

1 by defendant Boy Scouts of America and Sequoia Council (“Defendants”) as non-exempt
2 employees within the State of California within the applicable class period. Representative
3 Plaintiff also brings claims as an individual against her supervisor, John Richers (“Defendant
4 Richers”). Boy Scouts of America, Sequoia Council, and John Richers will be referred to,
5 collectively, as “Defendants”.

6 2. For the class allegations, the period is designated as the time from November 4,
7 2015 through trial, based upon the allegation that the violations of California’s wage and hour
8 laws, as described more fully below, have been ongoing throughout that time.

9 3. During the class period, Defendant has had a consistent policy of (1) unlawfully
10 denying Representative Plaintiff and Class Members statutorily-mandated meal and rest periods,
11 (2) willfully failing to provide Representative Plaintiff and Class Members with accurate
12 semimonthly itemized wage statements reflecting the total number of hours each worked, the
13 applicable deductions, and the applicable hourly rates in effect during the pay period and (3)
14 willfully failing to pay compensation in a prompt and timely manner to Representative Plaintiff
15 and those Class Members whose employment with Defendant has terminated.

16 4. Defendant operates a nationwide operation facilitating youth activities and related
17 donations within California for which Representative Plaintiff worked as a non-exempt employee.
18 The Representative Plaintiff is informed and believes and, on that basis, alleges that, within the
19 Class Period, Defendant employed dozens of individuals in California in recent years to work in
20 its stores, employment positions which did not, and currently do not, meet any known test for
21 exemption from the payment of overtime wages and/or the entitlement to meal or rest periods.

22 5. Despite actual knowledge of these facts and legal mandates, Defendant has and
23 continues to enjoy an advantage over its competition and a resultant disadvantage to its workers
24 by electing not to pay all wages due (missed meal and rest period compensation) and/or all
25 penalties due (including “waiting time” penalties) to its California based non-exempt employees.

26 6. Representative Plaintiff is informed and believes and, based thereon, alleges that
27 Defendant’s officers knew of these facts and legal mandates yet, nonetheless, repeatedly
28 authorized and/or ratified the violation of the laws cited herein.

1 **PLAINTIFF**

2 13. Representative Plaintiff Joanne Nauheimer is a natural person who was employed
3 by Defendant as a non-exempt worker during the Class Period.

4 14. In these capacities, Representative Plaintiff is and was entitled to full, uninterrupted
5 and statutorily-mandated meal and rest periods, as well as other benefits of employment as set
6 forth herein.

7
8 **DEFENDANTS**

9 15. Representative Plaintiff is informed and believes and, based thereon, alleges that,
10 at all times herein relevant, defendant Boy Scouts of America did business within the State of
11 California operating a series of locations facilitating youth activities.

12 16. Representative Plaintiff is informed and believes and, based thereon, alleges that,
13 at all times herein relevant, defendant Sequoia Council did business within the State of California
14 operating a series of locations facilitating youth activities.

15 17. Defendant Richers was employed by Boy Scouts of America and Sequoia Council
16 with supervisory responsibilities over Representative Plaintiff throughout her employment.

17 18. Those defendants identified as Does 1 through 100, inclusive, are and were, at all
18 relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some or
19 each of the remaining defendants. Representative Plaintiff is informed and believes and, on that
20 basis, alleges that at all relevant times herein mentioned, Boy Scouts of America and those
21 identified as Does 1 through 100, inclusive, employed, and/or exercised control over the wages,
22 hours, and/or working conditions of the Representative Plaintiff and Class Members within the
23 State of California.

24 19. The Representative Plaintiff is unaware of the true names and capacities of those
25 defendants sued herein as Does 1 through 100, inclusive and, therefore, sues these defendants by
26 such fictitious names. The Representative Plaintiff will seek leave of court to amend this
27 Complaint when such names are ascertained. The Representative Plaintiff is informed and believes
28 and, on that basis, alleges that each of the fictitiously-named defendants was responsible in some

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1 manner for, gave consent to, ratified, and/or authorized the conduct herein alleged and that the
2 Representative Plaintiff's and Class Members' damages, as herein alleged, were proximately
3 caused thereby.

4 20. Representative Plaintiff is informed and believes and, on that basis, alleges that, at
5 all relevant times herein mentioned, each of the defendants was the agent and/or employee of each
6 of the remaining defendants and, in doing the acts herein alleged, was acting within the course and
7 scope of such agency and/or employment.

8
9 **CLASS ACTION ALLEGATIONS**

10 21. The Representative Plaintiff brings this action on behalf of herself and as a class
11 action on behalf of all persons similarly situated and proximately damaged by Defendant's conduct
12 including, but not necessarily limited to, the following Plaintiff Class:

13 "All persons employed by Defendant as a non-exempt employee in
14 California at any time on or after November 12, 2015"

15 22. Defendant's officers and directors are excluded from the Plaintiff Class.

16 23. This action has been brought and may properly be maintained as a class action
17 under California Code of Civil Procedure § 382 because there is a well-defined community of
18 interest in the litigation and the proposed Class is easily ascertainable.

19 a. Numerosity: A class action is the only available method for the fair
20 and efficient adjudication of this controversy. The members of the
21 Plaintiff Class are so numerous that joinder of all members is
22 impractical, if not impossible, insofar as Representative Plaintiff is
23 informed and believes and, on that basis, alleges that there are
24 sufficient Class Members to meet the numerosity requirement.
25 Membership in the Class will be determined upon analysis of
26 employee and payroll, among other, records maintained by
27 Defendant.

24 b. Commonality: The Representative Plaintiff and the Class Members
25 share a community of interests in that there are numerous common
26 questions and issues of fact and law which predominate over any
27 questions and issues solely affecting individual members, including,
28 but not necessarily limited to:

1) Whether Defendant violated California Business and
Professions Code § 17200, *et seq.* by failing to provide meal
and/or rest breaks to Class Members working eligible shifts;

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- 2) Whether Defendant violated California Labor Code § 1174 by failing to keep accurate records of employees' hours of work;
- 3) Whether Defendant violated California Labor Code §§ 201-204 by failing to pay wages due and owing at the time that certain Class Members' employment with Defendant terminated;
- 4) Whether Defendant violated California Labor Code § 226 by failing to provide semimonthly itemized statements to Class Members of total hours worked by each and all applicable hourly rates in effect during the pay period; and
- 5) Whether Class Members are entitled to "waiting time" penalties, pursuant to California Labor Code § 203.

c. Typicality: The Representative Plaintiff's claims are typical of the claims of Class Members. The Representative Plaintiff and Class Members sustained damages arising out of and caused by Defendant's common course of conduct in violation of law, as alleged herein.

d. Adequacy of Representation: The Representative Plaintiff in this class action is an adequate representative of the Plaintiff Class in that the Representative Plaintiff's claims are typical of those of the Plaintiff Class and the Representative Plaintiff has the same interest in the litigation of this case as the Class Members. The Representative Plaintiff is committed to vigorous prosecution of this case and has retained competent counsel who are experienced in conducting litigation of this nature. The Representative Plaintiff is not subject to any individual defenses unique from those conceivably applicable to Class Members as a whole. The Representative Plaintiff anticipates no management difficulties in this litigation.

e. Superiority of Class Action: Since the damages suffered by individual Class Members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member makes or may make it impractical for Class Members to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought, or be required to be brought, by each individual Class Member, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants. The prosecution of separate actions would also create a risk of inconsistent rulings which might be dispositive of the interests of other Class Members who are not parties to the adjudications and/or may substantially impede their ability to adequately protect their interests.

COMMON FACTUAL ALLEGATIONS

24. As described herein, for years, Defendant has knowingly failed to adequately compensate those employees within the class definition identified above for all wages earned

1 (including premium wages such as compensation for missed meal and/or rest periods) under the
2 California Labor Code and the applicable IWC Wage Order, thereby enjoying a significant
3 competitive edge over other service providers.

4 25. Defendant has declined to pay these wages, even upon a Class Member's
5 termination or resignation from employment, in blatant violation of California Labor Code §§ 201
6 and/or 202.

7 26. California Labor Code §§ 201 and 202 require Defendant to pay severed employees
8 all wages due and owed to the employee immediately upon discharge or within 72 hours of
9 resignation of their positions, in most circumstances. California Labor Code § 203 provides that
10 an employer who willfully fails to timely pay such wages must, as a penalty, continue to pay the
11 subject employees' wages until the back wages are paid in full or an action is commenced, and the
12 payment of such penalty shall continue for a period of time up to 30 days.

13 27. Furthermore, despite its knowledge of the Representative Plaintiff's and the Class
14 Members' entitlement to compensation for all hours worked, Defendant violated California Labor
15 Code § 1174(d) by failing to provide or require the use, maintenance, or submission of time records
16 by members of the Plaintiff Class. Defendant also failed to provide the Representative Plaintiff
17 and Class Members with accurate semimonthly itemized statements of the total number of hours
18 worked by each, and all applicable hourly rates in effect, during the pay period, in violation of
19 California Labor Code § 226. In failing to provide the required documents, Defendant has not only
20 failed to pay its workers the full amount of compensation due, but the company has also, until now,
21 effectively shielded itself from its employees' scrutiny by concealing the magnitude and financial
22 impact of its wrongdoing that such documents might otherwise have led workers to discover.

23 28. Representative Plaintiff and all persons similarly situated are entitled to unpaid
24 compensation, yet, to date, have not received such compensation despite many of the same having
25 been terminated by and/or resigned from Defendant's employ. More than 30 days have passed
26 since certain Class Members have left Defendant's employ.

27 29. As a consequence of Defendant's willful conduct in not paying former employees
28 compensation for all hours worked in a prompt and timely manner, certain Class Members are

1 entitled to up to 30 days wages as a penalty under California Labor Code § 203, together with
2 attorneys' fees and costs.

3 30. As a direct and proximate result of Defendant's unlawful conduct, as set forth
4 herein, Representative Plaintiff and Class Members have sustained damages, as described above,
5 including compensation for loss of earnings for hours worked on behalf of Defendant, in an amount
6 to be established at trial. As a further direct and proximate result of Defendant's unlawful conduct,
7 as set forth herein, certain Class Members are entitled to recover "waiting time" penalties (pursuant
8 to California Labor Code § 203) and penalties for failure to provide semimonthly statements of
9 hours worked and all applicable hourly rates (pursuant to California Labor Code § 226) in an
10 amount to be established at trial. As a further direct and proximate result of Defendant's unlawful
11 conduct, as set forth herein, Representative Plaintiff and Class Members are also entitled to recover
12 costs and attorneys' fees pursuant to California Code of Civil Procedure § 1021.5, among other
13 authorities.

14 31. Representative Plaintiff seeks injunctive relief prohibiting Defendant from
15 engaging in the complained-of illegal labor acts and practices in the future. Representative Plaintiff
16 also seeks restitution of costs incurred by Representative Plaintiff and Class Members under
17 California's Unfair Competition Law. Unless enjoined, Defendant's unlawful conduct will
18 continue unchecked, while Representative Plaintiff and Class Members bear the financial brunt of
19 Defendant's unlawful conduct. As a further direct and proximate result of Defendant's unlawful
20 conduct, as set forth herein, Representative Plaintiff and the Plaintiff Class are also entitled to
21 recover costs and attorneys' fees, pursuant to statute.

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23 **INDIVIDUAL FACTUAL ALLEGATIONS**

24 32. Additionally, Defendant and Defendant Richers discriminated against and harassed
25 Representative Plaintiff based on her disability. Throughout Representative Plaintiff's
26 employment, Representative Plaintiff was subjected to unwanted harassing conduct including
27 disparaging remarks based on Representative Plaintiff's disability. The unwanted harassing
28 conduct was so severe and pervasive that any reasonable person would have found the work

1 environment hostile and/or abusive. Representative Plaintiff found the work environment hostile
2 and abusive.

3 33. The unwanted harassing conduct was engaged in and/or endorsed by
4 Representative Plaintiff's supervisors, including John Richers and the Defendant.

5 34. Defendant's supervisor, John Richers repeatedly made numerous inappropriate
6 comments to the Representative Plaintiff regarding her disability.

7 35. Defendant was on notice of this unwanted harassing conduct and tolerated the
8 behavior by members of management against Representative Plaintiff. Rather than attempt to stop
9 the unwanted harassing conduct from occurring, Defendant endorsed and ratified the behavior.

10 36. This harassment and the Defendant's endorsement thereof created a hostile work
11 environment which caused Representative Plaintiff serious emotional hardship. Representative
12 Plaintiff was embarrassed and suffered emotional harm because of this treatment.

13 37. Prior to filing this Complaint, Representative Plaintiff filed a Complaint against
14 Defendants with the California Department of Fair Employment and Housing ("DFEH"), pursuant
15 to California Government Code § 12960, *et seq.*, alleging the claims set forth in this Complaint.
16 On October 31, 2019 the DFEH issued a "right-to-sue" notice related to Defendant. All conditions
17 precedent to the initiation of this lawsuit have been fulfilled. This action is filed within one year
18 of the date the DFEH issued its right to sue letter.

19
20 **FIRST CAUSE OF ACTION**
UNLAWFUL FAILURE TO PAY WAGES
21 **(California Labor Code §§ 200-204, 510, 558, 1194, and 1198; IWC Wage Order)**

22 38. Representative Plaintiff incorporates in this cause of action each and every
23 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
24 herein.

25 39. During the limitations period, Representative Plaintiff performed work for
26 Defendant. The number of hours will be proven at trial.
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1 40. During the limitations period, Defendant refused to compensate Representative
2 Plaintiff for all of the wages earned, in violation of the applicable IWC Wage Order and provisions
3 of the California Labor Code.

4 41. Defendant's conduct, as heretofore detailed, represents underpayment of wages
5 pursuant to California Labor Code § 558 for which Representative Plaintiff seeks damages and/or
6 penalties according to proof.

7 42. As a direct and proximate result of Defendant's unlawful conduct, as set forth
8 herein, Representative Plaintiff has sustained damages, including loss of earnings for hours worked
9 on behalf of Defendant, in an amount to be established at trial. As a further direct and proximate
10 result of Defendant's unlawful conduct, as set forth herein, Representative Plaintiff is entitled to
11 recover penalties in amounts to be established at trial, as well as attorneys' fees and costs, and
12 restitution, pursuant to statute.

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14 **SECOND CAUSE OF ACTION**
15 **FAILURE TO PROVIDE MEAL AND REST PERIODS**
16 **(California Labor Code §§ 226.7 and 512)**

17 43. Representative Plaintiff incorporates in this cause of action each and every
18 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
19 herein.

20 44. At all relevant times, Defendant was aware of and were under a duty to comply
21 with California Labor Code § 226.7 and §512.

22 45. California Labor Code § 226.7 provides:

23 (a) No employer shall require any employee to work during any
24 meal or rest period mandated by an applicable order of the Industrial
25 Welfare Commission.

26 (b) If an employer fails to provide an employee a meal period or
27 rest period in accordance with an applicable order of the Industrial
28 Welfare Commission, the employer shall pay the employee one
additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest period is not
provided.

46. Moreover, California Labor Code § 512(a) provides:

1 An employer may not employ an employee for a work period of
2 more than five hours per day without providing the employee with
3 a meal period of not less than 30 minutes, except that if the total
4 work period per day of the employee is no more than six hours, the
5 meal period may be waived by mutual consent of both the employer
6 and employee. An employer may not employ an employee for a
7 work period of more than 10 hours per day without providing the
8 employee with a second meal period of not less than 30 minutes,
9 except that if the total hours worked is no more than 12 hours, the
10 second meal period may be waived by mutual consent of the
11 employer and the employee only if the first meal period was not
12 waived.

13 47. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that
14 employers provide all applicable meal and/or rest periods to non-exempt (including exempt-
15 misclassified) employees.

16 48. Section 11 of the applicable IWC Wage Order provides:

17 (A) No employer shall employ any person for a work period of more
18 than five (5) hours without a meal period of not less than 30
19 minutes...

20 (B) An employer may not employ an employee for a work period of
21 more than ten (10) hours per day without providing the
22 employee with a second meal period of not less than 30
23 minutes...

24 (C) If an employer fails to provide an employee a meal period in
25 accordance with the applicable provisions of this order, the
26 employer shall pay the employee one (1) hour of pay at the
27 employee's regular rate of compensation for each workday that
28 the meal period is not provided.

49. Moreover, Section 12 of the applicable IWC Wage Order provides:

(A) Every employer shall authorize and permit all employees to take
rest periods, which insofar as practicable shall be in the middle
of each work period. The authorized rest period time shall be
based on the total hours worked daily at the rate of ten (10)
minutes net rest time per four (4) hours or major fraction thereof
....

(B) If an employer fails to provide an employee a rest period in
accordance with the applicable provisions of this order, the
employer shall pay the employee one (1) hour of pay at the
employee's regular rate of compensation for each workday that
the rest period is not provided.

50. By failing to consistently provide uninterrupted thirty-minute meal periods within
the first five hours of work each day and/or uninterrupted net ten-minute rest periods to

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1 Representative Plaintiff and Class Members, Defendant violated the California Labor Code and
2 applicable IWC Wage Order provisions.

3 51. Representative Plaintiff is informed and believes and, on that basis, alleges that
4 Defendant has never paid the one hour of compensation to any Class Member due to its violations
5 of the California Labor Code and applicable IWC Wage Order provisions.

6 52. As a direct and proximate result of Defendant's unlawful conduct, as set forth
7 herein, Representative Plaintiff and Class Members have sustained damages, including lost
8 compensation resulting from missed meal and/or rest periods, in an amount to be established at
9 trial.

10 53. As a further direct and proximate result of Defendant's unlawful conduct, as set
11 forth herein, certain Class Members are entitled to recover other penalties, in amounts to be
12 established at trial, as well as recovery of attorneys' fees and costs, pursuant to statute.

13 **THIRD CAUSE OF ACTION**
14 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
15 **(California Labor Code §§ 226 and 1174)**

16 54. Representative Plaintiff incorporates in this cause of action each and every
17 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
18 herein.

19 55. California Labor Code § 226(a) provides:
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21 Each employer shall semimonthly, or at the time of each payment of
22 wages, furnish each of his or her employees either as a detachable
23 part of the check, draft or voucher paying the employee's wages, or
24 separately when wages are paid by personal check or cash, an
25 itemized wage statement in writing showing: (1) gross wages
26 earned; (2) total number of hours worked by each employee whose
27 compensation is based on an hourly wage; (3) all deductions,
28 provided that all deductions made on written orders of the employee
may be aggregated and shown as one item; (4) net wages earned; (5)
the inclusive date of the period for which the employee is paid; (6)
the name of the employee and his or her social security number; and
(7) the name and address of the legal entity which is the employer.

56. Moreover, California Labor Code § 226(e) provides:

1 An employee suffering injury as a result of a knowing and
2 intentional failure by an employer to comply with subdivision (a) is
3 entitled to recover the greater of all actual damages or fifty dollars
4 (\$50) for the initial pay period in which a violation occurs and one
5 hundred dollars (\$100) per employee for each violation in a
6 subsequent pay period, not exceeding an aggregate penalty of four
7 thousand dollars (\$4,000), and is entitled to an award of costs and
8 reasonable attorney's fees.

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10 57. Finally, California Labor Code § 1174(d) provides:

11 Every person employing labor in this state shall. . . [k]eep, at a
12 central location in the state...payroll records showing the hours
13 worked daily by and the wages paid to...employees.... These records
14 shall be kept in accordance with rules established for this purpose
15 by the commission, but in any case shall be kept on file for not less
16 than two years.

17 58. Representative Plaintiff seeks to recover actual damages, costs, and attorneys' fees
18 under these provisions on behalf of herself and on behalf of all Class Members.

19 59. Defendant has failed to provide timely, accurate itemized wage statements to the
20 Representative Plaintiff and Class Members in accordance with California Labor Code § 226.
21 Representative Plaintiff is informed and believes and, on that basis, alleges that none of the
22 statements provided by Defendant accurately reflected actual gross wages earned, net wages
23 earned, or the appropriate deductions of such Class Members.

24 60. As a direct and proximate result of Defendant's unlawful conduct, as set forth
25 herein, the Representative Plaintiff and Class Members have sustained damages in an amount to
26 be established at trial and are entitled to recover attorneys' fees and costs of suit.

27 **FOURTH CAUSE OF ACTION**
28 **FAILURE TO PAY WAGES ON TERMINATION**
(California Labor Code § 203)

61. Representative Plaintiff incorporates in this cause of action each and every
allegation of the preceding paragraphs, with the same force and effect as though fully set forth
herein.

62. California Labor Code § 203 provides that:

If an employer willfully fails to pay, without abatement or reduction, in
accordance with Sections 201, 201.5, 202, and 205.5, any wages of an

1 employee who is discharged or who quits, the wages of the employee shall
2 continue as a penalty from the due date thereof at the same rate until paid or
until an action therefor is commenced; but the wages shall not continue for
more than 30 days.

3 63. Numerous Class Members were employed by Defendant during the class period
4 and were thereafter terminated or resigned from their positions, yet they were not paid all premium
5 (overtime) wages due upon said termination or within 72 hours of said resignation of employment
6 therefrom. Said non-payment was the direct and proximate result of a willful refusal to do so by
7 Defendant.

8 64. More than 30 days have elapsed since certain Class Members were involuntarily
9 terminated or voluntarily resigned from Defendant's employ.

10 65. As a direct and proximate result of Defendant's willful conduct in failing to pay
11 said Class Members for all hours worked, affected Class Members are entitled to recover "waiting
12 time" penalties of up to thirty days' wages pursuant to California Labor Code § 203 in an amount
13 to be established at trial, together with interest thereon, and attorneys' fees and costs.

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15 **FIFTH CAUSE OF ACTION**
UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT
16 **(California Business & Professions Code §§ 17200-17208)**

17 66. Representative Plaintiff incorporates in this cause of action each and every
18 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
19 herein.

20 67. Representative Plaintiff further brings this cause of action seeking equitable and
21 statutory relief to stop Defendant's misconduct, as complained of herein, and to seek restitution of
22 the amounts Defendant acquired through the unfair, unlawful, and fraudulent business practices
23 described herein.

24 68. Defendant's knowing conduct, as alleged herein, constitutes an unlawful and/or
25 fraudulent business practice, as set forth in California Business & Professions Code §§ 17200-
26 17208. Specifically, Defendants conducted business activities while failing to comply with the
27 legal mandates cited herein.
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1 69. Defendant has clearly established a policy of accepting a certain amount of
2 collateral damage, as represented by the damages to the Representative Plaintiff and to Class
3 Members herein alleged, as incidental to its business operations, rather than accept the alternative
4 costs of full compliance with fair, lawful, and honest business practices, ordinarily borne by its
5 responsible competitors and as set forth in legislation and the judicial record.

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7 **SIXTH CAUSE OF ACTION**
8 **DISCRIMINATION BASED UPON SEX IN VIOLATION OF THE**
9 **CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**
10 **(California Government Code §§ 12940, et seq.)**

11 70. Representative Plaintiff incorporates in this cause of action each and every
12 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
13 herein.

14 71. Representative Plaintiff brings this action on behalf of herself in her individual
15 capacity exclusively, and not on behalf of any other employees.

16 72. At all relevant times, Government Code § 12940, subdivision (a), was in full force
17 and effect, and was binding on Defendants. This section prohibited Defendants from
18 discriminating against an employee on the basis of sex as those terms are defined in Government
19 Code § 12926(r). Within the time provided by law, Representative Plaintiff filed a Complaint with
20 the California Department of Fair Employment and Housing and federal Equal Employment
21 Opportunity Commission and has received right-to-sue letters therefrom.

22 73. Defendants violated Government Code § 12940, subdivision (a), in numerous
23 respects, including but not necessarily limited to, discriminating against Representative Plaintiff
24 because of her sex. Such conduct resulted in damage and injury to Representative Plaintiff, as
25 alleged herein.

26 74. As a proximate result of Defendants' willful, knowing and intentional conduct,
27 Representative Plaintiff has sustained and continued to sustain losses in earnings and other
28 employment benefits.

1 75. As a further proximate result of Defendants' willful, knowing and intentional
2 conduct, Representative Plaintiff has suffered and continues to suffer humiliation, emotional
3 distress, and mental anguish, all to her damage in a sum according to proof.

4 76. Representative Plaintiff has incurred and continues to incur legal expenses and
5 attorneys' fees. Representative Plaintiff is presently unaware of the precise amount of such
6 expenses and fees and prays leave of court to amend this Complaint when those amounts are more
7 fully known.

8 77. Defendant committed the acts alleged herein maliciously, fraudulently, and
9 oppressively, with the wrongful intention of injuring Representative Plaintiff, and acted with an
10 improper and evil motive amounting to malice and in conscious disregard of Representative
11 Plaintiff's rights. Because the acts taken toward Representative Plaintiff were carried out by
12 Defendants acting in a despicable, deliberate, callous and intentional manner in order to injure and
13 damage Representative Plaintiff, she is entitled to recover punitive damages in an amount
14 according to proof.

15
16 **EIGHTH CAUSE OF ACTION**
17 **HARASSMENT UNDER GOVERNMENT CODE SECTIONS 12940 (I) AND (J)**

18 78. Representative Plaintiff incorporates in this cause of action each and every
19 allegation of the preceding paragraphs, with the same force and effect as though fully set forth
20 herein.

21 79. At all times herein mentioned, FEHA, Government Code Section 12940, was in full
22 force and effect and was binding on Defendants. This statute requires Defendants to refrain from
23 harassing their employees based on disability. Within the time provided by law, Representative
24 Plaintiff filed a complaint with the DFEH, in full compliance with administrative requirements,
25 and received a right-to-sue letter.

26 80. As identified herein, during Representative Plaintiff's employment with
27 Defendants, Defendants engaged in actions that constituted unlawful harassment due to disability
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1 of Representative Plaintiff. These actions created a hostile working environment for
2 Representative Plaintiff.

3 81. These acts of misconduct occurred between April and October of 2019, when
4 Representative Plaintiff's employment with Defendants was terminated. Defendants took no
5 action to prevent the harassment of Representative Plaintiff.

6 82. As a proximate result of Defendants' willful, knowing, and intentional harassment
7 of Representative Plaintiff, Representative Plaintiff has sustained and continues to sustain
8 damages, including losses of earnings and benefits, according to proof.

9 83. As a proximate result of Defendants' willful, knowing, and intentional harassment
10 of Representative Plaintiff, Representative Plaintiff has suffered and continues to suffer
11 humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a
12 sum according to proof.

13 84. Defendants' harassment was done intentionally, in a malicious, oppressive,
14 fraudulent manner, entitling Representative Plaintiff to punitive damages.

15 85. Representative Plaintiff has incurred and continues to incur legal expenses and
16 attorneys' fees. Representative Plaintiff is at present unaware of the precise amounts of these
17 expenses and fees and will seek leave of court to amend this Complaint when the amounts are
18 known.

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20 **RELIEF SOUGHT**

21 **WHEREFORE, the Representative Plaintiff**, on behalf of herself and the proposed
22 Plaintiff Class, prays for judgment and the following specific relief against Defendants as follows:

23 1. That the Court declare, adjudge, and decree that this action is a proper class action
24 and certify the proposed Class and/or any other appropriate subclasses under California Code of
25 Civil Procedure § 382;

26 2. That the Court declare, adjudge, and decree that Defendants willfully violated their
27 legal duties to pay all wages due under the California Labor Code and the applicable California
28 Industrial Welfare Commission Wage Orders;

1 3. That the Court make an award to the Representative Plaintiff and the Class
2 Members of one hour of pay at each employee's regular rate of compensation for each workday
3 that a meal period was not provided;

4 4. That the Court make an award to the Representative Plaintiff and the Class
5 Members of one hour of pay at each employee's regular rate of compensation for each workday
6 that a rest period was not provided;

7 5. That the Court Order Defendants to pay restitution to the Representative Plaintiff
8 and the Class Members due to Defendants' unlawful activities, pursuant to California Business
9 and Professions Code §§ 17200-17208;

10 6. That the Court further enjoin Defendants, ordering them to cease and desist from
11 unlawful activities in violation of California Business and Professions Code § 17200, *et seq.*

12 7. For all other Orders, findings and determinations identified and sought in this
13 Complaint;

14 8. For punitive damages in an amount to be determined at trial;

15 9. For interest on the amount of any and all economic losses, at the prevailing legal
16 rate;

17 10. That the Court make an award to Representative Plaintiff of penalties, pursuant to
18 California Labor Code §§ 203, 226, 558, and 1174.5, in an amount to be proven at trial;

19 11. For reasonable attorneys' fees, pursuant to California Code of Civil Procedure §
20 1021.5 and other statutes; and

21 12. For costs of suit and any and all such other relief as the Court deems just and proper.
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JURY DEMAND

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2 Representative Plaintiff, on behalf of herself and the Plaintiff Class, hereby demands a trial
3 by jury.
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5 Dated: November 13, 2019

SCOTT COLE & ASSOCIATES, APC

6
7 By: Laura Van Note
8 Laura Van Note, Esq.
9 Attorneys for Representative Plaintiff
10 and the Plaintiff Class
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