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Attorney for Plaintiff,
MARIA ALVAREZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

MARIA ALVAREZ, an individual,
Plaintiff,

v.

TASTEFUL SELECTIONS, LLC, a Wisconsin
limited liability company; AEROTEK, INC., a
Maryland corporation; CHARLES DOE, an
individual; and DOES 1 through 20, inclusive,
Defendants.

Case No. BCV-22-100438

COMPLAINT FOR DAMAGES FOR:

- 1. DISCRIMINATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 2. HARASSMENT IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 3. RETALIATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 4. FAILURE TO PREVENT
DISCRIMINATION, HARASSMENT AND
RETALIATION IN VIOLATION OF
GOV'T CODE §12940(k);**
- 5. RETALIATION IN VIOLATION OF
GOV'T CODE §§12945.2 ET. SEQ.;**
- 6. FAILURE TO PROVIDE REASONABLE
ACCOMMODATIONS IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 7. FAILURE TO ENGAGE IN A GOOD
FAITH INTERACTIVE PROCESS IN
VIOLATION OF GOV'T CODE §§12940 ET
SEQ.;**
- 8. FOR DECLARATORY JUDGMENT;**
- 9. RETALIATION (LAB. CODE §98.6);**
- 10. RETALIATION (LAB. CODE §§1102.5,
1102.6, 6310);**

- 1 11. WRONGFUL TERMINATION IN
2 VIOLATION OF PUBLIC POLICY;
3 12. FAILURE TO PROVIDE A SAFE AND
4 HEALTHFUL PLACE OF
5 EMPLOYMENT;
6 13. FAILURE TO PAY WAGES (CAL. LABOR
7 CODE §§201, 1194);
8 14. FAILURE TO INDEMNIFY FOR
9 NECESSARY BUSINESS EXPENSES (CAL.
10 LABOR CODE §2802);
11 15. FAILURE TO PROVIDE MEAL AND
12 REST PERIODS (CAL. LABOR CODE
13 §§226.7, 512);
14 16. FAILURE TO PROVIDE ITEMIZED
15 WAGE AND HOUR STATEMENTS (CAL.
16 LABOR CODE §§226, ET SEQ.);
17 17. WAITING TIME PENALTIES (CAL.
18 LABOR CODE §§201-203);
19 18. PRIVATE ATTORNEY GENERAL ACT
20 (CAL. LABOR CODE §2699, ET SEQ);
21 19. UNFAIR COMPETITION (BUS. & PROF.
22 CODE §17200 ET SEQ.); AND
23 DEMAND OVER \$25,000
24 [DEMAND FOR JURY TRIAL]

19 COMES NOW PLAINTIFF, MARIA ALVAREZ, and for causes of action against the
20 Defendants and each of them, alleges as follows:

21
22 **JURISDICTION**

23 1. This Court is the proper court, and this action is properly filed in Kern County because
24 Defendants' obligations and liability arise therein, because Defendants maintain offices and transact
25 business within Kern County, and because the work that is the subject of this action was performed by
26 Plaintiff in Kern County.

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THE PARTIES

2. Plaintiff, MARIA ALVAREZ, is and at all times relevant hereto was a resident of the County of Kern, State of California.

3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant TASTEFUL SELECTIONS, LLC (hereinafter referred to as "TASTEFUL SELECTIONS") was and is a Wisconsin Limited Liability Company doing business at 13003 Di Giorgio Road Arvin, California 93203, in the County of Kern, State of California.

4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, TASTEFUL SELECTIONS owned and operated a potato planting, growing, harvesting and packaging company.

5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant AEROTEK PROFESSIONAL SERVICES, INC. (hereinafter referred to as "AEROTEK") was and is a California corporation doing business at 13003 Di Giorgio Road Arvin, California 93203, in the County of Kern, State of California.

6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, AEROTEK owned and operated a staffing agency.

7. TASTEFUL SELECTIONS and AEROTEK are hereinafter collectively referred to as "Employers."

8. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint employers and/or special employers within the meaning of Government Code §§12926, subdivision (d), 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more persons and are therefore subject to the jurisdiction of this Court.

9. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint employers and/or special employers within the meaning of the Labor Code and Industrial Welfare Commission Order No. 13-2001, and are each an "employer or other person acting on behalf of an employer" as such term is used in Labor Code section 558, and liable to Plaintiff on that basis.

10. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant CHARLES DOE, was and is an individual resident of the County of Kern, State of

1 California, and are hereinafter individually referred to by last name and "INDIVIDUAL DEFENDANT."
2 The INDIVIDUAL DEFENDANT was Employers' manager, corporate agent, supervisor, and/or
3 employee.

4 11. The true names and capacities, whether individual, corporate, associate, or otherwise, of
5 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
6 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
7 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
8 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
9 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
10 alleged hereinafter.

11 12. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
12 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
13 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
14 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part
15 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
16 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

17 13. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
18 of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANT, acted
19 in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited,
20 compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so,
21 including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based
22 thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20
23 and the INDIVIDUAL DEFENDANT, and each of them, formed and executed a conspiracy or common
24 plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged
25 herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff
26 harm.

1 14. Whenever and wherever reference is made in this complaint to any act or failure to act by
2 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
3 and/or failures to act by each Defendant acting individually, jointly and severally.

4 15. Plaintiff has filed complaints of discrimination, harassment, retaliation, failure to prevent
5 discrimination or retaliation, failure to accommodate, failure to engage in the interactive process, and
6 wrongful termination under Government Code §§12940, et seq., the California Fair Employment and
7 Housing Act (“FEHA”) with the California Department of Fair Employment and Housing (“DFEH”),
8 and has satisfied Plaintiff’s administrative prerequisites with respect to these and all related filings.

9
10 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

11 16. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
12 of interest and ownership between Employers and DOES 1-20 that the individuality and separateness of
13 defendants have ceased to exist.

14 17. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
15 purported corporate existence, Employers and DOES 1-20 are, in reality, one and the same, including,
16 but not limited to because:

17 a. Employers are completely dominated and controlled by one another and DOES 1-
18 20, who personally committed the frauds and violated the laws as set forth in this complaint, and who
19 have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or
20 accomplish some other wrongful or inequitable purpose.

21 b. Employers and DOES 1-20 derive actual and significant monetary benefits by and
22 through one another’s unlawful conduct, and by using one another as the funding source for their own
23 personal expenditures.

24 c. Employers and DOES 1-20, while really one and the same, were segregated to
25 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
26 accomplishing some other wrongful or inequitable purpose.

27 d. Employers do not comply with all requisite corporate formalities to maintain a
28 legal and separate corporate existence.

1 e. The business affairs of Employers and DOES 1-20 are, and at all times relevant
2 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
3 inextricable confusion. Employers are, and at all times relevant hereto were, used by one another and
4 DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and
5 were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of
6 Defendants would not promote justice, in that it would permit Defendants to insulate themselves from
7 liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate
8 existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice
9 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

10 18. Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the
11 fiction of their separate corporate existence must be disregarded.

12 19. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
13 thereon alleges that Employers and DOES 1-20 are Plaintiff's joint employers by virtue of a joint
14 enterprise, and that Plaintiff was an employee of Employers and DOES 1-20. Plaintiff performed services
15 for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants
16 shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which
17 Defendants' business was and is conducted.

18 20. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
19 between DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of
20 assumption pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other
21 Defendants, (2) the transaction between Employers and/or DOES 1-20 and the other Defendants amounts
22 to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are a mere
23 continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES 1-20 is for
24 the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employers and/or DOES
25 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

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1 **FACTUAL ALLEGATIONS**

2 21. On or about June 2018, Employers hired Plaintiff to work as a security guard. Plaintiff
3 was a full-time, non-exempt employee, and performed all of Plaintiff's job duties satisfactorily before
4 Plaintiff was wrongfully terminated on or about November 1, 2020.

5 **WAGE AND HOUR VIOLATIONS**

6 22. At all relevant times, Plaintiff worked approximately five (5) days per week, eight (8)
7 hours per day.

8 23. From on or about June 2018 to on or about December 29, 2018, Plaintiff's hourly wage
9 rate was \$11.00; from on or about December 30, 2018 to on or about December 7, 2019, Plaintiff's hourly
10 wage rate was \$12.00; from on or about December 8, 2019 to on or about December 28, 2019, Plaintiff's
11 hourly wage rate was \$12.50; from on or about December 29, 2019 to on or about November 1, 2020,
12 Plaintiff's hour wage rate was \$13.00.

13 24. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of
14 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion
15 thereof.

16 25. Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-
17 minute meal periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff
18 worked. One or more of Plaintiff's 30-minute meal periods were interrupted approximately three (3)
19 times per week.

20 26. Furthermore, throughout Plaintiff's employment, Defendants violated Labor § 2802 by
21 failing to reimburse Plaintiff for work-related expenses. Plaintiff was not paid for using her personal cell
22 phone for work-related purposes, despite being required to report to her supervisor by phone.
23 Additionally, Plaintiff was not reimbursed for using her personal vehicle for work-related purposes,
24 despite being required to patrol the premises. Defendants did not provide Plaintiff with a cell phone or
25 patrol vehicle.

26 27. Throughout Plaintiff's employment, Plaintiff was not provided with paystubs that
27 complied with Labor Code § 226, as EMPLOYERS consistently provided incorrect and inaccurate
28 paystubs.

1 28. Plaintiff is informed and believes, and thereon alleges, that herself and other employees
2 were subject to the same violations and, therefore, are aggrieved employees within the meaning of
3 California Labor Code § 2699. Thus, Plaintiff, as an aggrieved employee, reserves her right to bring an
4 action against DEFENDANTS, on behalf of herself and other current and former employees.

5 29. *Additionally, pursuant to Huff v. Securitas Security Services USA, Inc.* (2018) 23
6 Cal.App.5th 745, as an aggrieved employee, Plaintiff may investigate and pursue claims and penalties on
7 behalf of other aggrieved employees for other violations that she was not personally “aggrieved” by

8 **FEHA AND RETALIATION UNDER THE LABOR CODE**

9 30. Throughout Plaintiff’s employment with EMPLOYERS, Plaintiff complained about the
10 unsafe working conditions she was subjected to. For example, at the height of the COVID-19 pandemic,
11 Plaintiff reported to Employers several times that some of its facilities were unsanitary and not being
12 cleaned. Employers’ failure to clean and sanitize concerned Plaintiff as she was fearful of contracting the
13 coronavirus.

14 31. Plaintiff took pictures and videos and sent them to her supervisor at AEROTEK but was
15 reprimanded and told to delete all of the photos and videos because it was ‘illegal.’ Plaintiff also
16 complained to her supervisor at a TASTEFUL SELECTIONS’.

17 32. Additionally, Plaintiff complained about TASTEFUL SELECTIONS’ practice to reseal
18 cracked crates with silicone, used to hold potatoes, instead of replacing them. These crates were stacked
19 high in an area where people, including Plaintiff, frequently passed through. Plaintiff was worried that
20 one of these crates could break and cause serious injury to herself or anyone else passing through that
21 area. Thus, she brought it to Defendants’ attention.

22 33. Despite Plaintiff’s numerous reports and evidence, Defendants did nothing to improve the
23 working conditions, they would simply advise Plaintiff to be careful.

24 34. At all relevant times, Defendants were aware of Plaintiff’s scheduled colon surgery on or
25 around November 2020, and Plaintiff continued to work until October 31, 2020.

26 35. At first, Plaintiff was told by AEROTEK that she would return to her previous position
27 once she was ready to return to work after her surgery.

36. Plaintiff at this point, had already been working for Defendants for a little over two years and had never received a complaint nor was reprimanded for her work.

37. Shortly after her medical leave, however, Plaintiff was informed by AEROTEK that CHARLES DOE ordered that AEROTEK terminate Plaintiff's employment with TASTEFUL SELECTIONS because it was not going to wait for Plaintiff to return from leave.

38. Thereafter, in a retaliatory fashion, Defendants terminated Plaintiff's employment on or about November 1, 2020.

39. Plaintiff was fifty-four (54) years of age at the time of her wrongful termination.

40. Plaintiff's termination was substantially motivated by Plaintiff's engagement in protected activities.

GENERAL ALLEGATIONS

41. At all relevant times, Defendants failed to properly engage in a good faith interactive process in an effort to properly accommodate Plaintiff's disability and/or medical condition such that Plaintiff could continue working for Defendants.

42. At all relevant times, Defendants failed to reasonably accommodate Plaintiff even though Plaintiff was able to perform the essential job duties of Plaintiff's position or another position with or without accommodations.

43. Plaintiff's termination was substantially motivated by Plaintiff's age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, request for accommodation, and/or engagement in protected activities, without any discussion of disability accommodations or any good faith attempt to engage in the interactive process with Plaintiff. Defendants' discriminatory animus is evidenced by the previously mentioned facts.

44. Defendants' conduct described herein was undertaken, authorized, and/or ratified Defendants' officers, directors and/or managing agents, including, but not limited to CHARLES DOE and those identified herein as DOES 1 through 20, who were authorized and empowered to make decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and individuals was therefore undertaken on behalf of Defendants who further had advanced knowledge of the actions and conduct of said individuals whose actions and conduct were ratified,

1 authorized, and approved by managing agents whose precise identities are unknown to Plaintiff at this
2 time and are therefore identified and designated herein as DOES 1 through 20, inclusive.

3 45. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general
4 and special damages, including severe and profound pain and emotional distress, anxiety, depression,
5 headaches, tension, and other physical ailments, as well as medical expenses, expenses for psychological
6 counseling and treatment, and past and future lost wages and benefits.

7 46. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,
8 commissions, benefits and loss or diminution of earning capacity.

9 47. Plaintiff claims general damages for emotional and mental distress and aggravation in a
10 sum in excess of the jurisdictional minimum of this Court.

11 48. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
12 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard
13 of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages
14 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this
15 Court.

16
17 **FIRST CAUSE OF ACTION**

18 **FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**

19 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

20 49. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as
21 though set forth in full herein.

22 50. At all times hereto, the FEHA was in full force and effect and was binding upon
23 Defendants and each of them.

24 51. As such term is used under FEHA, "on the bases enumerated in this part" means or
25 refers to discrimination on the bases of one or more of the protected characteristics under FEHA.

26 52. FEHA requires Defendants to refrain from discriminating against an employee on the
27 basis of age, disability and/or medical condition, real or perceived, use of or anticipated use of medical
28 leave, and to prevent discrimination and harassment on the basis of age, disability and/or medical

1 condition, real or perceived, use of or anticipated use of medical leave, and engagement in protected
2 activities from occurring.

3 53. Plaintiff was a member of multiple protected classes as a result of Plaintiff's age,
4 disability, medical leave or anticipated use of medical leave, medical condition and/or the perception
5 that Plaintiff was suffering from a disability and/or medical condition.

6 54. At all times relevant hereto, Plaintiff was performing competently in the position
7 Plaintiff held with Defendants.

8 55. Plaintiff suffered the adverse employment actions of unlawful harassment,
9 discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination,
10 failure to reinstate and/or return to work, and termination, and was harmed thereby.

11 56. Plaintiff is informed and believes that Plaintiff's age, disability and/or medical
12 condition, real and perceived, and/or some combination of these protected characteristics under
13 Government Code §12926(j) were motivating reasons and/or factors in the decisions to subject Plaintiff
14 to the aforementioned adverse employment actions.

15 57. Said conduct violates the FEHA, and such violations were a proximate cause in
16 Plaintiff's damage as stated below.

17 58. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
18 by reference.

19 59. The foregoing conduct of Defendants individually, or by and through their officers,
20 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
21 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
22 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
23 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
24 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

25 60. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
26 attorneys' fees and costs, including expert fees pursuant to the FEHA.

SECOND CAUSE OF ACTION
FOR HARASSMENT IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE

61. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as though set forth in full herein.

62. At all times hereto, the FEHA was in full force and effect and was binding upon Defendants and each of them.

63. As such term is used under FEHA, "on the bases enumerated in this part" means or refers to harassment on the bases of one or more of the protected characteristics under FEHA.

64. These laws set forth in the preceding paragraph require Defendants to refrain from harassing, or creating, or maintaining a hostile work environment against an employee based upon the employee's age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, and engagement in protected activities, as set forth hereinabove.

65. Defendants' harassing conduct was severe or pervasive, was unwelcome by Plaintiff, and a reasonable person in Plaintiff's circumstances would have considered the work environment to be hostile or abusive.

66. Defendants violated the FEHA and the public policy of the State of California which is embodied in the FEHA by creating a hostile work environment and harassing Plaintiff because of Plaintiff's age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, engagement in protected activities, and/or some combination of these protected characteristics, as set forth hereinabove.

67. The above said acts were perpetrated upon Plaintiff by a supervisor, and/or Defendants knew or should have known of the conduct but failed to take immediate and appropriate corrective action.

68. The above said acts of Defendants constitute violations of the FEHA and violations of the public policy of the State of California. Such violations were a proximate cause in Plaintiff's damage as stated below.

1 69. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
2 by reference.

3 70. The foregoing conduct of Defendants individually, or by and through their officers,
4 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
5 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
6 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
7 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
8 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

9 71. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
10 attorneys' fees and costs, including expert fees pursuant to the FEHA.

11
12 **THIRD CAUSE OF ACTION**
13 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
14 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

15 72. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as
16 though set forth in full herein.

17 73. At all times hereto, the FEHA was in full force and effect and was binding upon
18 Defendants and each of them.

19 74. These laws set forth in the preceding paragraph require Defendants to refrain from
20 retaliating against an employee for engaging in protected activity.

21 75. Plaintiff engaged in the protected activities of requesting accommodation, requesting
22 medical leave and/or exercising Plaintiff's right to medical leave, and complaining about and protesting
23 Defendants' discriminatory and harassing conduct towards Plaintiff based upon Plaintiff's age,
24 disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, and/or
25 some combination of these protected characteristics, as set forth hereinabove.

26 76. Plaintiff suffered the adverse employment actions of unlawful harassment,
27 discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination,
28 failure to reinstate and/or return to work, and termination, and was harmed thereby.

1 77. Plaintiff is informed and believes that Plaintiff's conduct of requesting accommodation,
2 requesting medical leave and/or exercising Plaintiff's right to medical leave, complaining about and
3 protesting about Defendants' discriminatory and harassing conduct, and/or some combination of these
4 factors, were motivating reasons and/or factors in the decisions to subject Plaintiff to the
5 aforementioned adverse employment actions.

6 78. Defendants violated the FEHA by retaliating against Plaintiff and terminating Plaintiff
7 for attempting to exercise Plaintiff's protected rights, as set forth hereinabove.

8 79. Plaintiff is informed and believes, and based thereon alleges, that the above acts of
9 retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or
10 at the direction of, each other Defendant and the other Managers.

11 80. The above said acts of Defendants constitute violations of the FEHA, and were a
12 proximate cause in Plaintiff's damage as stated below.

13 81. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
14 by reference.

15 82. The foregoing conduct of Defendants individually, or by and through their officers,
16 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
17 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
18 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
19 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
20 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

21 83. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
22 attorneys' fees and costs, including expert fees pursuant to the FEHA.

FOURTH CAUSE OF ACTION
FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION
IN VIOLATION OF GOV'T CODE §12940(k)
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

84. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as though set forth in full herein.

85. At all times hereto, the FEHA, including in particular Government Code §12940(k), was in full force and effect and was binding upon Defendants. This subsection imposes a duty on Defendants to take all reasonable steps necessary to prevent discrimination, harassment, and retaliation from occurring. As alleged above, Defendants violated this subsection and breached their duty by failing to take all reasonable steps necessary to prevent discrimination, harassment and retaliation from occurring.

86. The above said acts of Defendants constitute violations of the FEHA, and were a proximate cause in Plaintiff's damage as stated below.

87. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated by reference.

88. The foregoing conduct of Defendants individually, or by and through their officers, directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

89. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

FIFTH CAUSE OF ACTION
FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12945.2 ET SEQ.
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

90. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as though set forth in full herein.

91. At all times hereto, the California Family Rights Act, codified by Government Code §§12945.2, et al. ("CFRA") was in full force and effect and was binding upon Defendants and each of them. Under the CFRA, it shall be an unlawful employment practice for any covered employer to refuse to grant a request by any qualified employee to take up to a total of 12 workweeks in any 12-month period for family care and medical leave for the employee's own serious medical condition. Under the CFRA, it is also an unlawful employment practice for a covered employer to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual because the individual has exercised or attempted to exercise his or her right to take protected family care and medical leave under the CFRA. Under the CFRA, it is also an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under the CFRA.

92. At all times hereto, Plaintiff was an employee eligible for CFRA leave. At all times hereto, Plaintiff had been employed by Defendants for more than 12 months, and had worked at least 1250 hours during the previous 12 months. Further, Defendants employed at least 5 employees within 75 miles of the worksite at which Plaintiff worked.

93. Defendants violated the CFRA by failing and/or refusing to provide Plaintiff with the family care and medical leave that Plaintiff requested.

94. Defendants violated the CFRA by retaliating against Plaintiff for exercising or attempting to exercise Plaintiff's right to protected medical leave under the CFRA.

95. Defendants violated the CFRA by interfering with or restraining Plaintiff from exercising or attempting to exercise Plaintiff's right to protected medical leave under the CFRA, by failing to give Plaintiff notice of Plaintiff's rights under the CFRA, including the right to take protected leave.

1 96. Plaintiff suffered the adverse employment actions of unlawful harassment,
2 discrimination and termination.

3 97. Plaintiff is informed and believes that exercising or attempting to exercise Plaintiff's
4 right to medical leave was a motivating reason and/or factor in the decisions to subject Plaintiff to the
5 aforementioned adverse employment actions.

6 98. The above said acts of Defendants constitute violations of the CFRA, and were a
7 proximate cause in Plaintiff's damage as stated below.

8 99. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
9 by reference.

10 100. The foregoing conduct of Defendants individually, or by and through their officers,
11 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
12 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
13 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
14 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
15 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

16 101. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
17 attorneys' fees and costs, including expert fees pursuant to the FEHA.

18
19 **SIXTH CAUSE OF ACTION**
20 **FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**
21 **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
22 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

23 102. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as
24 though set forth in full herein.

25 103. At all times hereto, the FEHA, including in particular Government Code §12940(m),
26 was in full force and effect and was binding upon Defendants. This subsection imposes an ongoing
27 duty on Defendants to make reasonable accommodation for the known physical disability and/or
28 medical condition of an employee.

1 104. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
2 in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a disability, a
3 physical condition that affected Plaintiff's major life activities, and medical condition of which
4 Defendants had both actual and constructive knowledge.

5 105. At all times herein, Plaintiff was willing and able to perform the duties and functions of
6 the position in which Plaintiff was employed, or could have performed the duties and functions of that
7 position with reasonable accommodations. At no time would the performance of the functions of the
8 employment position, with a reasonable accommodation for Plaintiff's disability or medical condition,
9 actual or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's
10 health or safety. Accommodation of Plaintiff's disability or disability or medical condition, real or
11 perceived by Defendants, would not have imposed an undue hardship on Defendants. Defendants
12 failed and refused to accommodate Plaintiff's disability, failed to engage in the interactive process with
13 Plaintiff and continue to violate this obligation, up to and including the date of Plaintiff's termination
14 or, if Defendant contends Plaintiff was never terminated, through the present and ongoing.

15 106. The above said acts of Defendants constitute violations of the FEHA, and were a
16 proximate cause in Plaintiff's damage as stated below.

17 107. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
18 by reference.

19 108. The foregoing conduct of Defendants individually, and/or by and through their officers,
20 directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
21 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
22 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
23 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
24 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

25 109. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
26 attorneys' fees and costs, including expert fees pursuant to the FEHA.

SEVENTH CAUSE OF ACTION
FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS
IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

110. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as though set forth in full herein.

111. At all times hereto, the FEHA, including in particular Government Code §12940(n), was in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on Defendants to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee with a known physical disability or known medical condition and/or becoming aware of the employee's need for accommodation.

112. At all relevant times, Plaintiff was a member of a protected class within the meaning of, in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a physical disability that affected Plaintiff's major life activities, and medical condition of which Defendants had both actual and constructive knowledge.

113. Plaintiff reported the disability to Defendants and requested accommodations, in the form of time off, triggering Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein, Defendants failed and refused to do so. Thereafter, despite Defendants continuing obligation to engage in the interactive process with Plaintiff, despite Plaintiff's submission of a doctors' notes identifying Plaintiff's condition and Plaintiff's desire to continue working in some capacity, Defendants failed and refused to have any dialogue with Plaintiff whatsoever, on any of these occasions, and Defendants violated, and continued to violate this obligation up to and including the date of Plaintiff's termination or, if Defendant contends Plaintiff was never terminated, through the present and ongoing.

114. The above said acts of Defendants constitute violations of the FEHA, and were a proximate cause in Plaintiff's damage as stated below.

1 115. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
2 by reference.

3 116. The foregoing conduct of Defendants individually, and/or by and through their officers,
4 directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
5 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
6 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
7 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
8 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

9 117. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
10 attorneys' fees and costs, including expert fees pursuant to the FEHA.

11
12 **EIGHTH CAUSE OF ACTION**
13 **FOR DECLARATORY JUDGMENT**
14 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

15 118. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 117, inclusive,
16 as though set forth in full herein.

17 119. Government Code §12920 sets forth the public policy of the State of California as
18 follows:

19 It is hereby declared as the public policy of this state that it is necessary to
20 protect and safeguard the right and opportunity of all persons to seek,
21 obtain, and hold employment without discrimination or abridgment on
22 account of race, religious creed, color, national origin, ancestry, physical
23 disability, mental disability, medical condition, genetic information,
24 marital status, sex, gender, gender identity, gender expression, age, or
25 sexual orientation.

26 It is recognized that the practice of denying employment opportunity and
27 discriminating in the terms of employment for these reasons foments
28 domestic strife and unrest, deprives the state of the fullest utilization of its
29 capacities for development and advancement, and substantially and
30 adversely affects the interests of employees, employers, and the public in
31 general.

32 Further, the practice of discrimination because of race, color, religion,
33 sex, gender, gender identity, gender expression, sexual orientation,
34 marital status, national origin, ancestry, familial status, source of income,
35 disability, or genetic information in housing accommodations is declared
36 to be against public policy.

1 It is the purpose of this part to provide effective remedies that will
2 eliminate these discriminatory practices.

3 This part shall be deemed an exercise of the police power of the state for
4 the protection of the welfare, health, and peace of the people of this state.

5 120. Government Code §12920.5 embodies the intent of the California legislature and states:

6 In order to eliminate discrimination, it is necessary to provide effective
7 remedies that will both prevent and deter unlawful employment practices
8 and redress the adverse effects of those practices on aggrieved persons.
9 To that end, this part shall be deemed an exercise of the Legislature's
10 authority pursuant to Section 1 of Article XIV of the California
11 Constitution.

12 121. Moreover, Government Code §12921, subdivision (a) says in pertinent part:

13 The opportunity to seek, obtain, and hold employment without
14 discrimination because of race, religious creed, color, national origin,
15 ancestry, physical disability, mental disability, medical condition, genetic
16 information, marital status, sex, gender, gender identity, gender
17 expression, age, or sexual orientation is hereby recognized as and
18 declared to be a civil right.

19 122. An actual controversy has arisen and now exists between Plaintiff and Defendants
20 concerning their respective rights and duties as it is believed that Defendants may allege that they did
21 not discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's
22 age, disability and/or perceived disability, medical condition or perceived medical condition,
23 engagement in protected activities, and/or some combination of these protected characteristics.
24 Plaintiff contends that Defendants did discriminate and retaliate against Plaintiff on the basis of
25 Plaintiff's age, disability and/or perceived disability, medical condition or perceived medical condition,
26 engagement in protected activities, and/or some combination of these protected characteristics; and that
27 Plaintiff was retaliated against and, ultimately wrongfully terminated as a result of Plaintiff's age,
28 disability and/or medical condition, real or perceived, use of or anticipated use of medical leave,
engagement in protected activities, and/or some combination of these protected characteristics.
Plaintiff is informed and believes, and on that basis alleges, that Defendants shall dispute Plaintiff's
contentions.

123. Pursuant to Code of Civil Procedure §1060, Plaintiff desires a judicial determination of
Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of

1 Plaintiff's age, disability and/or medical condition, real or perceived, use of or anticipated use of
2 medical leave, engagement in protected activities, and/or some combination of these protected
3 characteristics.

4 124. Pursuant to Code of Civil Procedure §1060, Plaintiff seeks a judicial determination of
5 Plaintiff's rights and duties, and a declaration that Plaintiff's age, disability and/or medical condition,
6 real or perceived, use of or anticipated use of medical leave, engagement in protected activities, and/or
7 some combination of these protected characteristics was a substantial motivating factor in the decision
8 to subject Plaintiff to the aforementioned adverse employment actions.

9 125. A judicial declaration is necessary and appropriate at this time under the circumstances
10 in order that Plaintiff, for Plaintiff and on behalf of employees in the State of California and in
11 conformity with the public policy of the State, obtain a judicial declaration of the wrongdoing of
12 Defendants and to condemn such discriminatory employment policies or practices prospectively.
13 *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203.

14 126. A judicial declaration is necessary and appropriate at this time such that Defendants
15 may also be aware of their obligations under the law to not engage in discriminatory practices and to
16 not violate the law in the future.

17 127. Government Code §12965(b) provides that an aggrieved party, such as the Plaintiff
18 herein, may be awarded reasonable attorney's fees and costs: "In civil actions brought under this
19 section, the court, in its discretion, may award to the prevailing party, including the department,
20 reasonable attorney's fees and costs, including expert witness fees." Such fees and costs expended by
21 an aggrieved party may be awarded for the purpose of redressing, preventing, or deterring
22 discrimination and harassment.

1 **NINTH CAUSE OF ACTION**

2 **RETALIATION**

3 **LABOR CODE §98.6**

4 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

5 128. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
6 though set forth in full herein.

7 129. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against an
8 employee for political activities; for complaining that he or she is owed unpaid wages, for
9 whistleblowing; for assigning wage claims to the Labor Commissioner resulting from demotion,
10 suspension, or discharge for lawful conduct occurring during nonworking hours away from employer's
11 premises; for filing a complaint with the Labor Commissioner or testifying in such proceedings; for
12 initiating proceedings against the employer to collect civil penalties under the "Labor Code Private
13 Attorneys General Act;" and for exercising "any rights afforded him or her" under the Labor Code. Thus,
14 Section 98.6 prohibits an employer from discharging or in any manner discriminating or retaliating
15 against an employee who, among other things, has exercised her or her rights under that Chapter,
16 including the right to take rest breaks, and/or made a written or oral complaint that he or she is owed
17 unpaid wages. An employee who has been discharged or retaliated against in violation of Labor Code
18 §98.6 is entitled to recovery of a civil penalty against the employer in an amount not exceeding ten
19 thousand dollars (\$10,000.00) for each violation of that section.

20 130. Plaintiff is informed and believe, and based thereupon allege, that Plaintiff was terminated
21 from Plaintiff's employment with Defendants as a result of Plaintiff's complaints about the unsanitary
22 and unsafe working conditions, Plaintiff was subjected to. Defendants' retaliatory animus is evidenced
23 by, among other things, the following facts: Plaintiff worked for Defendants for two (2) years without
24 issues. The only time Plaintiff has been reprimanded at work was for taking pictures of her job site to
25 show her employer the working conditions she was complaining about. Despite this, Defendants used the
26 first opportunity it had to terminate Plaintiff as she was going on leave for colon surgery.

27 131. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
28 Defendants, and Defendants' officers and/or managing agents, including CHARLES DOE and those

1 identified herein as DOES 1-20, who were authorized and empowered to make decisions that reflect
2 and/or create policy for Defendants. The aforementioned conduct of said managing agents and
3 individuals was therefore undertaken on behalf of Defendants. Defendants further had advanced
4 knowledge of the actions and conduct of said individuals whose actions and conduct were ratified,
5 authorized, and approved by managing agents whose precise identities are unknown to Plaintiff at this
6 time and are therefore identified and designated herein as DOES 1-20, inclusive.

7 132. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
8 by reference.

9 133. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
10 \$10,000.00 for Defendants' violations of Labor Code § 98.6.

11 134. Because the acts taken toward Plaintiff were carried out by managerial employees acting
12 in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and
13 in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against
14 Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

15
16 **TENTH CAUSE OF ACTION**

17 **FOR RETALIATION**

18 **IN VIOLATION OF LABOR CODE §§ 1102.5, 1102.6 6310**

19 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

20 135. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though
21 set forth in full herein.

22 136. At all relevant times, Labor Code §1102.5(a) was in full force and effect, and was
23 binding on Defendants. This law prohibits an employer, or any person acting on behalf of the employer,
24 from discharging an employee or in any manner discriminating or retaliating against, or taking any
25 adverse action against, an employee because, among other things, the employee disclosed information
26 to a government or law enforcement agency, or to a person with authority over the employee or another
27 employee who has the authority to investigate, discover, or correct the violation or noncompliance, if
28 the employee has reasonable cause to believe that the information discloses a violation of state or

1 federal statute, or violation of or noncompliance with a local, state, or federal rule or regulation,
2 regardless of whether disclosing the information is part of the employee's job duties. Pursuant to Labor
3 Code §1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability
4 company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of
5 this section.

6 137. Plaintiff reported suspected violations of the Code of Federal Regulations to Plaintiff's
7 supervisors several times. Plaintiff complained about unsafe conditions and took photos and videos of
8 the hazardous and unsanitary working conditions to AEROTEK and TASTEFUL SELECTIONS.
9 Employers would simply tell Plaintiff to be careful.

10 138. Defendants subjected Plaintiff to the adverse employment action, including without
11 limitation, termination because Plaintiff reported the suspected violations of the Code of Federal
12 Regulations to Plaintiff's supervisors.

13 139. Plaintiff's reports of these violations were a motivating and contributing factor for the
14 adverse employment actions by Defendants against Plaintiff.

15 140. Said conduct violates Labor Code Labor Code §1102.5 and Labor Code §1102.6, and
16 such violations were a proximate cause in Plaintiff's damages as hereinabove stated.

17 141. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
18 by reference.

19 142. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
20 \$10,000.00 for Defendants' violations of Labor Code § 1102.5.

21 143. The foregoing conduct of Defendants individually, or by and through their managing
22 agents, was intended by Defendants to cause injury to Plaintiff, or was despicable conduct carried on
23 by Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to
24 cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice,
25 oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an
26 amount appropriate to punish or make an example of Defendants.

ELEVENTH CAUSE OF ACTION
FOR WRONGFUL TERMINATION
IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

144. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 44, inclusive, as though set forth in full herein.

145. At all relevant times mentioned in this complaint, the FEHA was in full force and effect and was binding on Defendants. This law requires Defendants to refrain, among other things, from discriminating against any employee on the basis of age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, and from retaliating against any employee who engages in protected activity.

146. At all times mentioned in this complaint, it was a fundamental policy of the State of California that Defendants cannot discriminate and/or retaliate against any employee on the basis of age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, engagement in protected activities, and/or some combination of these protected characteristics.

147. Plaintiff believes and thereon alleges that Plaintiff's age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, engagement in protected activities, and/or some combination of these protected characteristics, were factors in Defendants' conduct as alleged hereinabove.

148. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's employment on the basis of age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, Plaintiff's complaining of harassment and discrimination due to these protected classes, Plaintiff's engagement in protected activity, and/or some combination of these factors, were a proximate cause in Plaintiff's damages as stated below.

149. The above said acts of Defendants constitute violations of the Government Code and the public policy of the State of California embodied therein as set forth above. Defendants violated these laws by discriminating and retaliating against Plaintiff and terminating Plaintiff's employment in retaliation for exercise of protected rights.

1 150. At all times mentioned in this complaint, it was a fundamental policy of the State of
2 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of
3 use of CFRA leave or in violation of FEHA.

4 151. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's use of
5 CFRA leave, and/or Plaintiff's status as a protected member of the class under FEHA was a proximate
6 cause in Plaintiff's damages as stated below.

7 152. At all relevant times mentioned in this complaint, Labor Code §98.6 was in full force
8 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against
9 employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor
10 Code. Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of
11 individual employees and job applicants who could not otherwise afford to protect themselves from
12 violations of the Labor Code.

13 153. At all relevant times mentioned in this complaint, Labor Code §1102.5 was in full force
14 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against
15 employees who disclose reasonable suspicions of illegal activity or conduct by their employer to a
16 government or law enforcement agency, or to employer itself. Labor Code §1102.5 reflects the State's
17 broad public policy interest in encouraging workplace "whistleblowers," who may without fear of
18 retaliation report concerns regarding an employer's suspected illegal conduct, irrespective of whether
19 the reporting is made to governmental agencies or to the employer itself, and irrespective of whether
20 the employee's suspicions are correct that the challenged conduct actually violates some law. Indeed,
21 the law in California is that an employee's good faith but mistaken belief in the illegality of his co-
22 workers', supervisor's, and employer's conduct is protected from employer retaliation in the whistle-
23 blowing context.

24 154. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
25 engagement in protected activities under Labor Code §§ 98.6 and/or 1102.5 was a proximate cause in
26 Plaintiff's damages as stated below.

27 155. At all relevant times mentioned in this complaint, Labor Code §§923, 6310, and 6400, et
28 seq., were in full force and effect and were binding on Defendants.

1 156. Labor Code §6310 declares, in pertinent part, that no person shall discharge, or in any
2 manner discriminate against an employee, because the employee has made any oral or written complaint
3 to his employer with reference to employee safety or health. The public policy underlying Labor Code
4 §6310 is not merely to aid the reporting of actual safety violations; it is to prevent retaliation against those
5 who in good faith report working conditions they believe to be unsafe.

6 157. Labor Code §§6400, et seq., require that every employer shall furnish employment and a
7 place of employment that is safe and healthful for employees.

8 158. When read together, the foregoing statutes establish a fundamental public policy of the
9 State of California requiring employers to provide a safe and secure workplace, including a requirement
10 that an employer take reasonable steps to address credible threats of violence in the workplace.

11 159. Plaintiff believes and thereon alleges that his complaints regarding the safety and health
12 of the place of employment furnished by Defendants were factors in Defendants' decision to retaliate
13 against Plaintiff by refusing to investigate Plaintiff's complaints of harassment and discrimination, by
14 failing to prevent harassment and discrimination, defaming Plaintiff, cutting Plaintiff's hours and pay,
15 and by terminating Plaintiff, as alleged hereinabove.

16 160. Such discrimination and retaliation against Plaintiff who, in good faith, reported working
17 conditions he believed to be unsafe were a proximate cause in Plaintiff's damages as stated below.

18 161. The damage allegations of Paragraphs 45 through 48, inclusive, are herein incorporated
19 by reference.

20 162. The foregoing conduct of Defendants individually, or by and through their officers,
21 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
22 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
23 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
24 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
25 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

TWELFTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE A SAFE AND HEALTHFUL PLACE OF EMPLOYMENT
LABOR CODE §§ 6300, 6400, et seq.; & 6325.5
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

163. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

164. As set forth above, Defendants failed to provide Plaintiff with a safe and healthful place of employment.

165. Defendants, by and through the acts of its managers, agents, employees, failed to comply with safety and health standards, thereby endangering Plaintiff's health and safety.

166. The unlawful conduct of Defendants, as alleged above, directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages including but not limited to shock, embarrassment, physical distress and injury, humiliation, emotional distress, stress and other damages to be proven at trial.

167. Defendants committed the acts herein alleged maliciously, fraudulently, and oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover punitive damages from Defendant in an amount according to proof.

168. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors and/or managing agents of Defendants who were acting at all times relevant to this Complaint within the scope and course of their employment. Defendants, are therefore, liable for the conduct of said agents and employees under the doctrine of strict liability and respondeat superior.

169. As a result of the unlawful conduct of Defendants, Plaintiff was forced to retain an attorney in order to protect her rights. Accordingly, Plaintiff seeks the reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at trial.

THIRTEENTH CAUSE OF ACTION
FOR FAILURE TO PAY WAGES DUE
LABOR CODE §§201, 1182.12, 1194, 1194.2
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

170. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

171. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and required by 8 Code of Regulations §11130, as set forth hereinabove. As alleged herein, Defendants routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

172. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8 Code of Regulations §11130, and Industrial Welfare Commission Order No. 13-2001.

173. Plaintiff has been deprived of Plaintiff's rightfully earned compensation as a direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to recover such amounts, plus interest thereon, attorneys' fees and costs.

174. Labor Code §558(a) provides that any person acting on behalf of an employer who violates, or causes to be violated, any statute or provision regulating hours and days of work in any order of the Industrial Welfare Commission pay a civil penalty in the amount of \$50 for each underpaid employee for each pay period in which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting on behalf of an employer is liable in the amount of \$100 for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

175. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated above based upon Defendants' underpayment of minimum and overtime wages. Within the one year immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code §558 on 52 pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$5,150.00.

FOURTEENTH CAUSE OF ACTION
FOR FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES
LABOR CODE §2802
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

176. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

177. Pursuant to Labor Code §450(a), “no employer...may compel or coerce any employee...to patronize his or her employer, or any other person, in the purchase of any thing of value.”

178. Pursuant to Labor Code §2802(a), “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.”

179. Plaintiff was required by Defendants to expend Plaintiff’s personal funds because of the duties required by Defendants, as alleged hereinabove.

180. Pursuant to Labor Code §2802(a), Defendants are legally required to reimburse Plaintiff for all necessary expenditures incurred in the performance of Plaintiff’s duties.

181. Defendants have failed and refused to reimburse Plaintiff for all necessary business expenditures, including for using her personal cellphone and vehicle for business related purposes.

182. As a proximate result of the aforementioned violations of Labor Code §§450(a) and 2502(a), Plaintiff is entitled to recover from Defendants the unpaid balance of all of the necessary aforementioned expenditures.

183. As a proximate result of the aforementioned violations of Labor Code §§450(a) and 2502(a), Plaintiff has been damaged in an amount according to proof at the time of trial, but estimated as follows: Plaintiff was required to use her cellphone throughout her employment for work related purposes, approximately 29 months. In the four years preceding this action, therefore, Defendants have at the very least failed to reimburse Plaintiff for her cellphone use in the amount of approximately \$1,450.00. Additionally, Defendants have failed to reimburse Plaintiff for her vehicle use in an amount according to proof.

1 184. Pursuant to Labor Code §2802(b), Plaintiff requests that the Court award interest at the
2 same rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the necessary
3 expenditure or loss.

4 185. Pursuant to Labor Code §2802(c), Plaintiff requests that the Court award Plaintiff
5 reasonable attorneys' fees and costs incurred in this action.

6
7 **FIFTEENTH CAUSE OF ACTION**
8 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS**
9 **LABOR CODE §§226.7, 512**
10 **AGAINST EMPLOYERS DOES 1-20, INCLUSIVE**

11 186. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
12 though set forth in full herein.

13 187. Labor Code §512 requires employers to provide every employee with an uninterrupted
14 meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

15 188. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted
16 rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion
17 thereof.

18 189. In the four years last past, Plaintiff regularly worked in excess of five hours per day, and
19 was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each
20 day of work. In the four years last past, Plaintiff regularly worked in excess of 10 hours per day, and was
21 thereby entitled to take uninterrupted two 30-minute meal periods and two 10-minute rest periods on each
22 day of work.

23 190. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
24 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the
25 applicable sections of 8 Code of Regulations §11130 and Industrial Welfare Commission Order No. 13-
26 2001, as follows:

27 a. From approximately June 2018 to November 1, 2020, Plaintiff's statutory 30-
28 minute meal periods were missed, interrupted or cut short approximately 3 times per week for 126 weeks,

1 or on approximately 378 days. During this same time period, Plaintiff was deprived of one or more of
2 Plaintiff's statutory 10-minute rest periods on approximately 630 days (5 days per week for 126 weeks).

3 191. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8
4 Code of Regulations §11130 and Industrial Welfare Commission Order No. 13-2001. Consequently,
5 Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage,
6 whichever is greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of
7 pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day
8 that Plaintiff was denied such rest periods, calculated as follows:

9 a. From approximately June 2018 to December 29, 2018, Defendants failed to
10 provide Plaintiff with an uninterrupted statutory meal period on approximately 90 separate days.
11 Consequently, Plaintiff is owed one hour of pay at \$11.00 for each day, or \$990.00, plus interest thereon,
12 for unpaid missed or interrupted meal periods. During this same time period, Defendants failed to provide
13 Plaintiff with the statutory rest period on approximately 150 separate days. Consequently, Plaintiff is
14 owed one hour of pay at \$11.00 for each day, or \$1,650.00, plus interest thereon, for unpaid rest periods.
15 Thus, Plaintiff is owed a total of \$2,640.00, plus interest thereon, for unpaid meal and rest periods for
16 this time period.

17 b. From approximately December 30, 2018 to December 7, 2019, Defendants failed
18 to provide Plaintiff with an uninterrupted statutory meal period on approximately 147 separate days.
19 Consequently, Plaintiff is owed one hour of pay at \$12.00 for each day, or \$1,764.00, plus interest
20 thereon, for unpaid missed or interrupted meal periods. During this same time period, Defendants failed
21 to provide Plaintiff with the statutory rest period on approximately 245 separate days. Consequently,
22 Plaintiff is owed one hour of pay at \$12.00 for each day, or \$2,940.00, plus interest thereon, for unpaid
23 rest periods. Thus, Plaintiff is owed a total of \$4,704.00, plus interest thereon, for unpaid meal and rest
24 periods for this time period.

25 c. From approximately December 8, 2019 to December 28, 2019, Defendants failed
26 to provide Plaintiff with an uninterrupted statutory meal period on approximately 9 separate days.
27 Consequently, Plaintiff is owed one hour of pay at \$12.50 for each day, or \$112.50, plus interest thereon,
28 for unpaid missed or interrupted meal periods. During this same time period, Defendants failed to provide

1 Plaintiff with the statutory rest period on approximately 15 separate days. Consequently, Plaintiff is owed
2 one hour of pay at \$12.50 for each day, or \$187.50, plus interest thereon, for unpaid rest periods. Thus,
3 Plaintiff is owed a total of \$300.00, plus interest thereon, for unpaid meal and rest periods for this time
4 period.

5 d. From approximately December 29, 2019 to November 1, 2020, Defendants failed
6 to provide Plaintiff with an uninterrupted statutory meal period on approximately 132 separate days.
7 Consequently, Plaintiff is owed one hour of pay at \$13.50 for each day, or \$1,782.00, plus interest
8 thereon, for unpaid missed or interrupted meal periods. During this same time period, Defendants failed
9 to provide Plaintiff with the statutory rest period on approximately 220 separate days. Consequently,
10 Plaintiff is owed one hour of pay at \$13.50 for each day, or \$2,970.00, plus interest thereon, for unpaid
11 rest periods. Thus, Plaintiff is owed a total of \$4,752.00, plus interest thereon, for unpaid meal and rest
12 periods for this time period.

13 192. Thus, the total missed meal and rest period compensation owing Plaintiff for this time
14 period is \$12,396.00.

15 193. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for meal and rest
16 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

17 194. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
18 such amounts in the combined amount of \$12,396.00, pursuant to Labor Code §226.7(b), plus interest
19 thereon and costs of suit.

20
21 **SIXTEENTH CAUSE OF ACTION**
22 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
23 **LABOR CODE §§226 ET SEQ.**
24 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

25 195. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
26 though set forth in full herein.

27 196. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
28 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,

1 total deductions and net wages earned. An employer who violates these code sections is liable to its
2 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the
3 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay
4 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is
5 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement
6 at all.

7 197. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
8 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation
9 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

10 198. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
11 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
12 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
13 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
14 by Plaintiff.

15 199. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

16 200. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
17 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
18 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
19 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
20 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
21 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
22 meal period, and rest period wages. For the time periods that Plaintiff was not provided with paystubs at
23 all, Plaintiff's aforementioned injuries are presumed as a matter of law.

24 201. Plaintiff was paid on a weekly basis, and therefore Defendants violated Labor Code §226
25 approximately 52 times during the one year preceding the filing of this complaint. Consequently,
26 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
27 amount of \$4,000.00, whichever is greater.

1 202. In addition thereto, for Defendant's 52 violations, Defendants are penalized \$50.00 for the
2 first violation, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor
3 Code §226.3 penalties of \$5,150.00.

4 203. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
5 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
6 applicable provisions, as well as attorneys' fees and costs.

7
8 **SEVENTEENTH CAUSE OF ACTION**

9 **FOR WAITING TIME PENALTIES**

10 **LABOR CODE §§201-203**

11 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

12 204. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
13 though set forth in full herein.

14 205. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
15 other compensation due immediately upon termination or within 72 hours of resignation, as required.
16 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest
17 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
18 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
19 203.

20 206. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
21 203.

22 207. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
23 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
24 more than \$3,240.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
25 \$108.00, inclusive of overtime.

26 208. Based on Defendants' conduct as alleged herein, Defendants are liable for \$3,240.00 in
27 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
28 fees and costs.

EIGHTEENTH CAUSE OF ACTION
FOR PRIVATE ATTORNEY GENERAL ACT

LABOR CODE §2699
AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE

209. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

210. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties for Defendants' violations of the California Labor Code.

211. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as previously pleaded in this Complaint.

212. On March 25, 2021, more than 63 calendar days before filing this Complaint, Plaintiff provided written notice by certified mail to the Labor and Workforce Development Agency and to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1174, 1194, 1194.2, and 1197, each of which is enumerated among the serious violations set forth in Labor Code §2699.5.

213. As of the filing of this Complaint, Plaintiff has not received any response from the Labor and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently, Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

214. As a direct and proximate result of Defendants' California Labor Code violations as set forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

215. These penalties recoverable for Plaintiff alone totals approximately \$10,300.00. Plaintiff may also seek these same penalties on behalf of all other aggrieved employees.

216. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the recovered civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

PENALTIES

217. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) (or any of its departments, divisions, commissions, board agency or employees), such civil penalties may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees) and Labor Code §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which a civil penalty is specifically provided), the aggrieved employees seek recover of all applicable civil penalties, as follows:

a. As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor Code except for those for which a civil penalty is specifically provided, in the amount of one hundred dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation; and

b. As applicable, civil penalties under Labor Code §98.6 (in addition to and entirely independent and apart from any other penalty provided for in the Labor Code), for violations of Labor Code §98.6, in the amount of \$10,000 per aggrieved employee for each violation of this section, to be awarded to the employee or employees who suffered the violation;

c. As applicable, civil penalties under Labor Code §203 (in addition to and entirely independent and apart from any other penalty provided in the Labor Code), for any aggrieved employee who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor Code §§201, 201.1, 201.5, 202, and 205, in the amount of a civil penalty of one day of pay, at the same rate, for each day that he or she was paid late, until payment was/is made, up to a maximum of thirty (30) days;

1 d. As applicable, Labor Code §204 (in addition to an entirely independent and apart
2 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
3 to pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial
4 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25
5 percent of the amount unlawfully withheld;

6 e. For civil penalties under Labor Code §§ 210 and 225.5, in addition to and entirely
7 independent and apart from any other penalty provided in the Labor Code, for each violation of Labor
8 Code §§204, 221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
9 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation or for
10 each willful or intentional violation, in addition to 25 percent of the amount unlawfully withheld;

11 f. As applicable, civil penalties under Labor Code §1102.5 (in addition to and
12 entirely independent and apart from any other penalty provided in the Labor Code) for violations of Labor
13 Code §1102.5, in the amount of \$10,000 for each aggrieved employee for each violation; and

14 g. As applicable, any and all additional applicable civil penalties and sums as
15 provided by the Labor Code and/or other relevant statutes.

16 218. In addition, Plaintiff and the aggrieved employees seek and are entitled to seventy-five
17 percent (75%) of applicable penalties obtained under Labor Code §2699 to be allocated to the LWDA,
18 for education of employers and employees about their rights and responsibilities under the Labor Code,
19 and twenty-five percent (25%) to the aggrieved employees.

20 219. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
21 recovery of pre-judgment interest on all amounts recovered herein.

22 220. As a direct and proximate result of Defendants ' California Labor Code violations as set
23 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
24 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
25 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
26 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
27 provide for a penalty, §§203, 210, 225.5, 226.3, 226.7, 510, 512, and 558.

1 221. Further, Plaintiffs are entitled; to recover reasonable attorneys' fees and costs pursuant to
2 Labor Code §§2699(g)(1) and any other applicable statute

3
4 **NINETEENTH CAUSE OF ACTION**

5 **FOR UNFAIR COMPETITION**

6 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

7 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

8 222. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
9 though set forth in full herein.

10 223. Defendants' violations of 8 Code of Regulations §11130, Industrial Welfare Commission
11 Order No. 13-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5,
12 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay
13 minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants'
14 failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation
15 due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete
16 and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business
17 & Professions Code §§17200, et seq.

18 224. As a result of Defendants' unfair business practices, Defendants have reaped unfair
19 benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be
20 made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

21 225. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent
22 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore
23 to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from
24 Plaintiff.

25
26 **PRAYER FOR RELIEF**

27 **WHEREFORE**, Plaintiff seeks judgment against Defendants and each of them, in an amount
28 according to proof but estimated to be no less than \$1,000,000 as follows:

1 1. For a money judgment representing compensatory damages including lost wages,
2 earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,
3 together with interest on these amounts; for other special damages; and for general damages for mental
4 pain and anguish and emotional distress and loss of earning capacity;

5 2. For civil penalties pursuant to Labor Code §98.6 in the amount of no less than \$10,000.00;

6 3. For civil penalties pursuant to Labor Code § 1102.5 in the amount of no less than
7 \$10,000.00;

8 4. For penalties pursuant to Labor Code §226.8(b)-(c), in the amount of no less than \$25,000;

9 5. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less
10 than \$5,150.00;

11 6. For reimbursement of necessary business expenses pursuant to Labor Code §2802, in the
12 amount according to proof but no less than \$1,450.00, plus interest for cellphone use plus the amount
13 according to proof for Plaintiff's vehicle use;

14 7. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512,
15 in the amount of no less than \$12,396.00;

16 8. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

17 9. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no
18 less than \$5,150.00;

19 10. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
20 than \$3,240.00;

21 11. For statutory penalties pursuant to Labor Code §2699(f), in the amount of no less than
22 \$10,200.00 on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants' aggrieved
23 employees, estimated to exceed \$500,000.00;

24 12. For civil penalties under Labor Code §2802, in addition to and entirely independent and
25 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
26 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
27 each subsequent violation;

1 13. For civil penalties under Labor Code §§ 210 and 225.5, in addition to and entirely
2 independent and apart from any other penalty provided in the Labor Code, for each violation of Labor
3 Code §§204, 221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
4 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation or for each
5 willful or intentional violation, in addition to 25 percent of the amount unlawfully withheld;

6 14. For civil penalties under Labor Code §226.3, in addition to and entirely independent and
7 apart from any other penalty provided in the Labor Code, in the amount of \$250 for each aggrieved
8 employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for
9 each subsequent violation;

10 15. For civil penalties under Labor Code §§226.7 and 512, in addition to and entirely
11 independent and apart from any other penalty provided in the Labor Code, in the amount of \$250 for each
12 aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay
13 period for each subsequent violation;

14 16. For civil penalties under Labor Code §§203 and/or 256, in addition to and entirely
15 independent and apart from any other penalty provided in the Labor Code, in the amount of one day of
16 pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination,
17 until payment was/is made, up to a maximum of thirty (30) days;

18 17. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
19 any other applicable statute; and

20 18. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
21 Labor Code §1194(a), and/or Civil Code §3287;

22 19. Pursuant to Government Code section 12965, subdivision (b), Plaintiff requests a
23 reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA, the Labor
24 Code, Civil Code section 1021.5, and/or any other applicable law;

25 20. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
26 Labor Code §1194(a), and/or Civil Code §3287;

27 21. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
28 any other applicable statute; and

1 22. Treble exemplary and punitive damages according to proof;

2 23. For prejudgment interest on each of the foregoing at the legal rate from the date the
3 obligation became due through the date of judgment in this matter.

4 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
5 amount according to proof, as follows:

6 24. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
7 condemning Defendants' discriminatory practices;

8 25. For injunctive relief barring Defendants' discriminatory employment policies and
9 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

10 26. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
11 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

12 27. For injunctive relief compelling Defendants to report to federal and state authorities wages
13 earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer matching
14 funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all
15 this in an amount according to the proof;

16 28. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful
17 conduct, misclassification of Plaintiff as an independent contractor, and failure to pay wages and other
18 compensation in accordance with the law;

19 29. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
20 Code and/or any other basis;

21 30. For post-judgment interest; and

22 31. For any other relief that is just and proper.

1 DATED: February 22, 2022

GUERRA & CASILLAS LLP

2
3 By:



Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
MARIA ALVAREZ

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6
7
8 **JURY TRIAL DEMANDED**

9 Plaintiff demands trial of all issues by jury.

10 DATED: February 22, 2022

GUERRA & CASILLAS LLP

11
12 By:



Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
MARIA ALVAREZ