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11 ALEJANDRA LLAMAS

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF ORANGE
14 CENTRAL JUSTICE CENTER, UNLIMITED JURISDICTION

15 ALEJANDRA LLAMAS, an Individual,

16 Plaintiff,

17 vs.

18 TRADER JOE’S COMPANY, a California
19 corporation; and DOES 1-10, inclusive.

20 Defendants.

Case No. 30-2021-01203761-CU-OE-CJC

COMPLAINT FOR DAMAGES

1. Whistleblower Retaliation (Lab. Code, § 1102.5)
2. Whistleblower Retaliation (Lab. Code, § 6310)
3. Whistleblower Retaliation (Lab. Code, § 98.6)
4. Wrongful Termination in Violation of Public Policy

DEMAND FOR JURY TRIAL

Assigned for All Purposes

Judge Fred W. Slaughter

THE LAW OFFICE OF OMID NOSRATI
1801 CENTURY PARK EAST, STE., 840, L.A., CA 90067

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PARTIES

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2 1. At all times relevant for purposes of this Complaint, Plaintiff, ALEJANDRA
3 LLAMAS (“Plaintiff”) has been a resident of the State of California.

4 2. Plaintiff is informed, believes and thereon alleges, that at all times relevant for
5 purposes of this Complaint, Defendant, TRADER JOE’S COMPANY, was and is a California
6 corporation, doing business in the State of California. Upon information and belief, Defendant
7 operates approximately 190 grocery stores within the State of California and approximately over 500
8 stores nationwide.

9 3. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
10 associate, or otherwise, of Defendants named herein as DOES 1 through 10, inclusive, and therefore
11 sues Defendants by such fictitious names. Defendants DOES 1 through 10, at all times relevant for
12 purposes of this Complaint were employees, agents, officers and/or members of the board of
13 directors of Defendants. Plaintiff will amend this complaint to allege the true names and capacities
14 of the Defendants designated herein as DOES 1 through 10, inclusive, when they have been
15 ascertained.

16 4. Plaintiff is informed and believes, and on that basis alleges, that all named
17 Defendants and those designated herein as DOES 1 through 10, inclusive, are responsible in some
18 manner for the acts, events and occurrences alleged herein, and caused or contributed to the damages
19 sustained by Plaintiff.

20 5. Plaintiff is informed and believes, and on that basis alleges, that at all times relevant
21 for purposes of this Complaint, the Defendants designated herein as DOES 1 through 10, inclusive,
22 acted as the agents, employees, directors, officers, co-venturers, and partners of the named
23 Defendants and such fictitiously-named Defendants. Each of them, while acting in the course and
24 scope of their agency, employment, corporate capacities, and partnership, performed the acts and
25 conduct hereinafter alleged, and said acts and conduct were ratified and approved by each
26 Defendant.

27 **JURISDICTION**

28 6. Jurisdiction is proper in this court by virtue of the California statutes, decisional law,

1 and regulations, and the local rules under the Orange County Superior Court Rules.

2 7. Jurisdiction and venue in this county and division is proper because the events giving
3 rise to each and every of the following causes of action, which are described below, occurred within
4 this judicial district in the State of California. Furthermore, the relief sought through this Complaint
5 is within the jurisdiction of this Court because the damages are more than \$25,000.00.

6 8. Venue is proper in the Central Justice Center of the Orange County Superior Court
7 pursuant to Code of Civil Procedure §395(a) and 395.5, because at least some of the acts complained
8 of herein occurred in the County of Orange.

9 **FACTS COMMON TO ALL CAUSES OF ACTION**

10 9. On or around October 2, 2016, Plaintiff began working for Defendant as a Crew
11 Member at its Whittier, California grocery store.

12 10. Plaintiff excelled in her position and received one positive performance review after
13 another along with many successive merit-based pay increases.

14 11. However, on or around March 11, 2020, as a result of the COVID-19 outbreak, the
15 World Health Organization declared COVID-19 a pandemic. On or around March 19, 2020,
16 California Governor Gavin Newsome issued a stay-at-home order wherein all non-essential
17 businesses were ordered to close, and people were encouraged to stay at home and avoid going out.
18 As a retail grocery store, Defendant's Whittier grocery store was declared an "essential business"
19 and remained open throughout the COVID-19 pandemic and the California stay-at-home order.

20 12. Among other requirements, the Los Angeles County grocery store protocols required
21 employees to wear a face mask at all times except when working alone in private offices with closed
22 doors or when eating or drinking; customers were required to wear a facemask at all times while in
23 the grocery store (customers could wear a face shield if they have been instructed not to wear a face
24 mask by their medical provider); employees and customers were required to maintain six feet social
25 distancing; customers who brought reusable bags were required to bag their own purchases; and
26 required the grocery store to maintain and enforce the mandated occupancy limit.

27 13. Plaintiff was an "essential worker" and worked on the front-lines throughout the
28 entirety of the pandemic as the number of COVID-19 infections and related deaths skyrocketed.

1 However, Plaintiff relied on her medical and nursing training to keep herself, her fellow employees,
2 and Defendant’s customers compliant with Los Angeles County’s COVID-19 guidelines for retail
3 grocery stores.

4 14. At first, Plaintiff was praised for her steadfast commitment to following the COVID-
5 19 guidelines. In fact, Plaintiff’s August 3, 2020 Performance Review stated, “Alley, you come to
6 work every day with a ready to work attitude. You contribute to our WOW customer experience on
7 the sales floor by acknowledging the customers around you, you walk customers to the product they
8 seek and during this difficult time have shown leadership in keeping our customers and crew
9 safe...While at the register front you involve customers in conversations and share your knowledge
10 with them while keeping social distance.”

11 15. Nevertheless, despite Plaintiff’s eagerness to follow the recommended COVID-19
12 guidelines, many of her co-workers and management staff blatantly disregarded the mandated
13 COVID-19 protocols. For example, management allowed customers to enter the store without
14 wearing face masks; Plaintiff was told by management that she would be fired if she told a customer
15 to put on a face mask; management allowed crew members to work without wearing face masks; and
16 management informed Plaintiff and other crew members that, when doing the head count for the
17 occupancy limit, they should not count crew members or the customers standing in line at the
18 register. As a result, Plaintiff made numerous verbal complaints to management about customers and
19 fellow crew members not wearing masks to no avail.

20 16. On or around September 14, 2020, management held a “smart chat” with the staff.
21 The smart chat occurred twice a day, once at the beginning of the morning shift and once at the end
22 of the evening shift. The smart chat was time when the management gathered the staff together to
23 inform them of updates and necessary information coming from corporate. Mate Brianna Ortman
24 and Mate Dylan Nelson led the September 14, 2020 smart chat wherein several staff members
25 attended the smart chat without wearing their masks.

26 17. After Ms. Ortman and Mr. Neslon were done speaking, Plaintiff stood up and
27 addressed everybody at the smart chat stating her concerns that there were a number of crew
28 members that have refused to follow the COVID-19 protocols and safety measures, yet the

1 management staff did nothing to rectify it. Plaintiff also complained that management has become
2 too lax about enforcing the COVID-19 protocols amongst the staff and customers. Plaintiff
3 complained about crew members not wearing masks while on the floor, crew members were not
4 social distancing, the fact that management was asking the staff to lie about the numbers of people in
5 the store by instructing the staff to not count the staff or the customers in line at the registers.
6 Plaintiff pleaded with her coworkers that they should have respect for one another and their families
7 by following the COVID-19 protocols, especially as they were going into the cold season where
8 viruses thrived the most.

9 18. The next day, on or around September 15, 2020, Plaintiff was pulled into the office
10 by Mate Lisbeth Delgado and Mate Brianna Ortman. Ms. Delgado and Ms. Ortman informed
11 Plaintiff that the crew was upset at Plaintiff for what she said during the prior night's smart chat.
12 Plaintiff apologized and stated that she did not mean to upset anybody, she was just expressing her
13 concerns. In response, Ms. Ortman informed Plaintiff that she could no longer participate in the
14 smart chats. During this meeting, Ms. Ortman referred to Plaintiff as an "extremist" when it came to
15 following the COVID-19 guidelines. Plaintiff responded by stating that, as a former healthcare
16 worker, she was taught that health-related rules were put in place for a reason and were meant to be
17 followed. Nevertheless, Plaintiff agreed to no longer attend the daily smart chats. Also, soon after
18 this meeting ended, Plaintiff was verbally harassed by Crew Member Nicole Rios because she took
19 issue with the comments that Plaintiff made at the prior night's smart chat. Ms. Rios' verbal
20 harassment towards Plaintiff took place in front of the management staff without consequence.

21 19. On or about September 23, 2020, Plaintiff made a written complaint to Jordan
22 Hancock, a senior Human Resources Generalist, detailing management's failure to follow the
23 COVID-19 protocols.

24 20. On or about November 13, 2020, Plaintiff had a meeting with Andre McCurry, the
25 Captain (General Manager) of the Whitter store, regarding the complaints that Plaintiff made at the
26 September 14, 2020 smart chat. Plaintiff informed Mr. McCurry of what she said at the smart chat.
27 In response, Mr. McCurry asked Plaintiff to write a statement to be submitted to Donnie Martin, the
28 Orange County Regional Vice President.

1 21. On or about November 17, 2020, Plaintiff emailed her written statement to Donnie
2 Martin, detailing the complaint that she made at the September 14 smart chat regarding Defendant’s
3 duty to follow the COVID-19 protocols to keep their employees safe. In addition, Plaintiff detailed
4 the resulting retaliation as she was informed by Mates Lisbeth Delgado and Brianna Ortman that she
5 would no longer be allowed to attend the daily smart chats. Plaintiff also detailed how she was
6 subjected to verbal harassment by Crew Member Nicole Rios in front of Mate Brianna Ortman.

7 22. Then, on or around December 2, 2020, Donnie Martin issued a written warning to
8 Plaintiff because of the complaint that Plaintiff made during the September 14th smart chart
9 regarding Defendant’s failure to follow COVID-19 protocols. In the write-up, Mr. Martin stated,

10 “Alejandra, at the end of the night on Monday, September 14, 2020, you [sic] store had a
11 Smart chat with the Mate Team and Crew Members in the store. During the chat, the topic of
12 COVID-19 safety precautions was discussed, and the fact customers would be allowed to
13 shop with the use of a face shield in place of a face mask.

14 In response to the topic being discussed, you asked Mate Brianna and Mate Dylan, who was
15 above them you could speak to about Trader Joe’s not keeping Crew Members safe. You also
16 spoke to the Crew Members and Mates present at the chat expressing how you felt they were
17 not taking the proper pre-cautions to keep themselves and fellow Crew Members safe, and
18 that you felt everyone was going to get sick, but you would not due to your knowledge.

19 After the meeting, several Crew Members expressed to the Mate Team that they felt belittled,
20 and were being talked down to like children, while you expressed your frustrations. When
21 you were spoken to about this situation by Captain Andre on November 13, 2020, at which
22 time you indicated your intentions were not meant to offend anyone, but you were trying to
23 educate everyone on the situation and find out, “Who was above the mates on hand in the
24 office”, that she [sic] needed speak with.

25 Alejandra, although you claim you were not trying to offend the Crew Members present, the
26 manner in which you addressed your fellow Crew was unprofessional and caused them to
27 feel uncomfortable. This behavior in [sic] inappropriate and will not be tolerated. Going
28 forward, if you have frustrations or concerns you would like addressed, you are expected to
discuss these concerns to the Captain or a Mate in a private setting away from other Crew
Members.”

29 23. On or around December 23, 2020, Plaintiff submitted a verbal complaint to Laurie
30 Mead, a Human Resources representative, for being written up for expressing concerns regarding
31 Defendant’s violations of state and local guidelines regarding COVID-19.

32 24. Between December 2020 and January 2021, 11 crew members from Defendant’s
33 Whittier grocery store contracted COVID-19 during a five-week period. During this time period,

1 many of the crew members that contracted COVID-19, regularly worked without wearing face
2 masks or any sort of protected face covering. Consequently, during this five-week time period,
3 Plaintiff worked with several of the crew members that contracted COVID-19 who were not
4 following the required guidelines and she was therefore exposed to COVID-19 herself. From
5 December 23, 2020 through January 22, 2021, Plaintiff received at least eight email notices from
6 Andre McMurray stating that she may have been exposed to COVID-19.

7 25. On or around December 24, 2020, Plaintiff submitted a written complaint to Donnie
8 Martin regarding the December 2nd write-up. Plaintiff informed Mr. Martin that she made a verbal
9 complaint to Ms. Mead. However, Ms. Mead was cold, rude, and had no interest in further
10 investigating her complaint. Plaintiff also complained that she believed she was experiencing
11 retaliation for complaining about Defendant's COVID-19 violations. Plaintiff further complained
12 that crew member that had recently tested positive for COVID-19 had been previously working
13 without a mask, sharing food with other crew members, and these actions put herself and other crew
14 members at risk. Plaintiff stated that, all of the fears that she expressed during the September 14th
15 smart chat were coming true. In closing, Plaintiff stated, "I should not apologize for passionately
16 caring about the health and safety of myself and the crew. I have a right not to want to contract a
17 virulent deadly disease. We have a right to a safe workplace." Plaintiff went on to state her belief
18 that it was wrong for her to have received a written warning and requested Donnie Martin's
19 supervisor's contact information so she could escalate her complaint up the chain of command.

20 26. In response to the COVID-19 outbreak, Defendant sent out email messages to the
21 staff to inform them of dates and times that testing would be made available at the store for the staff
22 to be tested. However, Plaintiff did not directly receive any of the messages to inform her of the
23 dates and times that the testing would take place. Plaintiff only found out about the test times after
24 speaking with fellow crew members.

25 27. On or around December 31, 2020, Plaintiff emailed Donnie Martin to ask if there was
26 any particular reason that she didn't receive the messages regarding the testing dates and times like
27 the rest of the crew did. Plaintiff informed Mr. Martin that she wanted to be put on the list to make
28 sure that she would be able to take a COVID-19 test. That same day, Mr. Martin responded stating

1 that Defendant used an algorithm to calculate exposure and the look back period and Defendant
2 would only be offering the test to crew members that qualified for testing under this formula. On
3 January 4, 2021, Plaintiff responded, stating that Mr. Martin had made her feel that her health
4 doesn't matter and that she was not part of the crew. Plaintiff also stated that, she thought by
5 informing Mr. Martin that she had worked with one of the crew members that tested positive and
6 who was also not wearing their mask while working in the store, Plaintiff would be included on the
7 list to take the test.

8 28. On or around January 4, 2021, Plaintiff spoke with Mitch Heeger, the Executive Vice
9 President of Stores and Donnie Martin's direct supervisor. Plaintiff told Mr. Heeger that she wanted
10 to have the December 2, 2020 write up removed. Plaintiff told Mr. Heeger that she was scared
11 because the staff was not following the mandated COVID-19 protocols. Plaintiff also issued a
12 complaint to Mr. Heeger about the management ordering the crew member to lie about the
13 occupancy level of the store as they were told to not count the crew members or the customers
14 standing in line at the register. Plaintiff also informed Mr. Heeger about what she said during the
15 September 14th smart chat and she complained about the harassment and retaliation that she suffered
16 as a result.

17 29. In response, Mr. Heeger stated that he was in charge of 90 stores and he could not
18 remove Plaintiff's write up. Mr. Heeger stated that Plaintiff needed to address these concerns with
19 Donnie Martin.

20 30. After speaking with Mr. Heeger, that same day on January 4, 2021, Plaintiff emailed
21 Mr. Martin. Plaintiff informed Mr. Martin that Mr. Heeger told her that Mr. Martin was the person
22 she needed to speak with about having her write-up removed. Plaintiff stated that she believed it was
23 wrong that she was written up, especially after the store had suffered the recent COVID-19 outbreak.

24 31. A few minutes later, Mr. Martin responded by email stating in pertinent part, "I told
25 you that I worked with HR and felt the write up was justified and I was not going to retract it. You
26 got the same answer from Laurie Mead and Mitch Heeger. As I stated in our conversation, at some
27 point you are going to have to take some ownership to how you made the crew members and Mates
28 feel during the huddle. The recent events have nothing to do with what took place at the huddle. I

1 spoke to Mitch moments ago about your conversation. He said you felt retaliated against ... Your
2 write up was based off your comments and documentation from multiple crew members and two
3 Mates confirming what you said. That is not retaliation it's holding you accountable to making the
4 crew feel uncomfortable and asking that you correct that behavior.”

5 32. As a result of Mr. Martin's response, on January 9, 2020¹, Plaintiff filed a written
6 complaint with the Los Angeles County Public Health Department regarding Defendant's COVID-
7 19 violations.

8 33. On January 10, 2021, Plaintiff also filed a written, retaliation complaint through
9 OSHA's Whistleblower Protection Program.

10 34. On or around January 29, 2021, Plaintiff arrived at the Whittier store early, prior to
11 the start of her shift. When she arrived, Plaintiff saw that a nurse was on-site administering COVID-
12 19 tests to the staff. Plaintiff was approached by the nurse and was asked if she wanted to receive a
13 test. At that same time, Mate Johnny Doyle was walking by and Plaintiff asked Mr. Doyle if it was
14 okay for her to receive the test. Mr. Doyle responded, “Yeah, go ahead.” As a result, Plaintiff took
15 the COVID-19 test.

16 35. On or around February 3, 2021, during her shift, Plaintiff was pulled outside by
17 Captain Andre McCurry and Mate Ashley Quan. Mr. McCurry and Ms. Quan questioned Plaintiff on
18 why she took the test. According to Mr. McCurry, Plaintiff was not given approval to take the test
19 and Mr. McCurry compared Plaintiff to a bank robber as he was essentially accusing her of
20 committing theft for taking the COVID-19 test.

21 36. On or about February 10, 2021, Donnie Martin emailed Plaintiff regarding the
22 investigation that he was conducting about Plaintiff taking the store provided COVID-19 test. Mr.
23 Martin asked Plaintiff to provide documentation by February 15, 2021.

24 37. On or about February 12, 2021, Plaintiff responded by email to Mr. Martin stating in
25 pertinent part, “After experiencing the low integrity of your company including the mates and
26 captain. I must seek advise [sic] from my attorneys regarding any issues moving forward. Thank you
27 for your patience. I have been patient for months for you to address all the issues that I brought to
28 your mates attention in the smart chat ... I have been hoping that trader joes would do the right thing

1 before others lose their lives our continue to become ill. I will provide the statement requested before
2 your deadline. Thank you very much.”

3 38. On or around February 16, 2021, while working her scheduled shift, Plaintiff was
4 taken outside and again questioned by Mr. Martin on why Plaintiff took the COVID-19 test on
5 January 29, 2021. Plaintiff informed Mr. Martin that she believed the test was to open to all the staff
6 to take and she had been told by several mates and crew members that the test was open for all staff
7 to take. Mr. Martin responded stating that Plaintiff was not approved to take the test as it was
8 allegedly only made available to a limited number of staff that were on an approved list.

9 39. During this meeting, Plaintiff informed Mr. Martin that she made complaints to
10 OSHA and the Los Angeles County Public Health Department regarding Defendant’s numerous
11 COVID-19 violations.

12 40. Only three days later, on or around February 19, 2021, Defendant terminated
13 Plaintiff. Captain Andrew McCurry and Mate Greg Aguirre informed Plaintiff of the termination.
14 During this meeting, Mr. McCurry read a performance review that had not been previously provided
15 to Plaintiff. Mr. McCurry also read the Notice of Termination claiming that Plaintiff did not meet
16 expectations from the last review cycle. However, the prior review that Plaintiff received was from
17 August 3, 2020 and it stated that Plaintiff met expectations and rewarded her with a merit pay
18 increase. Consequently, Defendant’s termination of Plaintiff was merely pretext for whistleblower
19 retaliation.

20 **FIRST CAUSE OF ACTION**

21 **WHISTLEBLOWER RETALIATION (Lab. Code, § 1102.5)**

22 (Against All Defendants and DOES 1-10, inclusive)

23 41. Plaintiff incorporates by reference paragraphs 1 through 40 as though fully stated
24 herein.

25 42. California Labor Code § 1102.5 prohibits employers from retaliating against
26 employees who engage in protected “whistleblowing” activities when the employee has reasonable
27 cause to believe that the information discloses a violation of state or federal statute. In addition,
28 Labor Code § 1102.5 subd. (b) forbids retaliation if the employee disclosed, or the employer believes

1 he/she disclosed “to a person with authority over the employee or another employee who has the
2 authority to investigate, discover, or correct the violation or noncompliance.”

3 43. On or around September 14, 2020 during the smart chat discussion, Plaintiff engaged
4 in protected activity by issuing a verbal complaint to Mate Brianna Ortman and Mate Dylan Nelson
5 about Defendant’s numerous COVID-19 violations. Specifically, Plaintiff complained to Mates that
6 there were many crew members that refused to follow the COVID-19 protocols and safety measures,
7 yet the management staff did nothing to rectify it. Plaintiff also complained that management has
8 become too lax about enforcing the COVID-19 protocols amongst the staff and customers. Plaintiff
9 complained about crewmembers not wearing masks while on the floor, crewmembers were not
10 social distancing, management was asking the staff to lie about the numbers of people in the store by
11 instructing the staff to not count the staff or the customers in line at the registers.

12 44. On or about September 23, 2020, Plaintiff made a written complaint to Jordan
13 Hancock, a Sr. Human Resources Generalist, detailing management’s failure to follow the COVID-
14 19 protocols.

15 45. On or around December 2, 2020, Donnie Martin issued a written warning to Plaintiff
16 because of the complaint that Plaintiff made during the September 14th smart chart regarding
17 Defendant’s failure to follow COVID-19 protocols.

18 46. On or around December 23, 2020, Plaintiff submitted a verbal complaint to Laurie
19 Mead, a Human Resources representative, for being written up for expressing concerns regarding
20 Defendant’s violations of state and local guidelines regarding COVID-19.

21 47. On or around December 24, 2020, Plaintiff submitted a written complaint to Donnie
22 Martin regarding the December 2nd write-up. Plaintiff also complained that crew member that had
23 recently tested positive for COVID-19 had been previously working without a mask, sharing food
24 with other crew members, and these actions put herself and other crew members at risk.

25 48. On or around December 31, 2020, Plaintiff engaged in protected activity by making a
26 written complaint to Donnie Martin about being excluded from the messages regarding the COVID-
27 19 testing dates and times that the rest of the crew members received. Plaintiff informed Mr. Martin
28 that she wanted to be put on the list to make sure that she would be able to take a COVID-19 test.

1 49. On or about January 9, 2021, Plaintiff engaged in protected activity by filing a written
2 complaint with the Los Angeles County Public Health Department regarding Defendant's COVID-
3 19 violations.

4 50. On or about January 10, 2021, Plaintiff engaged in protected activity by filing a
5 written, retaliation complaint through OSHA's Whistleblower Protection Program.

6 51. On or about February 16, 2021, Plaintiff engaged in protected activity by telling
7 Donnie Martin that she made complaints to OSHA and the Los Angeles County Public Health
8 Department regarding Defendant's numerous COVID-19 violations.

9 52. Plaintiff suffered an adverse employment action when she was written up on or
10 around December 2, 2020 for the complains she made during the September 14, 2020 smart chat
11 regarding Defendant's COVID-19 violations.

12 53. Further, Plaintiff suffered an adverse employment action when she was terminated on
13 February 16, 2021, only three days after Plaintiff informed Donnie Martin about the complaints she
14 made to OSHA and the Los Angeles County Public Health Department.

15 54. There is a causal link between Plaintiff's termination and her protected activity. On or
16 around November 13, 2020, Defendant initiated an investigation into Plaintiff's September 14, 2020
17 smart chat complaint which culminated in her receiving a written warning for the complaints she
18 made during the September 14, 2020 smart chat. In addition, Plaintiff was fired three days after she
19 informed Donnie Martin about the complaints she made to OSHA and the Los Angeles County
20 Public Health Department regarding Defendant's COVID-19 violations.

21 55. As a proximate result of Defendants' conduct and pursuant to Labor Code §
22 1102.5(f), Defendants are liable to Plaintiff for a civil penalty not to exceed ten thousand dollars
23 (\$10,000.00).

24 56. As a further proximate result of Defendants' conduct, Plaintiff has suffered actual,
25 consequential and incidental financial losses, including without limitation, loss of salary and
26 benefits, and the intangible loss of employment-related opportunities for growth in her field and
27 damage to her professional reputation, all in an amount subject to proof at the time of trial. Plaintiff
28 claims such amounts as damages together with prejudgment interest pursuant to Civil Code Sections

1 3287 and/or 3288 and/or any other provision of law providing for prejudgment interest.

2 57. As a further proximate result of the wrongful acts of Defendants, and each of them,
3 Plaintiff has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental
4 anguish, and emotional distress and will likely incur, medical expenses as a result. Plaintiff is
5 informed and believes and thereon alleges that she will continue to experience said pain and mental
6 and emotional suffering for a period in the future she cannot presently ascertain, all in an amount
7 subject to proof at the time of trial.

8 58. As a further proximate result of the wrongful acts of Defendants, and each of them,
9 Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is
10 expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled
11 to recover such attorneys' fees and costs under Labor Code § 1102.5(j) and/or any other provision of
12 law providing for attorneys' fees and costs.

13 59. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
14 and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent,
15 malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff,
16 thereby justifying an award to her of punitive damages in a sum appropriate to punish and make an
17 example of Defendants.

18 **SECOND CAUSE OF ACTION**

19 **WHISTLEBLOWER RETALIATION (Lab. Code, § 6310)**

20 (Against All Defendants and DOES 1-10, inclusive)

21 60. Plaintiff incorporates by reference paragraphs 1 through 40 as though fully stated
22 herein.

23 61. Labor Code § 6310, subdivision (a)(1), prohibits employers from discharging or
24 discriminating in any manner against an employee because the employee made an oral or written
25 complaint to the division, other governmental agencies having statutory responsibility for or
26 assisting the division with reference to employee safety or health, his or her employer, or his or her
27 representative.

28 62. On or around September 14, 2020 during the smart chat discussion, Plaintiff engaged

1 in protected activity by issuing a verbal complaint to Mate Brianna Ortman and Mate Dylan Nelson
2 about Defendant's numerous COVID-19 violations. Specifically, Plaintiff complained to Mates that
3 there were many crew members that refused to follow the COVID-19 protocols and safety measures,
4 yet the management staff did nothing to rectify it. Plaintiff also complained that management has
5 become too lax about enforcing the COVID-19 protocols amongst the staff and customers. Plaintiff
6 complained about crewmembers not wearing masks while on the floor, crewmembers were not
7 social distancing, management was asking the staff to lie about the numbers of people in the store by
8 instructing the staff to not count the staff or the customers in line at the registers.

9 63. On or about September 23, 2020, Plaintiff made a written complaint to Jordan
10 Hancock, a Sr. Human Resources Generalist, detailing management's failure to follow the COVID-
11 19 protocols.

12 64. On or around December 2, 2020, Donnie Martin issued a written warning to Plaintiff
13 because of the complaint that Plaintiff made during the September 14th smart chart regarding
14 Defendant's failure to follow COVID-19 protocols.

15 65. On or around December 23, 2020, Plaintiff submitted a verbal complaint to Laurie
16 Mead, a Human Resources representative, for being written up for expressing concerns regarding
17 Defendant's violations of state and local guidelines regarding COVID-19.

18 66. On or around December 24, 2020, Plaintiff submitted a written complaint to Donnie
19 Martin regarding the December 2nd write-up. Plaintiff also complained that crew member that had
20 recently tested positive for COVID-19 had been previously working without a mask, sharing food
21 with other crew members, and these actions put herself and other crew members at risk.

22 67. On or around December 31, 2020, Plaintiff engaged in protected activity by making a
23 written complaint to Donnie Martin about being excluded from the messages regarding the COVID-
24 19 testing dates and times that the rest of the crew members received. Plaintiff informed Mr. Martin
25 that she wanted to be put on the list to make sure that she would be able to take a COVID-19 test.

26 68. On January 9, 20201, Plaintiff engaged in protected activity by filing a written
27 complaint with the Los Angeles County Public Health Department regarding Defendant's COVID-
28 19 violations.

1 69. On January 10, 2021, Plaintiff engaged in protected activity by filing a written,
2 retaliation complaint through OSHA’s Whistleblower Protection Program.

3 70. On February 16, 2021, Plaintiff engaged in protected activity by telling Donnie
4 Martin that she made complaints to OSHA and the Los Angeles County Public Health Department
5 regarding Defendant’s numerous COVID-19 violations.

6 71. Plaintiff suffered an adverse employment action when she was terminated on
7 February 16, 2021, only three days after Plaintiff informed Donnie Martin about the complaints she
8 made to OSHA and the Los Angeles County Public Health Department.

9 72. Plaintiff’s complaints to OSHA and the Los Angeles County Public Health
10 Department were a substantial motivating reason for Defendant’s decision to terminate Plaintiff.

11 73. There is a causal link between Plaintiff’s termination and her protected activity. On or
12 around February 16, 2021, Plaintiff informed Donnie Martin about the complaints she made to
13 OSHA and the Los Angeles County Public Health Department regarding Defendant’s COVID-19
14 violations and Defendant terminated Plaintiff only three days later on February 19, 2021.

15 74. As a further proximate result of Defendant’s conduct, Plaintiff has suffered actual,
16 consequential and incidental financial losses, including without limitation, loss of salary and
17 benefits, and the intangible loss of employment-related opportunities for growth in her field and
18 damage to her professional reputation, all in an amount subject to proof at the time of trial. Plaintiff
19 claims such amounts as damages together with prejudgment interest pursuant to Civil Code Sections
20 3287 and/or 3288 and/or any other provision of law providing for prejudgment interest. Plaintiff is
21 also entitled to recover attorney’s fees and costs.

22 75. As a further proximate result of the wrongful acts of Defendants, and each of them,
23 Plaintiff has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental
24 anguish, and emotional distress and will likely incur, medical expenses as a result. Plaintiff is
25 informed and believes and thereon alleges that she will continue to experience said pain and mental
26 and emotional suffering for a period in the future she cannot presently ascertain, all in an amount
27 subject to proof at the time of trial.

28 76. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants

1 and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent,
2 malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff,
3 thereby justifying an award to her of punitive damages in a sum appropriate to punish and make an
4 example of Defendants.

5 **THIRD CAUSE OF ACTION**

6 **WHISTLEBLOWER RETALIATION (Lab. Code, § 98.6)**

7 (Against all Defendants and DOES 1-10, inclusive)

8 77. Plaintiff incorporates by reference paragraphs 1 through 40 as though fully stated
9 herein.

10 78. Labor Code § 98.6 prohibits an employer from discriminating or retaliating against an
11 employee for filing a complaint or disclosing information about a safety violation or making a
12 complaint regarding any violation of the California Labor Code.

13 79. On January 9, 20201, Plaintiff engaged in protected activity by filing a written
14 complaint with the Los Angeles County Public Health Department regarding Defendant's COVID-
15 19 violations.

16 80. On January 10, 2021, Plaintiff engaged in protected activity by filing a written,
17 retaliation complaint through OSHA's Whistleblower Protection Program.

18 81. On February 16, 2021, Plaintiff engaged in protected activity by telling Donnie
19 Martin that she made complaints to OSHA and the Los Angeles County Public Health Department
20 regarding Defendant's numerous COVID-19 violations.

21 82. Plaintiff suffered an adverse employment action when she was terminated on
22 February 16, 2021, only three days after Plaintiff informed Donnie Martin about the complaints she
23 made to OSHA and the Los Angeles County Public Health Department.

24 83. Plaintiff's complaints to OSHA and the Los Angeles County Public Health
25 Department were a substantial motivating reason for Defendant's decision to terminate Plaintiff.

26 84. There is a causal link between Plaintiff's termination and her protected activity. On or
27 around February 16, 2021, Plaintiff informed Donnie Martin about the complaints she made to
28

1 OSHA and the Los Angeles County Public Health Department regarding Defendant’s COVID-19
2 violations and Defendant terminated Plaintiff only three days later on February 19, 2021.

3 85. As a further proximate result of Defendant’s conduct, Plaintiff has suffered actual,
4 consequential and incidental financial losses, including without limitation, loss of salary and
5 benefits, and the intangible loss of employment-related opportunities for growth in her field and
6 damage to her professional reputation, all in an amount subject to proof at the time of trial. Plaintiff
7 claims such amounts as damages together with prejudgment interest pursuant to Civil Code Sections
8 3287 and/or 3288 and/or any other provision of law providing for prejudgment interest.

9 86. As a further proximate result of the wrongful acts of Defendants, and each of them,
10 Plaintiff has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental
11 anguish, and emotional distress and will likely incur, medical expenses as a result. Plaintiff is
12 informed and believes and thereon alleges that she will continue to experience said pain and mental
13 and emotional suffering for a period in the future she cannot presently ascertain, all in an amount
14 subject to proof at the time of trial.

15 87. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
16 and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent,
17 malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff,
18 thereby justifying an award to her of punitive damages in a sum appropriate to punish and make an
19 example of Defendants.

20 **FOURTH CAUSE OF ACTION**

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

22 (Against all Defendants and DOES 1-10, inclusive)

23 88. Plaintiff incorporates by reference paragraphs 1 through 40 as though fully stated
24 herein.

25 89. Pursuant to Labor Code § 1102.5, California has a fundamental and substantive
26 public policy that prohibits employers from retaliating against employees who engage in protected
27 “whistleblowing” activities when the employee has reasonable cause to believe that the information
28 discloses a violation of state or federal statute.

1 90. In addition, pursuant to Labor Code, § 6310, subdivision (a)(1), California has a
2 fundamental and substantive public policy that prohibits employers from discharging or
3 discriminating in any manner against an employee because the employee made an oral or written
4 complaint to the division, other governmental agencies having statutory responsibility for or
5 assisting the division with reference to employee safety or health, his or her employer, or his or her
6 representative.

7 91. Labor Code § 98.6 also prohibits an employer from discriminating or retaliating
8 against an employee for filing a complaint, disclosing information about a safety violation, or
9 making a complaint regarding any violation of the California Labor Code.

10 92. As set forth above, Defendants terminated Plaintiff in violation of fundamental and
11 substantive public policies.

12 93. As a direct and proximate result of the wrongful acts of Defendants, and each of
13 them, Plaintiff has been harmed in that Plaintiff has suffered actual, consequential and incidental
14 financial losses, including without limitation loss of salary and benefits, and the intangible loss of
15 employment-related opportunities for growth in her field and damage to her professional reputation,
16 all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages
17 together with prejudgment interest pursuant to Civil Code sections 3287 and/or 3288 and/or any
18 other provision of law providing for prejudgment interest.

19 94. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
20 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish,
21 and emotional distress and will likely incur, medical expenses as a result. Plaintiff is informed and
22 believes and thereon alleges that she will continue to experience said pain and mental and emotional
23 suffering for a period in the future he cannot presently ascertain, all in an amount subject to proof at
24 the time of trial.

25 95. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
26 and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent,
27 malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff,
28 thereby justifying an award to her of punitive damages in a sum appropriate to punish and make an

1 example of Defendants.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, PLAINTIFF prays for judgment as follows:

- 4 1. For all actual, consequential and incidental financial losses, including without limitation
5 loss of salary and benefits, together with prejudgment interest, according to proof;
- 6 2. For compensatory and general damages in an amount according to proof;
- 7 3. For injunctive and declaratory relief;
- 8 4. For penalties pursuant to Labor Code Section 1102.5;
- 9 5. For penalties pursuant to Labor Code Section 98.6;
- 10 6. For Attorney's fees;
- 11 7. For prejudgment and post-judgment interest according to any applicable provision of law,
12 according to proof;
- 13 8. Costs of suit; and
- 14 9. For such other and further relief as the Court may deem just and proper.

15 Dated: June 2, 2021

16 THE LAW OFFICE OF OMID NOSRATI

17 By: /s/ Rene M. Maldonado, Esq.

18 Omid Nosrati, Esq.
19 Rene M. Maldonado, Esq.
20 Attorneys for Plaintiff,
21 ALEJANDRA LLAMAS

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff hereby demands a jury trial as provided by California Code of Civil Procedure
24 section 631.

25 Dated: June 2, 2021

26 THE LAW OFFICE OF OMID NOSRATI

27 By: /s/ Rene M. Maldonado, Esq.

28 Omid Nosrati, Esq.
Rene M. Maldonado, Esq.
Attorneys for Plaintiff,
ALEJANDRA LLAMAS