintiff for the use of his personal vehicle.

7 38. Plaintiff estimates that on approximately twenty (20) occasions he travelled from Davis
8 to Sacramento to make purchases at Sysco or Chef Toys. He estimates that he also had to travel to
9 Natomas from his home on at least two occasions to pick up products for Bruxie.

10 39. Plaintiff had notified Defendants upon hire that he had diabetes, and that it was of utmost
11 importance for him to eat every two hours to regulate his blood sugar.

12 40. On about April 15, 2023, Plaintiff met with Mr. Strange and notified Defendants that,
13 because of Plaintiff's diabetes, Plaintiff could not continue to work 16 hours per day, six days per week,
14 with no breaks.

15 41. Plaintiff explained that his failure to get meal and rest breaks was keeping him from
16 properly regulating his blood sugar.

17 42. Mr. Strange brushed off Plaintiff and nodded, saying that everyone was working long
18 hours. Mr. Strange did not make recommendations or promises to correct the problem.

19 43. After this exchange on April 15, 2024, Defendants began treating Plaintiff differently.
20 They were short with him, discontinued any chit chat, stopped joking with him, and displayed no
21 friendliness toward him.

22 44. On April 18, 2024, Plaintiff arrived for his shift at 6:00 a.m. and worked until
23 approximately 6:00 p.m.

24 45. Plaintiff then received a text from management that instructed staff that they should not
25 leave Bruxie until Mr. Strange arrived for an unexpected visit. When Mr. Strange arrived, he
26 immediately asked Plaintiff to sit at a table to talk.

27 46. Mr. Strange then told Plaintiff that Defendants were exercising their at-will employment
28 option to terminate Plaintiff. Mr. Strange then handed Plaintiff his final check of \$3,400.00.

1 47. Thus, three days after Plaintiff requested reasonable accommodations for his disability,
2 Defendants terminated his employment.

3 48. At the time of his termination Plaintiff had not received any complaints about his
4 performance and his personnel file was devoid of any disciplinary complaints or actions.

5 **CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**
7 **FAILURE TO PAY OVERTIME WAGES**
8 **(As to all Defendants)**

9 49. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 48 as though fully
10 set forth herein.

11 50. During the period Plaintiff was employed by Defendants, Defendants were required to
12 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
13 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
14 hours worked in excess of twelve (12) hours per day. *See, e.g.*, IWC Wage Order No. 5, section (3)(A);
15 Cal. Lab. Code §§ 510, 1194.

16 51. Plaintiff worked in excess of eight (8) hours per day and/or forty (40) hours per week on
17 several occasions while employed by Defendants. However, Defendants failed to compensate Plaintiff
18 for all overtime hours worked at the regular rate of pay.

19 52. Plaintiff was not exempt from overtime protections under the California Wage Orders
20 and Labor Code.

21 53. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the
22 section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
23 here in full.

24 **SECOND CAUSE OF ACTION**
25 **FAILURE TO PAY MINIMUM WAGES**
26 **(As to all Defendants)**

27 54. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 53 as though fully
28 set forth herein.

55. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff with at least California's applicable minimum wage for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 5, section 4(A); Cal. Lab. Code § 1194.

56. Plaintiff was not exempt from the State's Minimum Wage Order. Defendants were aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

57. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 57 as though fully set forth herein.

59. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

60. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 5, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

61. California Labor Code section 512 and Wage Order No. 5 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

62. Defendants employed Plaintiff for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff to take his first meal period before the completion of his fifth hour of work and failed to

1 allow Plaintiff to take his second meal period before the completion of his tenth hour of work.
2 Plaintiff did not waive any rights to meal periods throughout his employment.

3 63. Defendants further failed to pay Plaintiff the applicable meal period premiums for any
4 such missed meal periods.

5 64. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the
6 section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
7 here in full.

8 **FOURTH CAUSE OF ACTION**
9 **REST PERIOD VIOLATIONS**
(As to all Defendants)

10 65. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 64 as though fully
11 set forth herein.

12 66. An employer must provide an employee a rest period in accordance with the
13 applicable Wage Order and California Labor Code section 226.7.

14 67. California Labor Code section 226.7 and Wage Order No. 5, section 12(A) require an
15 employer to provide a rest period of not less than ten (10) minutes for each work period of more than
16 four (4) hours or a major fraction thereof.

17 68. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff to take paid
18 rest periods of at least ten (10) minutes for each work period that he worked more than four (4) hours
19 or a major fraction thereof.

20 69. Defendants further failed to pay Plaintiff the applicable rest period premiums for any
21 such missed rest periods.

22 70. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in
23 the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
24 forth here in full.

25 **FIFTH CAUSE OF ACTION**
26 **WAGE STATEMENT VIOLATIONS**
(As to all Defendants)

27 71. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 70 as though fully
28 set forth herein.

1 72. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
2 statement to an employee, semimonthly or at the time of each payment of wages, showing:

3 *(1) gross wages earned, (2) total hours worked by the employee, except for*
4 *any employee whose compensation is solely based on a salary and who is*
5 *exempt from payment of overtime under subdivision (a) of Section 515 or*
6 *any applicable order of the Industrial Welfare Commission, (3) the*
7 *number of piece-rate units earned and any applicable piece rate if the*
8 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
9 *all deductions made on written orders of the employee may be aggregated*
10 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
11 *period for which the employee is paid, (7) the name of the employee and*
12 *the last four digits of his or her social security number or an employee*
13 *identification number other than a social security number, (8) the name*
14 *and address of the legal entity that is the employer and, if the employer is*
15 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
16 *name and address of the legal entity that secured the services of the*
17 *employer, and (9) all applicable hourly rates in effect during the pay*
18 *period and the corresponding number of hours worked at each hourly rate*
19 *by the employee. The deductions made from payment of wages shall be*
20 *recorded in ink or other indelible form, properly dated, showing the*
21 *month, day, and year, and a copy of the statement and the record of the*
22 *deductions shall be kept on file by the employer for at least three years at*
23 *the place of employment or at a central location within the State of*
24 *California.*

25 73. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
26 itemized statement or failed to provide an accurate and complete itemized statement showing the
27 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
28 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
and double time hours worked and corresponding rates of pay, and gross and net wages earned. The
paystubs also did not accurately itemize Plaintiff's total hours worked due to Defendants'
misclassification of Plaintiff's salary exempt status. Plaintiff was not able to promptly and easily
determine his total hours worked from paystubs alone. Additionally, Plaintiff suffered confusion
over whether he received all wages owed and was prevented from effectively challenging
information on his wage statements.

74. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in
the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
forth here in full.

SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to all Defendants)

75. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 74 as though fully set forth herein.

76. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. *See* Cal. Lab. Code § 201.

77. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation. *See* Cal. Lab. Code § 202.

78. Plaintiff did not receive all wages, including minimum and overtime wages, or meal and rest period premiums at his termination or within the required time after their separation from employment.

79. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. *See* Cal. Lab. Code § 203.

80. Defendants knew of their obligation to pay Plaintiff's final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff was not receiving meal or rest breaks or overtime pay for his long hours worked. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages owed.

81. As a proximate result of the Defendants' conduct, Plaintiff has been damaged and deprived of wages and thereby seek the daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

SEVENTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(As to all Defendants)

82. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 81 as though fully set forth herein.

83. California Labor Code section 2802(a) states that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even

1 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
2 unlawful.”

3 84. Defendants required Plaintiff to use his personal cell phone, computer, home internet, and
4 vehicle but failed to reimburse him for such use.

5 85. As a proximate result of Defendants’ conduct, Plaintiff has been damaged as stated in the
6 section below entitled “DAMAGES,” which is incorporated here to the extent pertinent as if set forth
7 here in full.

8 **EIGHTH CAUSE OF ACTION**
9 **UNFAIR COMPETITION**
10 **(As to all Defendants, Excepting Individuals)**

11 86. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 85 as though fully
12 set forth herein.

13 87. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
14 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
15 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
16 California Business and Professions (“B&P”) Code § 17200.

17 88. Plaintiffs were not paid all wages owed, including minimum and overtime wages and
18 meal and rest period premiums, or reimbursed for business expenses, during his employment or any time
19 thereafter.

20 89. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
21 California Unfair Competition Law (“UCL”) (Business and Professions Code 17200 *et seq.*) pursuant to
22 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

23 90. As a direct and legal result of the Defendants’ conduct, as alleged herein, pursuant to the
24 UCL (including B&P Code §17203), Plaintiff is entitled to restitution, including, but not limited to,
25 interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of
26 California Labor Code sections 226.7, 510, 512, and 1194 all in an amount as yet unascertained but
27 subject to proof at trial, for four (4) years from the filing of this Action.
28

NINTH CAUSE OF ACTION
DISABILITY DISCRIMINATION IN VIOLATION OF FEHA
(As to all Defendants Excepting Individuals)

91. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 90 as though fully set forth herein.

92. Defendants are “employers” in the State of California, as defined in the FEHA.

93. Plaintiff has diabetes and was terminated three days after requesting a reasonable accommodation for that disability.

94. As a direct and proximate result of the willful, knowing, and intentional discrimination against Plaintiff, and the failure to act by Defendants, Plaintiff suffered mental distress, anguish, and indignation. Plaintiff suffered damages legally caused by Defendants’ acts as stated in the section below entitled “DAMAGES,” which is incorporated herein to the extent pertinent as if set forth here in full.

95. Defendants’ acts, including terminating Plaintiff after notifying Defendants of his disability and refusing to reasonably accommodate the disability, alleged herein, are malicious, oppressive, despicable, and in conscious disregard of Plaintiff’s rights. As such, punitive damages are warranted against Defendants in order to punish and make an example of their actions.

TENTH CAUSE OF ACTION
FAILURE TO ACCOMMODATE AND ENGAGE IN THE INTERACTIVE PROCESS
(As to all Defendants Excepting Individuals)

96. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 95 as though fully set forth herein.

97. Defendants, at all times mentioned herein, were employers subject to the requirements of the FEHA, and had a duty to reasonably accommodate qualified individuals with disabilities.

98. Plaintiff is and was, at all times mentioned herein, a qualified individual with a disability and with a record of disability under the FEHA who, with reasonable accommodation, could perform the essential functions of positions within Defendants’ business, without undue hardship to Defendants and without endangering the health or safety of himself or others.

99. Plaintiff requested meal breaks and rest breaks (which he was legally entitled to as a matter of law) to accommodate his diabetes. Plaintiff was then fired three days after this request without any writeups or reasoning other than that Defendants were exercising at-will termination.

100. Plaintiff suffered damages which were the direct and proximate result of Defendants' failure to reasonably accommodate Plaintiff's disability and engage in the interactive process as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

101. Defendants' aforementioned acts in failing to reasonably accommodate Plaintiff's disability and timely engage in the interactive process were wanton, willful, intentional, malicious, and showed a reckless disregard for the rights and sensibilities of Plaintiff. As such, punitive damages are warranted against Defendants in order to punish and make an example of their actions.

ELEVENTH CAUSE OF ACTION
RETALIATION IN VIOLATION OF GOVERNMENT CODE SECTION 12940 *et seq.*
(As to all Defendants Excepting Individuals)

102. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 101 as though fully set forth herein.

103. Plaintiff is informed, believes, and thereon alleges that, Defendants retaliated against him by terminating him because he opposed practices forbidden by the California Fair Employment and Housing Act, including but not limited to seeking disability protections and reasonable accommodations.

104. Plaintiff is informed, believes, and thereon alleges that this retaliatory conduct violated Government Code Section 12940, *et seq.* and Article I, Section 7(a) of the Constitution of the State of California.

105. As a direct and proximate result of the willful, knowing, and intentional discrimination against Plaintiff, Plaintiff has suffered mistreatment, mental distress, anguish, and indignation. Plaintiff suffered damages legally caused by the Defendants' acts as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

106. Defendants' acts, including retaliation alleged herein, are malicious, oppressive, despicable, and in conscious disregard of Plaintiff's rights. As such, punitive damages are warranted against Defendants in order to punish and make an example of their actions.

TWELFTH CAUSE OF ACTION
FAILURE TO PREVENT DISCRIMINATION
(As to Defendants Excepting Individuals)

107. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 106 as though fully set forth herein.

108. Defendants were obligated pursuant to the FEHA to “take all reasonable steps necessary to prevent discrimination and harassment from occurring.” See Cal. Gov’t Code 12940(k).

109. Plaintiff divulged his disability upon hiring and asked for reasonable accommodations in the form of breaks so that he could eat and reasonably manage his blood sugar. Defendants failed to accommodate this request and terminated Plaintiff when he reiterated a request for accommodation.

110. Defendants, by and through their agents, acquiesced and ratified this discriminatory practice.

111. Defendants’ acts of discharge herein were malicious, fraudulent, and oppressive, with the wrongful intention of injuring Plaintiff. Defendants acted with an improper and evil motive amounting to malice, and in conscious disregard of Plaintiff’s rights.

112. Plaintiff suffered damages proximately caused by Defendants’ wrongful acts as stated in the section below entitled “DAMAGES”, which is incorporated here to the extent pertinent as if set forth here in full.

THIRTEENTH CAUSE OF ACTION
WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
(As to all Defendants Excepting Individuals)

113. Plaintiff herein incorporates and re-alleges by reference paragraphs 1 through 112 above as though fully set forth herein.

114. An employee may bring a tortious wrongful discharge claim against an employer subject to the FEHA based upon the policy prohibiting violations of the FEHA. *See Stevenson v. Sup. Ct. (Huntington Mem. Hosp.)*, 16 Cal.4th 880 (1997).

115. An employer’s violation of a statute on a particular subject is also a violation of public policy. *See, e.g., Jie v. Liang Tai Knitwear Co.*, 89 Cal. App. 4th 654, 660-61 (2001). Thus, violations of Labor Code section 1102.5 are also violations of public policy.

1 116. An employee need not prove that the employer actually violated the law; rather, “it
2 suffices if the employer fired him for reporting his ‘reasonably based suspicions’ of illegal activity.”
3 *Green v. Ralee Engineering Co.*, 19 Cal. 4th 66, 87 (1998). In this case, the employee may still bring a
4 wrongful discharge tort claim. *Id.*

5 117. California has a fundamental public policy against creation of a policy preventing an
6 employee from disclosing information relating to a violation of the law; against retaliation against an
7 employee who discloses information he has reasonable cause to believe constitutes a violation of the
8 law; and against retaliation against an employee who refuses to participate in an activity that would
9 result in a violation of the law. *See* Labor Code § 1102.5.

10 118. Defendants’ acts of discharge herein were malicious, fraudulent, and oppressive, with
11 the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to
12 malice, and in conscious disregard of Plaintiff’s rights.

13 119. Plaintiff suffered damages proximately caused by Defendants’ wrongful acts as stated
14 in the section below entitled “DAMAGES,” which is incorporated here to the extent pertinent as if
15 set forth here in full.

16 **FOURTEENTH CAUSE OF ACTION**
17 **PRIVATE ATTORNEYS GENERAL ACT**
 (As to all Defendants)

18 120. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 119 as though
19 fully set forth herein.

20 121. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
21 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
22 current and former employees:

- 23 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 5, § 3 (Failure to Pay Overtime
24 Wages)
- 25 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 5, § 4 (Failure to Pay
26 Minimum Wages)
- 27 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 5, §§ 11(A) and 11(B)
28 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

- Violation of Labor Code § 226.7 and Wage Order No. 5, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)

122. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

123. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

124. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;

- 1 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
2 Code section 1194;
- 3 d. Liquidated damages pursuant to California Labor Code section 1194.2;
- 4 4. As to the Third and Fourth Cause of Action:
- 5 a. Wages in an amount to be proven at trial;
- 6 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
7 section 1021.5;
- 8 5. As to the Fifth Cause of Action:
- 9 a. Penalties as provided for in Labor Code section 226, including the greater of all
10 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
11 violation occurred and one hundred dollars (\$100.00) per employee for each
12 violation in the subsequent pay periods, but not to exceed four thousand dollars
13 (\$4,000.00);
- 14 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
15 226(e);
- 16 6. As to the Sixth Cause of Action:
- 17 a. For statutory penalties equal to Plaintiff and similarly situated employees daily
18 rate of pay multiplied by thirty (30) days;
- 19 7. As to the Seventh Cause of Action:
- 20 a. An amount to be proven at trial;
- 21 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
- 22 8. As to the Ninth and Tenth Cause of Action:
- 23 a. For compensatory damages, including lost wages, earnings, retirement benefits
24 and other employee benefits, and all other sums of money, together with interest
25 on these amounts, according to proof;
- 26 b. For a money judgment for mental pain and anguish and emotional distress,
27 according to proof;
- 28 c. For an award of punitive damages, according to proof;

- d. For reasonable attorneys' fees and costs pursuant to Government Code section 12965;

9. As to the Eleventh Cause of Action:

- a. For compensatory damages, including lost wages, earnings, retirement benefits and other employee benefits, and all other sums of money, together with interest on these amounts, according to proof;
- b. For a money judgment for mental pain and anguish and emotional distress, according to proof;
- c. For an award of punitive damages, according to proof

10. As to the Twelfth and Thirteenth Causes of Action:

- a. For compensatory damages, including lost wages, earnings, retirement benefits and other employee benefits, and all other sums of money, together with interest on these amounts, according to proof;
- b. For a money judgment for mental pain and anguish and emotional distress, according to proof;
- c. For an award of punitive damages, according to proof;
- d. For reasonable attorneys' fees and costs pursuant to Government Code sections 12970 and 12965(b);

11. As to the Fourteenth Cause of Action:

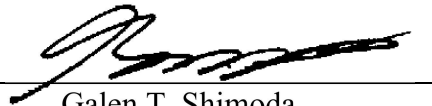
- a. For civil penalties as provided in the Labor code for each enumerated violation;
- b. For those Labor code sections where there is no civil penalty provided for their violation, the default penalty provided in Labor code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;
- c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

- 1 12. For such other and further relief as this Court may deem just and proper,
2 including, but not limited to:
3 a. Wages as proved at trial;
4 b. Injunctive and Declaratory relief;
5 c. Special and general damages;
6 c. Attorney's fees and costs as provided for by law; and
7 d. Interest.

8 Dated: March 28, 2025

Shimoda & Rodriguez Law, PC

9
10 By: _____



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Renald Konini
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