

STANSBURY BROWN LAW, PC
Daniel J. Brown (Bar No. 307604)
Ethan C. Surls (Bar No. 327605)
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
Telephone: (323) 204-3124
dbrown@stansburybrownlaw.com
esurls@stansburybrownlaw.com

Attorneys for Plaintiff
PRISCILLA PEREZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

Assigned for All Purposes

Judge Thomas S McConville

PRISCILLA PEREZ, an individual,

Case No. 30-2024-01387712-CU-WT-CJC

Plaintiff,

COMPLAINT

vs.

S&D CARWASH MANAGEMENT, LLC, a
Delaware corporation; QUICK QUACK CAR
WASH, INC., a Delaware corporation;
ROMAINE MCROBERTS, an individual; and
DOES 1 through 50, inclusive,

Defendants.

- (1) Retaliation in Violation of Labor Code Section 1102.5.
- (2) Disability Discrimination (Gov't Code § 12940(a);
- (3) Failure to Provide Reasonable Accommodations (Gov't Code § 12945(b)(1);
- (4) Failure to Engage in the Interactive Process (Gov't Code §§ 12926, 12940 *et seq.*);
- (5) Retaliation (Cal. Gov't Code § 12940(h));
- (6) Intentional Infliction of Emotional Distress;
- (7) Wrongful Termination in Violation of Public Policy;
- (8) Unfair Business Practices (Cal. Bus. & Prof. Code § 17200);
- (9) Failure to Reimburse for Necessary Business Expenses (Labor Code § 2802)
- (10) Violation of The California Family Rights Act Including Interference and Retaliation (Cal. Gov't Code § 12945.2);
- (11) Violation of the Family Medical Leave Act (29 U.S.C. 2601, *et seq.*)
- (12) Sexual Harassment in Violation of FEHA (Gov't Code § 12940, *et seq.*)
- (13) Failure to Prevent Sexual Harassment in Violation of FEHA (Gov't Code § 12940(k))
- (14) Negligent Supervision

JURY TRIAL DEMANDED

COMES NOW, Plaintiff PRISCILLA PEREZ (“Plaintiff”), an individual, hereby brings this Complaint (“Complaint”) against S&D Carwash Management, LLC, a Delaware corporation; Quick Quack Car Wash, Inc., a Delaware corporation; Romaine McRoberts, an individual; and DOES 1 through 50, inclusive, (collectively “Defendants”), and on information and belief alleges as follows:

PARTIES

1. Plaintiff PRISCILLA PEREZ at all relevant times mentioned herein was an individual residing in the State of California performing work for the benefit of Defendant S&D CARWASH MANAGEMENT, LLC and Defendant Quick Quack Car Wash, Inc., as a California employee in the State of California.

2. Plaintiff is informed and believes, and thereupon alleges that Defendant S&D CARWASH MANAGEMENT, LLC, is, and at all relevant times mentioned herein was, a Delaware corporation doing business in the State of California.

3. Plaintiff is informed and believes, and thereupon alleges that Defendant QUICK QUACK CAR WASH, INC., is, and at all relevant times mentioned herein was, a Delaware corporation doing business in the State of California.

4. Plaintiff is informed and believes, and thereupon alleges that Defendant ROMAINE MCROBERTS, is, and at all relevant times mentioned herein was, an individual employee of Defendant S&D Carwash Management, LLC and/or Quick Quack Car Wash, Inc., residing in the State of California.

5. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct alleged herein of the defendants sued as DOES 1 through 50, inclusive, but is informed and believes that these defendants are legally responsible for the conduct alleged in this complaint and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

6. Plaintiff is informed and believes that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent in this complaint, and that the acts of each defendant are legally attributable to

1 each of the other defendants.

2 **JURISDICTION AND VENUE**

3 7. This Court has subject matter jurisdiction to hear this case because Plaintiff is
4 informed and believes that the monetary damages and restitution sought in this complaint for
5 Defendants' conduct exceeds the minimal jurisdictional limits of the Superior Court.

6 8. Venue is proper in this judicial district, pursuant to California Code of Civil Procedure
7 section 395(a) and 395.5 in that liability arose in Orange County because at least some of the
8 transactions that are the subject matter of this complaint occurred therein and/or each defendant is
9 found, maintains offices, transacts business and/or has an agent therein.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 9. Prior to the initiation of this lawsuit, Plaintiff filed a complaint against each named
12 defendant with the California Department of Fair Employment and Housing (DFEH) pursuant to
13 California Government Code section 12900, *et seq.*, alleging the claims described in this complaint.
14 On March 15, 2024 the DFEH issued a "right to sue" letter. A true and correct copy of the
15 administrative complaint and the "right to sue" letter is attached as Exhibit A. All conditions
16 precedent to the institution of this lawsuit have been fulfilled. This action is filed within one year of
17 the date that the DFEH issued its right to sue letter.

18 **FACTUAL ALLEGATIONS**

19 **A. Plaintiff's Pre-Employment Background; "Eggshell Plaintiff"**

20 10. Plaintiff's life prior to her commencing employment with Defendants can only be
21 described as traumatic. Growing up, Plaintiff's father physically abused her and her mother. When
22 Plaintiff was 16 years old, her father attempted to murder her mother by stabbing her repeatedly.
23 While her father was unsuccessful in killing her mother, he committed suicide after the murder
24 attempt. Her mother became addicted to drugs in the years that followed, and Plaintiff was rendered
25 homeless for a period of time until she moved in with her boyfriend.

26 11. Plaintiff had a child with her boyfriend around 2020, however she started to see the
27 same patterns that she saw with her father in her boyfriend who began physically and emotionally
28

1 abusing her after her child was born. Not wanting to face a similar fate as her mother, Plaintiff
2 escaped her boyfriend's home with her baby and moved into a hotel right next door to Defendants'
3 Anaheim location on Beach Blvd/Ball Road ("Beach/Ball").

4 12. Plaintiff commenced her employment with Defendants shortly thereafter. She felt
5 liberated from the horrors that she had endured for the better part of her life. She had her own income,
6 had a place to stay, and was far away from anyone who could harm her. Plaintiff finally felt as though
7 she was in a good space mentally and that she had rid herself of all of the traumas that she had endured.
8 For all intents and purposes, Defendants were a godsend for Plaintiff, or at least she thought they
9 were when she first started working for the company.

10 **B. Plaintiff's First Complaints of Sexual Harassment; Subsequent Retaliation**

11 13. Plaintiff commenced her employment at Defendants' location on Beach Blvd/Ball in
12 Anaheim around January 2022. A few months into her employment with Defendants, Plaintiff's
13 direct manager Defendant Romaine McRoberts began making sexually charged comments towards
14 her. Plaintiff would catch Defendant McRoberts lustfully staring at her during shifts and he would
15 consistently make comments about her appearance such as "damn you're sexy". While these initial
16 comments were not welcome, as somebody who had been through hell and back, she refrained from
17 making any formal complaints for a period of time out of a desire to maintain job security given her
18 precocious financial and living situation.

19 14. What started as semi-frequent veiled comments by Defendant McRoberts became
20 increasingly blatant and unacceptable as time went on. Defendant McRoberts began telling Plaintiff
21 that he "got it on" with other employees in the break room in the past and told her that he put a post-
22 it note over the camera in the break room so that corporate couldn't see. Around June of 2022, while
23 they were both in the car-wash tunnel, Defendant McRoberts whispered in Plaintiff's ear "you down
24 to go to the break room and get it on?". Plaintiff was appalled at the proposition and responded
25 "What, are you crazy!? Don't you have a wife?".

26 15. Around June 23, 2022, Plaintiff was stuck alone with Defendant McRoberts at the
27 store closing for the day. Almost immediately upon realizing that there was nobody else in the shop,
28

1 Plaintiff expressed to Defendant McRoberts that she was not comfortable stating, “I don’t want to
2 work alone here with you. You always say and do things that are inappropriate. I need to remove
3 myself from this situation.”. Plaintiff then walked out of the facilities and returned to the hotel she
4 lived at next door.

5 16. The next day, around June 24, 2022, Plaintiff complained to regional manager Mr.
6 Sam Pereira that Defendant McRoberts i) consistently made sexually charged comments towards her;
7 ii) repeatedly bragged about having sexual relations in the break room with employees; iii)
8 propositioned her to have sexual relations in the break room; and iv) that she felt uncomfortable
9 working with him due to the repeated instances of harassment she was enduring. In response Mr.
10 Pereira simply stated, “Well, it seems to me like you committed job abandonment yesterday when
11 you walked out”, completely ignoring her complaints of being sexually harassed. Plaintiff explained
12 that she did not quit, but that she had to remove herself from the situation because she did not feel
13 comfortable being alone with Mr. McRoberts for the reasons stated. Ultimately, Mr. Pereira
14 concluded the conversation by telling Plaintiff that he would **transfer her to another location while**
15 **allowing her harasser Defendant McRoberts to remain at the Beach/Ball location without**
16 **consequence.** Plaintiff attempted to reason with Mr. Pereira, stating that it was unfair that she was
17 being retaliated against for being harassed and speaking up about it, and that the transfer was
18 incredibly inconvenient for her as a single mother who lived in a hotel with her child right next door
19 to Beach/Ball. Plaintiff further expressed that because of the fact she lived right next to the
20 Beach/Ball store, she would inevitably have to see her harasser every day when she got home from
21 work which was going to cause her even more distress. Mr. Pereira could not have cared less about
22 these concerns, instead simply telling Plaintiff that she “shouldn’t bite the hand that feeds you.”

23 17. Around June 27, 2022, Plaintiff texted Mr. Pereira asking for the phone number for
24 Human Resources (“HR”). Upon receipt, Plaintiff immediately called HR and spoke with an
25 employee named “Dina K.” (full last name presently unknown). During this call, Plaintiff complained
26 that she was i) being sexually harassed at work and ii) being retaliated against for reporting the sexual
27
28

1 harassment. Dina was generally hostile to Plaintiff's concerns during this phone call, going to great
2 ends to attempt to justify Mr. Pereira's course of action and did not remedy the situation whatsoever.

3 **C. Plaintiff is Transferred to Defendants' Location on Euclid/Lincoln**

4 18. Around July 2022, Plaintiff commenced work at Defendants' location that she was
5 transferred to on Euclid Street and Lincoln Ave. ("Euclid/Lincoln") in Anaheim, working under the
6 supervision of General Manager Mr. Oscar Lopez. While she was at times unhappy with the fact that
7 she was not getting the hours that she needed to support her family, Plaintiff generally worked without
8 issue at Euclid/Lincoln during her tenure between July-October of 2022. She excelled in her position
9 and her aptitude for the position was noted by management.

10 **D. Plaintiff is Transferred to Defendants' Location on Euclid/Valencia in Fullerton;**
11 **Plaintiff is Sexually Assaulted by a Customer While Working; Defendants Resist**
12 **Plaintiff's Attempts to Cancel the Customer's Membership**

13 19. In recognition of her continued stellar performance, Plaintiff was selected to be part
14 of the opening team at Defendants' location on Euclid Street and Valencia Drive ("Euclid/Valencia")
15 and to work as the Assistant Manager under General Manager Mr. Randy Vorrick around October
16 2022. Between October 2022 and April 2023, Plaintiff worked at Euclid/Valencia without issue. She
17 excelled in her position and was excited to feel like she was in a good place mentally and emotionally
18 for the first time in her life. She had worked hard and it had paid off; she had been promoted into a
19 managerial position and believed that continued dedication would result in further promotions and
20 upward mobility with Defendants.

21 20. Around April 20, 2023, Plaintiff was attending to a customer when out of nowhere the
22 man asked her "do you like what you see?". Plaintiff was confused at first, unaware of what he was
23 referring to. The man then instructed her to "move closer and take a look". When Plaintiff got closer,
24 she realized what the customer was referring to; he had his penis in his hand and was shaking it at
25 her. Plaintiff startled and traumatized after being flashed by a customer while working immediately
26 went to report the incident to Mr. Vorrick. Plaintiff, clearly flustered and on the verge of having a
27 panic attack, told Mr. Vorrick, "That guy just flashed his dick at me, he is a sicko!". Mr. Vorrick
28

1 responded, "If I was out there, I would take care of things!". Plaintiff pointed to the man's car, as he
2 had not left yet, and said "HE IS STILL HERE! We need to cancel his membership! I personally
3 don't feel safe with him and what if he comes back and does that to another girl?". Mr. Vorricks, no
4 longer feigning bravado once he learned the customer was still in the lot, ignored Plaintiff's continued
5 pleas to cancel the flasher's membership.

6 21. In the weeks that followed, the flasher returned to Euclid/Valencia no less than three
7 times, each of which distressed Plaintiff to an increased degree. Fed up with Mr. Vorricks's lack of
8 action, Plaintiff approached the customer the third time he came in and instructed him to leave.

9 22. Around May 2, 2023, Plaintiff attempted to cancel the flasher's membership via the
10 office POS system. Plaintiff commented on the software interface that "This customer flashed his
11 penis to me when I checked him in, I am so uncomfortable at work and he still comes in. Please ban
12 him." Despite this reality, Defendants' corporate office responded to Plaintiff stating that they were
13 overriding the cancellation of the flasher's membership that Plaintiff had attempted to effectuate,
14 reasoning that they could not ban him in absence of a police report.

15 23. Around May 6, 2023, Plaintiff filed a police report. A police officer came to the shop,
16 removed Mr. Vorricks from the office, and spoke alone with Plaintiff about the incident. The police
17 report was generated that same day, but despite this the flasher's account was still active when
18 Plaintiff checked on May 10, 2023.

19 **E. Plaintiff is Hospitalized; Attempts to Exercise Personal Medical Leave of Absence to**
20 **Recover and is Terminated While on Personal Medical Leave**

21 24. Around June 13, 2023, Plaintiff began experiencing sharp chest pains while at work
22 and believed it to be a severe anxiety attack. Plaintiff approached the interim General Manager, Ms.
23 Griselda Baughman (Mr. Vorricks was out on a medical leave), and told her that her chest really hurt
24 and that needed to go to the emergency room. Ms. Baughman responded with hostility, telling her to
25 "calm down and sit on a chair". This only made Plaintiff's panic attack worse, and she pleaded with
26 Ms. Baughman to let her leave work and go to the emergency room. Again, Ms. Baughman brushed
27 Plaintiff off, stating "just calm down its not that big of a deal." Eventually, Plaintiff could not stand
28

1 idly by anymore while in the midst of a severe mental and physical episode and left for the emergency
2 room.

3 25. While hospitalized, her treating physicians told her that she needed to take a mental
4 leave of absence from work so she could recover. Plaintiff informed management at Euclid/Valencia
5 of her status and told them that she needed to see another doctor and take a few days off before she
6 could return to work. Another assistant manager, Angel (last name presently unknown) asked
7 Plaintiff if she would like to take the weekend off, to which Plaintiff responded that she would and
8 that she would only be out for a brief period of time until she recovered. Angel seemed generally
9 understanding and told her to just let him know when she felt better and was ready to come back.

10 26. Around June 20, 2023, Plaintiff sent Ms. Baughman a doctor's note excusing her
11 absences. Almost immediately after sending the note, Ms. Baughman called Plaintiff and informed
12 her that she was being terminated effective immediately because she "no call no showed over the
13 weekend".

14 27. Plaintiff thereafter complained to HR that she was fired while she was on a medical
15 leave for "no call no showing" on days that she had previously had cleared as excused by
16 management. However, these efforts proved to be fruitless and Plaintiff's termination stood.

17 28. This chain of events not only evidences a disdain for Plaintiff's status as a
18 whistleblower/disabled employee who required a brief personal medical leave, but also a complete
19 disregard for her health, safety, and wellbeing in general. Accordingly, Defendants have
20 discriminated against, retaliated against, and wrongfully discharged Plaintiff. Plaintiff was
21 terminated after exercising statutory permissible leave with both retaliatory and discriminatory
22 motives. She was undoubtedly an effective employee with no history of performance issues. Her
23 only fault was being disabled and complaining. Defendants apparently thought her disability
24 presented them with a business inconvenience and believed that accommodating her or permitting her
25 to exercise statutory job protected leave was not necessary. Furthermore, after Plaintiff complained
26 about the unlawful harassment and discrimination she was being subjected to, she was retaliated
27 against even further, culminating in her undoubtedly wrongful termination.

1 29. As a direct and proximate result of Defendants' actions, Plaintiff has suffered and will
2 continue to suffer severe mental and emotional distress. Moreover, Plaintiff has been humiliated and
3 embarrassed as a result of the foregoing acts of Defendants. As a further direct and proximate result
4 of the foregoing unlawful and malicious acts of Defendants, Plaintiff has suffered monetary damages.

5 **WAGE & HOUR VIOLATIONS**

6 30. Defendants failed to adequately reimburse Plaintiff for all reasonable and necessary
7 work expenditures, including but not limited to, requiring her to utilize her personal cellular phone
8 for work purposes without reimbursement. Furthermore, all communications between Plaintiff with
9 her supervisors/coworkers regarding work-related tasks were necessarily conducted on her personal
10 cell phone. As a consequence, Defendants failed to reimburse Plaintiff for all necessarily incurred
11 business expenditures in violation of Labor Code § 2802.

12 **FIRST CAUSE OF ACTION**

13 **VIOLATION OF LABOR CODE SECTION 1102.5**

14 **(Lab. Code § 1102.5)**

15 **(Against All Defendants)**

16 31. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
17 herein.

18 32. In doing the things alleged herein, Defendants, violated Labor Code Section 1102.5
19 which provides, in pertinent part:

20 “(b) An employer, or any person acting on behalf of the employer, shall not retaliate against
21 an employee for disclosing information, or because the employer believes that the employee
22 disclosed or may disclose information, to a government or law enforcement agency, to a
23 person with authority over the employee, or another employee who has the authority to
24 investigate, discovery, or correct the violation or noncompliance, or for providing information
to, or testifying before, any public body conducting an investigation, hearing, or inquiry. If
the employee has reasonable cause to believe that the information discloses a violation of state
or federal statute, or a violation of or noncompliance with a local, state, or federal rule or
regulation, regardless of whether disclosing the information is party of the employee's job
duties.

25 ...

26 “(f) In addition to other penalties, an employer that is a corporation or limited liability company
27 is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of
this section.”

28 33. In the instant case, Plaintiff complained about sexual harassment, sexual assault,

1 disability discrimination, complained about not being afforded any interactive process or
2 accommodations for her disabilities, and complained about not being afforded statutory medical
3 leave, amongst other legitimate bona-fide complaints of what she reasonably believed to be unlawful
4 activities.

5
6 34. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
7 damages, including but not limited to, lost past and future wages and benefits and mental anguish and
8 emotional suffering, all in an amount to be proven at trial and in excess of the jurisdictional minimum
9 of this Court.

10 35. In doing the things herein alleged, Defendants were guilty of oppression, fraud and
11 malice in that they, among other things, acted with a willful and conscious disregard for Plaintiff's
12 rights insofar as the things alleged were attributable to employees of Defendants, these employees
13 were employed by Defendants with advance knowledge of the unfitness of the employees and/or they
14 were employed with a conscious disregard for the rights of others and/or Defendants authorized or
15 ratified the wrongful conduct and/or there was advance knowledge, conscious disregard,
16 authorization, ratification or act of oppression, fraud or malice on the part of an officer, director or
17 managing agent of Defendants all entitling Plaintiff to the recovery of exemplary and punitive
18 damages.

19 **SECOND CAUSE OF ACTION**

20 **DISABILITY DISCRIMINATION**

21 **(Against All Defendants Except Defendant Romaine McRoberts)**

22 36. Plaintiff re-alleges the information set forth in paragraphs above as though fully set
23 forth and alleged herein.

24 37. At all times herein mentioned, Government Code section 12940 *et seq.* was in full
25 force and effect and was binding on Defendants. Section 12940(a) makes it an unlawful employment
26 practice for:

27 "For an employer, because of the race, religious creed, color, national origin, ancestry,
28 physical disability, mental disability, medical condition, genetic information, marital status,
sex, gender, gender identity, gender expression, age, sexual orientation, or military and
veteran status of any person, to refuse to hire or employ the person or to refuse to select the

1 person or to refuse to select the person for a training program leading to employment, or to
2 bar or to discharge the person from employment or from a training program leading to
employment, or to discriminate against the person in compensation or in terms, conditions or
3 privileges of employment.” (Emphasis added.)

4 38. These sections require Defendants to refrain from discriminating against any
employee on any of the basis as set forth above.

5 39. Plaintiff’s disability status falls within the protected categories as defined above in
6 Government Code section 12926(r)(1).

7 40. Plaintiff is informed and believes, and on that basis alleges that her disability was a
8 motivating factor in Defendants’ actions, including her termination.

9 41. Plaintiff has exhausted her administrative remedies under the California Fair
10 Employment and Housing Act by filing charges that Defendants violated the California Fair
11 Employment and Housing Act because of Plaintiff’s disability status.

12 42. On March 15, 2024 Plaintiff was issued a Notice of Case Closure and Right to Sue
13 letter granting Plaintiff the right to bring suit against Defendants.

14 43. As a direct, foreseeable, and proximate result of the conduct complained of in this
15 cause of action, Plaintiff has suffered, and continues to suffer, loss of salary, benefits and bonuses
16 plus expenses incurred in obtaining substitute employment and not being regularly employed for
17 months, all to Plaintiff’s damages in a sum within the jurisdiction of this court, to be ascertained
18 according to proof.

19 44. As a further direct and proximate result of said Defendants’ unlawful discrimination,
20 Plaintiff has suffered and continues to suffer from emotional and mental distress, and has incurred
21 and continues to incur special and general damages, in a sum within the jurisdiction of this court, to
22 be ascertained according to proof.

23 45. The grossly reckless, careless, negligent, and/or intentional, malicious, and bad faith
24 manner in which said Defendants engaged in those acts as described in this cause of action by willfully
25 violating those statutes enumerated in this cause of action and terminating Plaintiff for same entitle
26 Plaintiff to punitive damages against said Defendants in an amount within the jurisdiction of this
27 court, to be ascertained by the fact finder, that is sufficiently high to punish said Defendants, deter
28

1 them from engaging in such conduct again, and to make an example of them to others.

2 46. Plaintiff is informed and believes and based thereon alleges that the outrageous
3 conduct of said Defendants, described above, was done with oppression and malice by Plaintiff's
4 managers and was ratified by those other individuals who were managing agents of said Defendants.
5 These unlawful acts were further ratified by Defendants and done with a conscious disregard for
6 Plaintiff's rights and with the intent, design and purpose of injuring Plaintiff. By reason thereof,
7 Plaintiff is entitled to punitive or exemplary damages in this cause of action in a sum to be determined
8 at the time of trial.

9 47. Plaintiff also prays for reasonable costs and attorney fees against said Defendants, as
10 allowed by California Government Code section 12965 and any other applicable statutes for
11 Plaintiff's prosecution of this action in reference to the time Plaintiff's attorney spends pursuing this
12 cause of action as well as any other applicable statutes.

13 **THIRD CAUSE OF ACTION**

14 **FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**

15 **(Against All Defendants Except Defendant Romaine McRoberts)**

16 48. Plaintiff re-alleges the information set forth in paragraphs above as though fully set
17 forth at length.

18 49. At all times herein mentioned, Government Code sections 12926 and 12940 *et seq.*
19 were in full force and effect and was binding on Defendants. This section requires Defendants to
20 provide reasonable accommodations due to Plaintiff's disability status.

21 50. At all times material to this complaint, Plaintiff was an employee entitled to the
22 protections of the above-referenced Government Code sections.

23 51. Plaintiff's disability status, and any actual and/or perceived disability associated with
24 her disability, constituted a protected category as defined in Government Code section 12926(r)(1).

25 52. Plaintiff is a member of a protected class within the meaning of the above-referenced
26 Government Code sections. At all material times mentioned herein, Plaintiff could have satisfactorily
27 performed her duties.
28

1 53. Reasonable accommodations could have been made for Plaintiff's disability as alleged
2 above.

3 54. Defendants failed to reasonably accommodate Plaintiff's disability at any point during
4 her employment despite their clear knowledge of its existence based on her explicit request for a
5 medical leave that went completely ignored.

6 55. Within the time provided by law, Plaintiff filed a complaint with the California
7 Department of Fair Employment and Housing, in full compliance with these sections, and received a
8 right to sue letter.

9 56. As a result of being subjected to Defendants' failure to accommodate, discrimination
10 and termination of employment, Plaintiff suffered emotional distress. Further, as a result of all of the
11 foregoing and following actions taken towards Plaintiff as alleged herein, Plaintiff has incurred loss
12 of earnings and benefits in an amount not yet ascertained.

13 57. All of the foregoing and following actions taken towards Plaintiff as alleged herein
14 were carried out by Defendants in a deliberate, cold, callous, malicious, oppressive, and intentional
15 manner in order to injure and damage Plaintiff.

16 58. Plaintiff is informed and believes and based thereon alleges that the outrageous
17 conduct of said Defendants, described above, was done with oppression and malice by Plaintiff's
18 managers and was ratified by those other individuals who were managing agents of said Defendants.
19 These unlawful acts were further ratified by Defendants and done with a conscious disregard for
20 Plaintiff's rights and with the intent, design and purpose of injuring Plaintiff. By reason thereof,
21 Plaintiff is entitled to punitive or exemplary damages in this cause of action in a sum to be determined
22 at the time of trial.

23 59. Plaintiff also prays for reasonable costs and attorney fees against said Defendants, as
24 allowed by California Government Code section 12965 and any other applicable statutes for
25 Plaintiff's prosecution of this action in reference to the time Plaintiff's attorney spends pursuing this
26 cause of action as well as any other applicable statutes.

27 ///

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS**

3 **(Against All Defendants Except Defendant Romaine McRoberts)**

4 60. Plaintiff re-alleges the information set forth in paragraphs above as though fully set
5 forth at length.

6 61. At all times herein mentioned, Government Code sections 12926 and 12940 *et seq.*
7 were in full force and effect and were binding on Defendants. These sections require Defendants to
8 refrain from discriminating against any employee on the basis of disability, among other things, and
9 to engage in an interactive process to determine any accommodation Plaintiff may reasonably need,
10 and to reasonably accommodate Plaintiff.

11 62. At all times material to this complaint, Plaintiff was an employee entitled to the
12 protections of the above-referenced Government Code sections.

13 63. Plaintiff's actual and/or perceived disability associated with her disability, constituted
14 a protected category as defined in Government Code section 12926(r)(1).

15 64. As alleged herein and in violation of California Government Code section 12940(n),
16 Defendants violated the California Fair Employment and Housing Act by, among other things,
17 refusing and/or failing to engage in a timely, good faith, interactive process with Plaintiff regarding
18 her disability.

19 65. As a direct and proximate result of Defendants' willful, knowing, and intentional
20 failure to engage in the interactive process, Plaintiff has sustained and continues to sustain substantial
21 losses in earnings and other employment benefits.

22 66. As a direct and proximate result of Defendants' conduct as described herein, Plaintiff
23 has suffered and continues to suffer humiliation, emotional distress, and physical and mental pain and
24 anguish, all to her damage in a sum according to proof.

25 67. Defendants have committed the acts herein alleged maliciously and oppressively, with
26 the wrongful intention of injuring Plaintiff, with an improper and intentional motive amounting to
27 malice and in conscious disregard of Plaintiff's rights. Accordingly, Plaintiff requests the assessment
28

1 of punitive damages against Defendants in an amount appropriate to punish and make an example of
2 them.

3 68. As a result of Defendants' discriminatory, harassing, retaliatory or other illegal and
4 prohibited acts as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of suit as
5 provided in section 12965(b) of the California Government Code and other laws as may apply
6 including California Civil Code section 1021.

7 **FIFTH CAUSE OF ACTION**

8 **RETALIATION**

9 **(Cal. Gov't Code § 12940(h))**

10 **(Against All Defendants Except Defendant Romaine McRoberts)**

11 69. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
12 herein.

13 70. At all times mentioned herein, the California Fair Employment and Housing Act
14 (FEHA) (Cal. Gov't Code § 12900, *et seq.*) was in full force and effect and fully binding upon
15 Defendants. Specifically, section 12940(h) makes it an unlawful employment practice for an
16 employer to discriminate against any person because the person has opposed any practices forbidden
17 under this part.

18 71. Plaintiff informed Defendants of her need for accommodations for her personal
19 disabilities, need for personal medical leave, complained about unlawful harassment, and complained
20 about unlawful discrimination. In response, Defendants unlawfully retaliated against her by making
21 the decision to terminate her. Plaintiff made numerous formal complaints regarding her ongoing
22 disparate treatment and Defendants were motivated by these complaints in making the decision to
23 terminate her.

24 72. As a direct, foreseeable and proximate result of Defendants' unlawful actions, Plaintiff
25 has suffered substantial emotional distress, humiliation, shame and embarrassment, all to the
26 Plaintiff's damage and in an amount to be proven at trial.

27 73. Defendants committed the acts herein despicably, maliciously, fraudulently and
28

1 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
2 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.
3 Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to
4 proof.

5 **SIXTH CAUSE OF ACTION**

6 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

7 **(Against All Defendants)**

8 74. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
9 herein.

10 75. The conduct of Defendants' management employees as set forth above was so extreme
11 and outrageous that it exceeded the boundaries of human decency and was beyond pale of conduct
12 tolerated in a civilized society. This conduct was intended to cause severe emotional distress, or was
13 done in reckless disregard of the probability of causing severe emotional distress.

14 76. As an actual and proximate result of Defendants' wrongful conduct, Plaintiff has
15 suffered and continues to suffer severe and continuous humiliation, emotional distress and physical
16 and mental pain and anguish, all to her damage in an amount according to proof at trial.

17 77. Defendants committed the acts alleged herein maliciously, fraudulently and
18 oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil
19 motive amounting to malice and in conscious disregard of Plaintiff's rights. Because the acts taken
20 toward Plaintiff were carried out by Defendants acting in a deliberate, cold, callous and intentional
21 manner in order to injure and damage Plaintiff, she is entitled to recover punitive damages from
22 Defendants in an amount according to proof.

23 **SEVENTH CAUSE OF ACTION**

24 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

25 **(Against All Defendants Except Defendant Romaine McRoberts)**

26 78. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
27 herein.

1 79. Defendants terminated Plaintiff's employment in violation of important and well-
2 established public policies, as set forth in various state statutes and Constitutional provisions
3 including but not limited to FEHA and Article I, section 8 of the California Constitution, the
4 California Labor Code, and the Americans with Disabilities Act.

5 80. As a proximate result of the conduct of Defendants, Plaintiff suffered and will continue
6 to suffer damages in terms of lost wages, lost bonuses, lost benefits and other pecuniary loss according
7 to proof. Plaintiff has also suffered and will continue to suffer physical and emotional injuries,
8 including nervousness, humiliation, depression, anguish, embarrassment, fright, shock, pain,
9 discomfort, fatigue and anxiety. The amount of Plaintiff's damages will be ascertained at trial.

10 81. In committing the foregoing acts, Defendants have been guilty of oppression, fraud
11 and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to punitive
12 damages in a sum appropriate to punish and make an example out of Defendants.

13 82. The acts of oppression, fraud and/or malice were engaged in by employees of
14 Defendants. Defendants had advance knowledge of the unfitness of each employee who acted with
15 oppression, fraud and/or malice, and/or authorized or ratified the wrongful conduct for which an
16 award of punitive damages is sought, and/or was personally guilty of oppressions, fraud and/or
17 malice. The advance knowledge and conscious disregard, authorization, ratification or act of
18 oppression, fraud and/or malice was committed by or on part of an officer, director or managing agent
19 of Defendants, thereby entitling Plaintiff to punitive and exemplary damages against Defendants in
20 accordance with California Civil Code section 3294 in a sum appropriate to punish and make an
21 example of Defendants.

22 83. Plaintiff has been generally damaged in an amount within the jurisdictional limits of
23 this Court.

24 ///

25 ///

26 ///

27 ///

1 **EIGHTH CAUSE OF ACTION**

2 **UNFAIR BUSINESS PRACTICES**

3 **(Cal. Bus. & Prof. Code § 17200-17208)**

4 **(Against All Defendants Except Defendant Romaine McRoberts)**

5 84. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
6 herein.

7 85. The foregoing conduct as alleged in this complaint violates the California Unfair
8 Competition Law (“UCL”) (Cal. Bus. & Prof. Code § 17200 *et seq.*). Section 17200 prohibits unfair
9 competition by prohibiting, *inter alia*, any unlawful or unfair business acts or practices.

10 86. Throughout the course of Plaintiff’s employment, Defendants committed acts of unfair
11 competition, as defined by the UCL, by among other things, engaging in the acts and practices
12 described in this complaint, including but not limited to discriminating against her on the basis of her
13 disability/age, retaliating her for making complaints, and retaliating against her for exercising her
14 rights to request reasonable accommodations. Defendants’ conduct as alleged herein has damaged
15 Plaintiff by wrongfully denying her earned wages and equity, and therefore was substantially
16 injurious to the Plaintiff.

17 87. Defendants’ course of conduct, acts and practices in violation of the California laws
18 mentioned in the above paragraph constitute a separate and independent violation of the UCL.
19 Defendants’ conduct described herein violates the policy or spirit of such laws or otherwise
20 significantly threatens or harms competition.

21 88. Plaintiff seeks disgorgement in the amount of the respective unpaid wages and equity
22 and such other legal and equitable relief from Defendants unlawful and willful conduct as the Court
23 deems just and proper.

24 **NINETH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

26 **(Against All Defendants Except Defendant Romaine McRoberts)**

27 89. Plaintiff re-alleges and incorporates by reference all previous paragraphs.
28

90. At all relevant times herein, Defendants were subject to Labor Code § 2802, which states that “an employer shall indemnify his or her employees 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...”

91. Due to Defendants' unlawful policy and practice of requiring employees to use their cellular phones in the performance of their job duties, Defendants have violated Labor Code § 2802.

92. Plaintiff is entitled to attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

93. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff is entitled to interest, which shall accrue from the date on which she incurred the initial necessary expenditure.

TENTH CAUSE OF ACTION

**VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT, INCLUDING
INTERFERENCE AND RETALIATION**

(Cal. Gov. Code § 12945.2)

(Against All Defendants Except Defendant Romaine McRoberts)

94. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

95. The California Family Rights Act (“CFRA”) provides in pertinent part that it is an unlawful practice for an employer to interfere with an employee’s exercise or attempt to exercise any right provided by the CFRA.

96. Defendants are an employer covered by the CFRA.

97. At the time Plaintiff requested personal medical leave to recover from her own serious health condition she was entitled to any and all protections under the CFRA.

98. Plaintiff notified Defendants of her serious health condition and her need for medical leave.

99. Defendants wholly ignored Plaintiff's request for medical leave and instead

1 terminated her even though she explicitly requested and required personal medical leave.

2 100. 2 California Code of Regulations section 11091(a)(1)(A) states that “[u]nder all
3 circumstances, it is the employer's responsibility to designate leave, paid or unpaid, as CFRA or
4 CFRA/FMLA qualifying, based on information provided by the employee or the employee's
5 spokesperson, and to give notice of the designation to the employee.”.

6 101. Defendants did not advise Plaintiff of her right to CFRA leave, or otherwise give
7 notice of designation of her leave as CFRA-qualifying leave.

8 102. CFRA states that “[i]t shall be an unlawful employment practice for an employer to
9 ... discharge ... or discriminate against, any individual because of ... [the] individual’s exercise of
10 the right to family care and medical leave provided by [CFRA].” Cal. Gov’t Code § 12945.2 (l)(1).

11 103. CFRA further states that “[i]t shall be an unlawful employment practice for an
12 employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right
13 provided under [CFRA].” Cal. Gov’t Code § 12945.2(t).

14 104. Defendants knew Plaintiff required a leave of absence for her own serious medical
15 condition. Instead of providing Plaintiff the necessary medical leave prescribed by her physician,
16 Defendants discriminated and retaliated against Plaintiff by terminating her employment, in violation
17 of the CFRA. *See* Cal. Gov’t Code § 12945.2.

18 105. Defendants by and through their actions, or lack thereof, interfered with Plaintiff’s
19 CFRA rights.

20 106. As a direct and proximate result of Defendants’ conduct, Plaintiff has suffered
21 damages, including but not limited to, lost past and future wages and benefits and mental anguish and
22 emotional suffering, all in an amount to be proven at trial and in excess of the jurisdictional minimum
23 of this Court.

24 107. In doing the things herein alleged, Defendants were guilty of oppression, fraud and
25 malice in that they, among other things, acted with a willful and conscious disregard for Plaintiff’s
26 rights, health and safety and, insofar as the things alleged were attributable to employees of
27 Defendants, these employees were employed by Defendants with advance knowledge of the unfitness
28

1 of the employees and/or they were employed with a conscious disregard for the rights of others and/or
2 Defendants authorized or ratified the wrongful conduct and/or there was advance knowledge,
3 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of an
4 officer, director or managing agent of Defendants all entitling Plaintiff to the recovery of exemplary
5 and punitive damages.

6 **ELEVENTH CAUSE OF ACTION**

7 **VIOLATION OF THE FAMILY AND MEDICAL LEAVE ACT**

8 **(29 USC § 2601 et seq.)**

9 **(Against All Defendants Except Defendant Romaine McRoberts)**

10 108. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
11 herein.

12 109. In doing the things alleged herein, Defendants violated the Family and Medical Leave
13 Act which provides, in pertinent part:

14 “(a) Except as provided in subdivision (b), it shall be an unlawful employment practice for
15 any employer, as defined in paragraph (2) of subdivision (c), to refuse to grant a request by
16 any employee with more than 12 months of service with the employer, and who has at least
17 1,250 hours of service with the employer during the previous 12-month period or who meets
18 the requirements of subdivision (u), to take up to a total of 12 workweeks in any 12-month
19 period for family care and medical leave. Family care and medical leave requested pursuant
20 to this subdivision shall not be deemed to have been granted unless the employer provides
21 the employee, upon granting the leave request, a guarantee of employment in the same or a
22 comparable position upon the termination of the leave. The commission shall adopt a
23 regulation specifying the elements of a reasonable request.

24 (b) Notwithstanding subdivision (a), it shall not be an unlawful employment practice for an
25 employer to refuse to grant a request for family care and medical leave by an employee if
26 the employer employs less than 50 employees within 75 miles of the worksite where that
27 employee is employed.

28 (3) “Family care and medical leave” means any of the following:

(A) Leave for reason of the birth of a child of the employee, the placement of a child
with an employee in connection with the adoption or foster care of the child by the
employee, or the serious health condition of a child of the employee.

(B) Leave to care for a parent or a spouse who has a serious health condition.

(C) Leave because of an employee's own serious health condition that makes the
employee unable to perform the functions of the position of that employee, except
for leave taken for disability on account of pregnancy, childbirth, or related medical
conditions.

1 (4) "Employment in the same or a comparable position" means employment in a position
2 that has the same or similar duties and pay that can be performed at the same or similar
3 geographic location as the position held prior to the leave.

4 (5) "FMLA" means the federal Family and Medical Leave Act of 1993 (P.L. 103-3).¹

5 110. For purposes of FMLA, an employer must provide employees with FMLA notices and
6 leaves and maintain health benefits. Upon return of an employee from FMLA leave, the employer is
7 responsible for restoring the employee's job. [29 CFR § 825.106(c), (e)]

8 111. By making the decision to terminate Plaintiff while on a personal medical leave in
9 retaliation for and/or as a result of Plaintiff's exercising her statutory right to take a period of medical
10 leave to recover from her hospitalization, Defendants violated the Family and Medical Leave Act.

11 112. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
12 damages, including but not limited to, lost past and future wages and benefits and mental anguish and
13 emotional suffering, all in an amount to be proven at trial and in excess of the jurisdictional minimum
14 of this Court.

15 113. In doing the things herein alleged, Defendants were guilty of oppression, fraud and
16 malice in that they, among other things, acted with a willful and conscious disregard for Plaintiff's
17 rights, health and safety and, insofar as the things alleged were attributable to employees of
18 Defendants, these employees were employed by Defendants with advance knowledge of the unfitness
19 of the employees and/or they were employed with a conscious disregard for the rights of others and/or
20 Defendants authorized or ratified the wrongful conduct and/or there was advance knowledge,
21 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of an
22 officer, director or managing agent of Defendants all entitling Plaintiff to the recovery of exemplary
23 and punitive damages.

24 **TWELFTH CAUSE OF ACTION**

25 **SEXUAL HARASSMENT IN VIOLATION OF FEHA**

26 **(VIOLATION OF FEHA, Cal. Govt. Code § 12940, *et seq.*)**

27 **(Against All Defendants)**

28 114. Plaintiff incorporates by reference and realleges as if fully stated herein each and every

1 allegation set forth above.

2 115. Plaintiff was employed by Defendants at all relevant times. As described above,
3 Plaintiff was subjected to severe, unwarranted, and sexually charged harassing conduct and comments
4 from Defendant McRoberts.

5 116. Plaintiff complained about the sexually harassing comments and behavior directly to
6 Defendant McRoberts and to Defendants' Human Resources employees.

7 117. The employer entity Defendants are strictly liable for Defendant McRoberts's sexual
8 harassment because Defendant McRoberts was a supervisory executive at all relevant times.
9 Defendant McRoberts had the authority to direct Plaintiffs' work activities and had influence over
10 her work assignments, responsibilities, requests for accommodations, requests for medical leave, and
11 discipline.

12 118. The employer entity Defendants knew of Defendant McRoberts's conduct yet failed
13 to take immediate and appropriate corrective action which was a substantial factor in causing Plaintiff
14 harm.

15 119. As a proximate result of Defendants' violation of California Government Code section
16 12940, Plaintiff has sustained and continues to sustain substantial losses of earnings and other
17 employment benefits.

18 120. As a proximate result of Defendants' violation of California Government Code section
19 12940, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and physical and
20 mental pain and anguish, all to her damage in a sum according to proof.

21 121. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
22 Pursuant to California Government Code section 12965(b), Plaintiff is entitled to recover reasonable
23 attorneys' fees and costs (including expert costs) in an amount according to proof. Defendants
24 committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful
25 intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in
26 conscious disregard of the rights of Plaintiff. Plaintiff is thus entitled to punitive damages from
27 Defendants in an amount according to proof.
28

1 **THIRTEENTH CAUSE OF ACTION**

2 **FAILURE TO PREVENT SEXUAL HARASSMENT IN VIOLATION OF FEHA**

3 **(VIOLATION OF FEHA, Cal. Govt. Code § 12940 (k))**

4 **(Against All Defendants Except Defendant Romaine McRoberts)**

5 122. Plaintiff incorporates by reference and realleges as if fully stated herein each and every
6 allegation set forth above.

7 123. Defendants failed to take immediate preventative and corrected steps reasonably
8 calculated to prevent Plaintiffs' sexual harassment.

9 124. Defendants failed to express strong disapproval of sexual harassment, inform and
10 explain to Plaintiff its policies against sexual harassment and what procedures were available to report
11 harassment and/or about Plaintiff's right to a harassment-free workplace, or develop appropriate
12 sanctions for those who commit sexual harassment.

13 125. The employer entity Defendants knew or should have known of the sexual harassment
14 by Defendant McRoberts. The employer entity Defendants were informed of the harassing conduct
15 of Defendant McRoberts and ratified, approved, and authorized that conduct, and failed to take
16 preventative actions to avoid that conduct.

17 126. Defendants' failure to take all reasonable steps to prevent sexual harassment was a
18 substantial factor in causing Plaintiff harm.

19 127. As a proximate result of Defendants' violation of California Government Code section
20 12940, Plaintiff has sustained and continues to sustain substantial losses of earnings and other
21 employment benefits.

22 128. As a proximate result of Defendants' violation of California Government Code section
23 12940(k), Plaintiff has suffered and continues to suffer humiliation, emotional distress, and physical
24 and mental pain and anguish, all to her damage in a sum according to proof.

25 129. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
26 Pursuant to California Government Code section 12965(b), Plaintiff is entitled to recover reasonable
27 attorneys' fees and costs (including expert costs) in an amount according to proof. Defendants
28

1 committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful
2 intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in
3 conscious disregard of the rights of Plaintiff. Plaintiff is thus entitled to punitive damages from
4 Defendants in an amount according to proof.

5 **FOURTEENTH CAUSE OF ACTION**

6 **NEGLIGENT SUPERVISION AND RETENTION IN VIOLATION OF FEHA**

7 **(Against All Defendants Except Defendant Romaine McRoberts)**

8 130. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

9 131. The employer entity Defendants hired Defendant McRoberts and employed him in a
10 supervisory role.

11 132. Defendant McRoberts became unfit to perform the work for which he was hired
12 because he was engaged in sexual harassment and unlawful retaliation culminating in Plaintiff's
13 wrongful termination after Plaintiff complained about his behavior and actions.

14 133. The employer entity Defendants knew or reasonably should have known that
15 Defendant McRoberts was engaging in the unlawful employment practices as described herein, and
16 that allowing him to remain in his role created a risk to woman at their organization.

17 134. The employer entity Defendants' negligence in supervising and retaining Defendant
18 McRoberts was a substantial factor in causing Plaintiff harm.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 21 A. For compensatory damages, including but not limited to, lost back pay, plus interest,
22 lost fringe benefits and future lost earnings and fringe benefits, lost equity, damages
23 for emotional distress and pain and suffering, according to proof;
- 24 B. For general and special damages to compensate Plaintiff for any medical expenses
25 and suffering;
- 26 C. For punitive damages, as allowed by law, that will sufficiently punish, make an
27 example of, and deter future conduct by Defendants;
- 28

- 1 D. For restitution and/or disgorgement;
2 E. For an award of costs of suit and reasonable attorneys' fees;
3 F. For an award of pre-judgment and post-judgment interest;
4 G. For any and all statutory penalties associated with the violations of any of the Causes
5 of Action plead in this Complaint;
6 H. Upon the Ninth Cause of Action, for compensatory, consequential, general and
7 special damages according to proof pursuant to Labor Code § 2802;
8 I. For such other and further relief as the Court deems just and proper.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a jury trial on all issues so triable.

11
12 DATED: March 19, 2024

STANSBURY BROWN LAW, PC

13
14 

15 _____
16 DANIEL J. BROWN
17 ETHAN C. SURLS
18 Attorneys for Plaintiff
19 PRISCILLA PEREZ
20
21
22
23
24
25
26
27
28

EXHIBIT A



Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

March 15, 2024

Ethan Surls
2610 1/2 Abbot Kinney Blvd.
Venice, CA 90291

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202403-23986215
Right to Sue: Perez / S&D Carwash Management, LLC et al.

Dear Ethan Surls:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, CRD will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

March 15, 2024

RE: Notice of Filing of Discrimination Complaint

CRD Matter Number: 202403-23986215

Right to Sue: Perez / S&D Carwash Management, LLC et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,

Civil Rights Department



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

March 15, 2024

Priscilla Perez

RE: **Notice of Case Closure and Right to Sue**

CRD Matter Number: 202403-23986215

Right to Sue: Perez / S&D Carwash Management, LLC et al.

Dear Priscilla Perez:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective March 15, 2024 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days



Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Priscilla Perez

CRD No. 202403-23986215

Complainant,

vs.

S&D Carwash Management, LLC

,

Quick Quack Car Wash, Inc.

,

Romaine McRoberts

,

Respondents

1. Respondent **S&D Carwash Management, LLC** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Quick Quack Car Wash, Inc.** business as Co-Respondent(s).
Complainant is naming **Romaine McRoberts** individual as Co-Respondent(s).

3. Complainant **Priscilla Perez**, resides in the City of , State of .

4. Complainant alleges that on or about **June 19, 2023**, respondent took the following adverse actions:

Complainant was harassed because of complainant's sexual harassment- hostile environment, sexual harassment- quid pro quo, disability (physical, intellectual/developmental, mental health/psychiatric), family care and medical leave (cfra) related to serious health condition of employee or family member, child bonding, or military exigencies.

Complainant was discriminated against because of complainant's sexual harassment- hostile environment, sexual harassment- quid pro quo, disability (physical,

1 intellectual/developmental, mental health/psychiatric), family care and medical leave (cfra)
2 related to serious health condition of employee or family member, child bonding, or military
3 exigencies and as a result of the discrimination was terminated, asked impermissible non-
4 job-related questions, denied or forced to transfer, denied accommodation for a disability,
5 denied employer paid health care while on family care and medical leave (cfra), denied
6 family care and medical leave (cfra) related to serious health condition of employee or family
7 member, child bonding, or military exigencies.

8 **Complainant experienced retaliation** because complainant reported or resisted any form
9 of discrimination or harassment, requested or used a disability-related accommodation,
10 participated as a witness in a discrimination or harassment complaint, requested or used
11 family care and medical leave (cfra) related to serious health condition of employee or family
12 member, child bonding, or military exigencies and as a result was terminated, asked
13 impermissible non-job-related questions, denied or forced to transfer, denied
14 accommodation for a disability, denied employer paid health care while on family care and
15 medical leave (cfra), denied family care and medical leave (cfra) related to serious health
16 condition of employee or family member, child bonding, or military exigencies.

17 **Additional Complaint Details:** Complainant complained of sexual harassment by her
18 manager and was forced to transfer; Complainant complained of sexual harassment by
19 customer and Respondents failed to take corrective action; Complainant attempted to
20 exercise CFRA leave for her personal serious health condition and was subsequently
21 terminated.

1 VERIFICATION

2 I, **Ethan Surls**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On March 15, 2024, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Redondo Beach, CA**
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25