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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**

14 ROBERT LOFTON, an individual,

15 Plaintiffs,

16 vs.

17 LEWIS BRISBOIS BISGAARD & SMITH
18 LLP, and DOES 1-10 inclusive,

19 Defendants.

Case No. **24STCV06842**

COMPLAINT FOR DAMAGES FOR:

- 1) DISCRIMINATION BASED ON DISABILITY
- 2) DISCRIMINATION BASED ON PERCEIVED OR ACTUAL MEDICAL CONDITION
- 3) FAILURE TO ACCOMMODATE
- 4) FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS
- 5) DISCRIMINATION BASED ON RACE
- 6) FEHA RETALIATION
- 7) FAILURE TO PREVENT DISCRIMINATION GOVERNMENT CODE §12940, SUBDIVISION (K)
- 8) VIOLATION OF LABOR CODE § 1102.5
- 9) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
- 10) RETALIATION OR DISCRIMINATION IN VIOLATION OF PUBLIC POLICY
- 11) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- 12) NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
- 13) BREACH OF CONTRACT

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- 14) VIOLATION OF LABOR CODE § 204
- 15) VIOLATION OF LABOR CODE § 226

DEMAND FOR JURY TRIAL

1 PLAINIFF ROBERT LOFTON (“PLAINIFF” or “MR. LOFTON”) in his Complaint
2 against DEFENDANTS LEWIS BRISBOIS BISGAARD & SMITH LLP (“LBBS”,
3 “DEFENDANT”, or “the Firm”) and DOES 1 through 10 (collectively “DEFENDANTS”) alleges
4 as follows:

5 JURISDICTION AND VENUE

6 1. This Court has personal jurisdiction over DEFENDANTS because DEFENDANTS
7 have substantial, continuous, and systematic contacts in the State of California via the business it
8 conducts in the State of California such that it has purposefully availed itself of the forum State’s
9 benefit and controversies related to its contacts with the forum, and/or because various of the
10 DEFENDANTS reside in Los Angeles County.

11 2. Venue is proper in accordance with Section 395(a) of the California Code of Civil
12 Procedure because (i) Defendants are located in Los Angeles County and (ii) the events
13 complained of by MR. LOFTON occurred in Los Angeles County.

14 PARTIES

15 3. PLAINIFF ROBERT LOTFON is a seasoned labor and employment litigation
16 attorney with 29 years of experience. Prior to his tenure at LBBS, he was employed by another
17 well-known international law firm. Mr. Lofton was a content at his prior firm and was not looking
18 for alternate employment when a recruiter contacted him in late September 2022 to ask him to join
19 LBBS. Mr. Lofton ultimately chose to join the LBBS Labor and Employment Practice after being
20 enticed to do so through promises of Partner status, remote work, a guaranteed base salary of
21 \$260,000, and the provision of employer-paid health insurance, among other considerations. In
22 making the decision, Mr. Lofton, who is a Black man, also relied on LBBS’ representations to him
23 that it valued “diversity, equity and inclusion.”

24 4. DEFENDANT LEWIS BRISBOIS BISGAARD & SMITH LLP is a national law
25 firm with 1700 attorneys, and, based on size, is ranked 14th in the United States. With \$703
26 million in gross revenue in 2022, the firm placed 70th on The American Lawyer's 2023 Am Law
27 200 ranking.¹ LBBS espouses that “diversity, equity, and inclusion (DEI) are integral components
28

¹ See <https://www.law.com/law-firm-profile/?id=183&name=Lewis->

1 of our firm culture and everyday life.”²

2 5. In truth, the LBBS partners leading the Labor and Employment Group, John Barber
3 and Jeffrey Ranen, would soon be outed as holding well-documented racial animus that was
4 communicated with impunity in emails recently made public earlier this year.³

5 6. The true names and capacities of Defendants named herein as DOES 1 through 10,
6 inclusive, whether individual, corporate, associate, or otherwise, are unknown to PLAINTIFF who
7 therefore sues such Defendants by such fictitious names. PLAINTIFF will amend this Complaint
8 to show true names and capacities when they have been determined.

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

10 7. Although he was not seeking alternative employment and enjoyed a fruitful and
11 collegial working environment at another AmLaw 200 firm, Mr. Lofton was enticed by a recruiter
12 to join the DEFENDANT firm after being promised partnership status, the express ability to work
13 remotely, employer-paid health insurance, and a guaranteed base salary of \$260,000.00, among
14 other considerations.

15 8. At the time he joined the DEFENDANT firm, PLAINTIFF had no idea that the
16 very Partners that hired him (John Barber and Jeffrey Ranen) themselves harbored insidious and
17 unlawful racial animus that would soon become a well-publicized scandal within the larger legal
18 community, and undoubtedly was at the root of the racial and disability discrimination
19 PLAINTIFF would soon— as further explained below— be forced to endure.

20 9. Mr. Lofton signed his LBBS Employment Agreement on October 5, 2022 and
21 began his employment on November 7, 2022.

22 10. Mr. Lofton diligently fulfilled his duties at LBBS pursuant to the terms of the

23 _____
24 [Brisbois#:~:text=According%20to%20the%20National%20Law,2023%20Am%20Law%20200%20ranking.](#)

25 ² See <https://lewisbrisbois.com/about/diversity>

26 ³ See e.g. <https://www.reuters.com/legal/legalindustry/ex-lewis-brisbois-partners-resign-new-firm-after-racist-sexist-emails-found-2023-06-05/>; <https://lawandcrime.com/awkward/disgraced-law-partners-who-bragged-about-dedication-to-culture-resign-after-emails-reveal-years-of-racist-sexist-anti-lgbtq-and-antisemitic-exchanges/> (“The attorneys were particularly vitriolic toward Black people.”)

1 October Employment Agreement and his own personal elevated standards as an attorney, and
2 continued to do so as best he could in light of unexpectedly burgeoning medical challenges.

3 11. Mr. Lofton was and is an experienced Labor and Employment attorney who works
4 tirelessly and zealously on behalf of each client in representing their interests.

5 12. Unfortunately, beginning in December 2022, Mr. Lofton's health took a turn for the
6 worse.

7 13. On the advice of his physician, before Mr. Lofton began his tenure at LBBS, he had
8 scheduled a procedure at Cedars Sinai for December 2022. At the time he scheduled it, Mr. Lofton
9 had been advised that this procedure was medically necessary but low-risk and would not require
10 time off of work for more than a day or so.

11 14. PLAINTIFF carefully chose the dates for the procedure to coincide with the winter
12 holidays to minimize absences from work. However, the procedure had unanticipated adverse
13 serious side effects on his health, including infections and other debilitating conditions which
14 landed PLAINTIFF in the emergency room repeatedly in the next few months.

15 15. Immediately upon learning of Mr. Lofton's health struggles, LBBS began a
16 campaign of harassment, discrimination, and retaliation against him.

17 16. On January 1, 2023, Mr. Lofton made his first visit to the emergency room.

18 17. On January 3 and again on January 7, he notified Mr. Ranen and Mr. Barber of the
19 worsening status of his illness.

20 18. On January 18, Mr. Lofton advised Mr. Ranen and Mr. Barber about his challenges
21 in defeating a serious infection he had developed.

22 19. At no time during Mr. Lofton's ongoing health issues did LBBS make any attempt
23 whatsoever to engage in the required interactive process of determining what legally mandated
24 accommodations Mr. Lofton might need or was entitled to.

25 20. LBBS's discrimination against Mr. Lofton continued throughout February. On
26 February 20, 2023, Mr. Lofton advised LBBS that his doctor had scheduled an urgent procedure to
27 be performed immediately which required his absence from February 21-24.

28 21. The next day, on February 21, Ms. Perez asked Mr. Lofton for a doctor's note,

1 which Mr. Lofton promptly provided. Neither Ms. Perez, nor anyone at LBBS, ever stated that Mr.
2 Lofton would not be paid any compensation for the entire pay period of February 15-28.

3 22. On February 28, 2023, Mr. Lofton inquired regarding LBBS's unilateral and
4 sudden decision to withhold compensation for the entire pay period, in direct violation of his
5 LBBS Employment Agreement.

6 23. Nancy Simas, LBBS's Los Angeles Office Administrator, responded to Mr.
7 Lofton's inquiry on March 1, 2023. Ms. Simas stated that, despite being aware of Mr. Lofton's
8 life-threatening medical emergencies and the doctor's notes Mr. Lofton provided, the Firm had
9 docked his pay because he had not entered any billable time for February, had not worked on the
10 President's Day Holiday, and had declined the firm's offer to have someone help him physically
11 enter his billable hours for that month.

12 24. Ms. Simas thus retaliated against Mr. Lofton, refused to accommodate him, and
13 refused to engage in any interactive process while also knowingly and willfully engaging in the
14 punitive conduct of unlawfully withholding Mr. Lofton's compensation.

15 25. Mr. Lofton's health continued to deteriorate, and Mr. Lofton was hospitalized again
16 the weekend of March 4th to 6th, 2023.

17 26. On March 14, 2023, Mr. Lofton learned that LBBS had again withheld his pay—
18 this time, for the two-week period between March 1st and March 15, 2023. Once again, LBBS had
19 not notified Mr. Lofton that it would withhold his pay or given any advance warning of this fact or
20 possibility, despite his regular and ongoing communications with Ms. Simas about his
21 hospitalization and related health problems.

22 27. After Mr. Lofton contacted Ms. Simas about his docked pay, he received a wire of
23 funds—but no wage statement—followed by a check on March 18, 2023.

24 28. On March 27, 2023, PLAINTIFF advised the Firm that its refusal to pay him his
25 agreed upon compensation was in breach of the Employment Agreement signed by both parties in
26 October 2022.

27 29. Specifically, Mr. Lofton stated: "At no time have I agreed to be paid on an
28 alternative basis. Please discontinue the unilateral modification of the compensation agreement.

1 Please pay the remainder of all compensation owed for the period of March 1-15, 2023, and in
2 future salary payments, abide by the compensation agreement in place.”

3 30. Indeed, Mr. Lofton’s Employment Agreement provided—on the very first page—
4 that LLBS would not initiate any changes to Mr. Lofton’s compensation for the first SIX
5 MONTHS of his employment. The Agreement further provided that any such potential changes
6 would be made by the compensation committee only after consultation with his Managing Partner
7 and/or group leader. In direct contravention of these contractual obligations, on March 29, 2023,
8 LBBS unilaterally advised Mr. Lofton, that in two days—i.e., on beginning April 1, 2023—it
9 would convert his employment to “an hourly contract Partner . . . paid \$136.84 per hour for
10 billable hours worked.”

11 31. In addition, LBBS refused to compensate Mr. Lofton for most non-billable work he
12 performed on its behalf, in derogation of California law.

13 32. DEFENDANT’s March 29, 2023 email to Mr. Lofton also threatened to terminate
14 his health benefits unless he worked a minimum number of billable hours per week.

15 33. At no time did Mr. Lofton agree to terminate his contract or to be paid on the
16 alternative payment plan that LBBS made up after Mr. Lofton became dangerously ill and was
17 forced to take medical leave. Nor did Mr. Lofton ever agree to have his health benefits subject to a
18 minimum billable hour contingency. LBBS’s actions in violating Mr. Lofton’s Employment
19 Agreement and targeting Mr. Lofton for reduced pay and the threatened loss of his health benefits
20 were motivated by discriminatory animus and in flagrant violation of State law.

21 34. The last payment Mr. Lofton received from LBBS pursuant to the terms of his
22 Employment Agreement was March 30, 2023. Thereafter, LBBS made every effort to exclude Mr.
23 Lofton from LBBS cases, communications, and events and to generally deny Mr. Lofton his basic
24 rights under State law in order to force his resignation because of his race and his health condition.

25 35. Indeed, although Mr. Lofton’s Employment Agreement specifically entitled Mr.
26 Lofton to work remotely, Mr. Ranen—whose racial animus LBBS had condoned for years—
27 advised Mr. Lofton that he was taking away all of the cases assigned to Mr. Lofton.

28 36. Mr. Ranen asserted that he was eliminating Mr. Lofton’s caseload because Mr.

1 Ranen did not want to work with attorneys who worked remotely. But in truth, Mr. Ranen was
2 motivated by his well-documented discriminatory animus and a desire to force Mr. Lofton’s
3 resignation due to Mr. Lofton’s race and life-threatening health conditions. Indeed, both of Mr.
4 Lofton’s immediate supervisors, John Barber and Jeffrey Ranen, have a well-documented 15-year
5 history of exchanging racist remarks over DEFENDANT’s email system with lawyers throughout
6 LBBS—ranging from junior associates to fellow partners. See Matt Hamilton and Harriet Ryan,
7 L.A. TIMES, *Revenge Served Ice Cold? Top L.A. Law Firm Outs Former Partners’ Racist, Sexist*
8 *Emails* (Jun. 7, 2023). These emails included “gratuitous use” of the n-word. (*Id.*)

9 37. In an article for Reuters, Reporter Jenna Green stated: “I’ve read the [Barber and
10 Ranan] emails -- and they are vile. Women are repeatedly referred to as the c-word, a judge is
11 dubbed “Sugar Tits,” **an email about a baby shower uses the n-word (spelled out) as its**
12 **subject line**, men are denigrated as f*gg*ts.” See Jenna Greene, REUTERS, *The Aftershocks from*
13 *Barber and Ranen’s Racist, Sexist Email Disaster* (Jun. 9, 2023) (emphasis added).

14 38. Against this backdrop, it is not surprising that Barber and Ranan, who ran
15 DEFENDANT’s labor and employment practice in which PLAINTIFF worked, unlawfully
16 discriminated against Mr. Lofton on the basis of his race—targeting Mr. Lofton for adverse
17 employment actions ranging from docked, delayed, withheld, and reduced pay to threats to strip
18 Mr. Lofton of his health insurance and, *inter alia*, the near total elimination of Mr. Lofton’s
19 caseload. Each of these actions was contrary to State law and/or to Mr. Lofton’s Employment
20 Agreement—and substantially motivated by Barber and Ranen’s discriminatory animus.

21 39. Moreover, LBBS failed to take adequate steps to prevent the discrimination and
22 retaliation that Mr. Lofton endured at LBBS. Indeed, the L.A. Times reported that Barber had
23 acknowledged to an acquaintance in 2015 that his “average email would get someone fired”—but
24 LBBS kept Barber on DEFENDANT’s management committee and in charge of PLAINTIFF’s
25 practice for another *eight years*, until Barber and Ranen left DEFENDANT voluntarily in or
26 around June 2023 to start their own firm. See Matt Hamilton and Harriet Ryan, L.A. TIMES,
27 *Revenge Served Ice Cold? Top L.A. Law Firm Outs Former Partners’ Racist, Sexist Emails* (Jun.
28 7, 2023).

1 **FIRST CAUSE OF ACTION**

2 **Discrimination Based Upon Disability in Violation of**
3 **the Fair Employment and Housing Act (hereinafter the “FEHA”)**
4 **[Cal. Gov’t Code § 12940(a)]**
5 **(Against LBBS and DOES 1 through 10, inclusive)**

6 40. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

7 41. As set forth above, and incorporated herein, DEFENDANTS discriminated against
8 PLAINTIFF on the basis of his disability in violation of the FEHA through numerous illegal acts.
9 In violation of Government Code section 12940(a), DEFENDANTS unlawfully and willfully
10 discriminated against PLAINTIFF because he suffered from actual or perceived disabilities. In
11 relevant part, the FEHA states it is unlawful “[f]or an employer, because of the...physical
12 disability...of any person ...to discriminate against the person in compensation or in terms,
13 conditions, or privileges of employment.” (Gov. Code, § 12940 (Deering, Lexis Advance through
14 the 2023 Extra Session Ch 1, 2023 Regular Session Ch. 133).) “[T]he court must construe the
15 FEHA broadly, not ... restrictively.” (*Soria v. Univision Radio Los Angeles, Inc.* (2016) 5
16 Cal.App.5th 570, 583.)

17 42. By aforesaid acts and omissions of DEFENDANTS, and each of them, PLAINTIFF
18 has been directly and legally caused to suffer actual damages, including, but not limited to, loss of
19 earning and future earning capacity, and other pecuniary loss not presently ascertained.

20 43. As a further direct and legal result of the acts and conduct of DEFENDANTS, as
21 aforesaid, PLAINTIFF has been caused to and did suffer and continues to suffer severe emotional
22 and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and
23 anxiety. The exact nature, duration, and extent of said injuries is presently unknown to
24 PLAINTIFF.

25 44. PLAINTIFF is informed and believes and thereon alleges that by the above-
26 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
27 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
28 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
justifying the award of punitive and exemplary damages, against LBBS in an amount to be

1 determined at trial. In addition, the FEHA provides for an award of reasonable attorneys' fees and
2 costs incurred by prevailing plaintiffs in an action brought under its provisions. PLAINTIFF has
3 been employed and will continue to employ attorneys for the initiation and prosecution of this
4 action.

5 45. PLAINTIFF has incurred and will continue to incur attorneys' fees and costs
6 herein. PLAINTIFF is entitled to an award of attorneys' fees and costs.

7 46. PLAINTIFF has been generally damaged in an amount within the jurisdictional
8 limits of this court.

9 **SECOND CAUSE OF ACTION**
10 **Discrimination Based on Perceived or Actual Medical Condition**
11 **(in Violation of FEHA, [Cal. Gov't Code § 12940(a)])**
12 **(Against LBBS and DOES 1 through 10, inclusive)**

13 47. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

14 48. DEFENDANT LBBS, who was on notice that PLAINTIFF had a cancer diagnosis,
15 discriminated against PLAINTIFF, on the basis of his perceived medical condition. This conduct
16 is in direct violation of FEHA, Government Code section 12940(a). In relevant part, FEHA states
17 it is unlawful "[f]or an employer, because of the.....medical condition...of any person...to
18 discriminate against the person in compensation or in terms, conditions, or privileges of
19 employment." (Gov. Code, § 12940.)

20 49. As alleged above, DEFENDANTS harassed PLAINTIFF about not making
21 sufficient billings while he was incapacitated from cancer treatments and/or the side effects of
22 same. Cancer and the need for cancer treatment is a medical condition giving rise to protected
23 status under FEHA. (*Soria v. Univision Radio Los Angeles, Inc.* (2016) 5 Cal.App.5th 570, 570
24 [citing Gov. Code § 12926, subd. (i)].) "Unlike the definition of physical disability, there is no
25 requirement that a medical condition limit a major life activity in order to be protected. (*Id.* at
26 584.) "Under FEHA medical condition and physical disability are separate bases for improper
27 discrimination." (*Id.*) "Being fired for some bogus reason...is particularly callous when the person
28 is suffering from cancer. Thus, this factor...supports a high assessment of reprehensibility."
(*Rubio v. CIA Wheel Group* (2021) 63 Cal.App.5th 82, 97.)

1 an employer or other entity...to fail to make reasonable accommodations for the known physical
2 or mental disability of an applicant or employee.” In violation of Government Code section 12940
3 subsection m, DEFENDANTS unlawfully and willfully failed to reasonably accommodation
4 PLAINTIFF’s actual or perceived disabilities.

5 59. PLAINTIFF requested accommodations for the disabilities from which he suffered,
6 including but not limited to the accommodation of working remotely, as already generally
7 provided for within PLAINTIFF’s original Employment Agreement.

8 60. Rather than accommodating him, DEFENDANTS’ managers and agents failed to
9 take any legally mandated action to accommodate PLAINTIFF, or engage in an interactive process
10 in pursuit of that goal.

11 61. PLAINTIFF informed LBBS of his disability and need for accommodations
12 beginning on or about January 2023.

13 62. Despite PLAINTIFF’s frequent written and verbal reports concerning his disabling
14 medical condition, LBBS continued behaving uncaringly, and irresponsibly, concerning itself only
15 with PLAINTIFF’S temporary inability to maintain his billable hour mandates— despite his
16 Employment Agreement expressly stating no review of billable hours would take place within the
17 first six months of PLAINTIFF’S tenure as an LBBS Partner.

18 63. As a direct and legal result of DEFENDANTS’ willful, wanton, intentional,
19 malicious and/or reckless conduct and the policies alleged herein, PLAINTIFF suffered severe and
20 extreme mental and emotional distress, anguish, humiliation, embarrassment, fright, shock, pain,
21 discomfort, and anxiety.

22 64. As a direct, foreseeable, and legal result of DEFENDANTS’ acts, PLAINTIFF has
23 suffered and continues to suffer substantial losses in earnings, earnings capacity, job benefits,
24 medical expenses, attorneys’ fees and costs of suit. The exact nature, duration, and extent of said
25 injuries is presently unknown to PLAINTIFF, but he is informed and believes, and thereon alleges,
26 that some if not all of the injuries are reasonably certain to be permanent in character.

27 65. PLAINTIFF’s injuries, all to his damages, are in an amount in excess of the
28 minimum jurisdiction of this Court, the precise amount of which will be proven at trial. By the

1 aforesaid acts and omissions of DEFENDANTS, PLAINTIFF has been directly and legally caused
2 to suffer damages as alleged herein.

3 66. PLAINTIFF is informed and believes and thereon alleges that by the above-
4 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
5 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
6 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
7 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
8 determined at trial.

9 67. As a result of DEFENDANTS' retaliatory and discriminatory acts as alleged
10 herein, PLAINTIFF is entitled to reasonable attorneys' fees and costs of suit.

11 **FOURTH CAUSE OF ACTION**

12 **Failure to Engage in the Interactive Process in Good Faith**

13 **(Against LBBS and DOES 1-10, inclusive)**

14 68. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

15 69. At all relevant times herein, California Government Code section 12940(n)
16 provides that it is an unlawful employment practice "for an employer . . . to fail to engage in a
17 timely, good faith, interactive process with the employee or applicant to determine effective
18 reasonable accommodation, if any, in response to request for reasonable accommodation by an
19 employee or applicant with a known physical or mental disability or known medical condition." In
20 violation of Government Code section 12940 subsection n, DEFENDANTS unlawfully and
21 willfully failed to engage in a timely good faith, interactive process with PLAINTIFF to determine
22 effective reasonable accommodations.

23 70. California Government Code Section 12926.1(e) states: "The Legislature affirms
24 the importance of the interactive practice between the applicant or employee and the employer in
25 determining a reasonable accommodation, as the requirement has been articulated by the Equal
26 Employment Opportunity Commission in its interpretive guidance of Americans with Disabilities
27 Act."

28 71. PLAINTIFF informed DEFENDANTS of his disability, but instead of engaging in

1 a timely good faith process with PLAINTIFF to determine effective reasonable accommodations
2 as required by California Government Code section 12940(n) and 12926.1(e), DEFENDANTS
3 refused to provide any accommodations whatsoever.

4 72. Had DEFENDANTS engaged in a timely good faith interactive process
5 DEFENDANTS could have implemented the available reasonable accommodations which would
6 have accommodated PLAINTIFF's disability and allowed him to continue working effectively
7 with his clients and DEFENDANTS.

8 73. As a direct and legal result of DEFENDANTS' willful, wanton, intentional,
9 malicious and/or reckless conduct and the policies alleged herein, PLAINTIFF suffered severe and
10 extreme mental and emotional distress, anguish, humiliation, embarrassment, fright, shock, pain,
11 discomfort, and anxiety.

12 74. As a direct, foreseeable, and legal result of DEFENDANTS' acts, PLAINTIFF has
13 suffered and continues to suffer substantial losses in earnings, earnings capacity, job benefits,
14 medical expenses, attorney's fees and costs of suit. The exact nature, duration, and extent of said
15 injuries is presently unknown to PLAINTIFF.

16 75. PLAINTIFF'S injuries, all to his damages, are in an amount in excess of the
17 minimum jurisdiction of this Court, the precise amount of which will be proven at trial. By the
18 aforesaid acts and omissions of DEFENDANTS, PLAINTIFF has been directly and legally caused
19 to suffer damages as alleged herein.

20 76. PLAINTIFF is informed and believes and thereon alleges that by the above-
21 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
22 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
23 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
24 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
25 determined at trial.

26 77. As a result of DEFENDANTS' retaliatory and discriminatory acts as alleged
27 herein, PLAINTIFF is entitled to reasonable attorneys' fees and costs of suit.

28 **FIFTH CAUSE OF ACTION**

1 **Discrimination Based Upon Race in Violation of the FEHA**

2 **(Cal. Gov't Code § 12940(a))**

3 **(Against LBBS and DOES 1-10, inclusive)**

4 78. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

5 79. DEFENDANT LBBS discriminated against PLAINTIFF, a Black man, on the basis
6 of his race in violation of the FEHA, Government Code section 12940(a). In relevant part, FEHA
7 states it is unlawful “[f]or an employer, because of the race, religious creed, color, national
8 origin . . . of any person . . . to discriminate against the person in compensation or in terms,
9 conditions, or privileges of employment.” (Gov. Code, § 12940 (Deering, Lexis Advance through
10 the 2023 Extra Session Ch 1, 2023 Regular Session Ch. 133).) “[T]he court must construe
11 the FEHA broadly, not . . . restrictively. (*Soria, supra*, 5 Cal.App.5th at 583.)

12 80. PLAINTIFF’S immediate supervisors, John Barber and Jeffrey Ranen, have a well-
13 documented record of exchanging racist remarks over email—with lawyers throughout LBBS—
14 that included “gratuitous use” of the n-word.

15 81. Against this backdrop, it is not surprising that Barber and Ranen, who ran
16 DEFENDANT’S labor and employment practice in which PLAINTIFF worked, unlawfully
17 discriminated against Mr. Lofton on the basis of his race—targeting Mr. Lofton for adverse
18 employment actions ranging from docked, delayed, withheld, and reduced pay to threats to strip
19 Mr. Lofton of his health insurance and, *inter alia*, the near total elimination of Mr. Lofton’s
20 caseload. Each of these actions was contrary to State law and/or to Mr. Lofton’s Employment
21 Agreement—and, critically, was substantially motivated by Barber and Ranen’s disgust for the
22 color of Mr. Lofton’s skin.

23 82. By aforesaid acts and omissions of DEFENDANTS, and each of them, PLAINTIFF
24 has been directly and legally caused to suffer actual damages, including, but not limited to, loss of
25 earning and future earning capacity, and other pecuniary loss not presently ascertained.

26 83. As a further direct and legal result of the acts and conduct of DEFENDANTS, as
27 aforesaid, PLAINTIFF has been caused to and did suffer and continues to suffer severe emotional
28 and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and

1 anxiety. The exact nature, duration, and extent of said injuries is presently unknown to
2 PLAINTIFF.

3 84. PLAINTIFF is informed and believes and thereon alleges that by the above-
4 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
5 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
6 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
7 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
8 determined at trial. In addition, FEHA provides for an award of reasonable attorneys' fees and
9 costs incurred by prevailing plaintiffs in an action brought under its provisions. PLAINTIFF has
10 been employed and will continue to employ attorneys for the initiation and prosecution of this
11 action.

12 85. PLAINTIFF has incurred and will continue to incur attorneys' fees and costs
13 herein. PLAINTIFF is entitled to an award of attorneys' fees and costs.

14 86. PLAINTIFF has been generally damaged in an amount within the jurisdictional
15 limits of this court.

16 **SIXTH CAUSE OF ACTION**

17 **Retaliation in Violation of the FEHA**

18 **(Government Code Section 12940(h))**

19 **(Against LBBS and DOES 1-10, inclusive)**

20 87. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

21 88. Government Code section 12940(h) provides that it is unlawful for an employer to
22 retaliate against an employee for making a complaint of discrimination or for exercising the right
23 to request a reasonable accommodation.

24 89. By the conduct described herein, DEFENDANTS unlawfully retaliated against
25 PLAINTIFF for making complaints of discrimination on the basis of both disability and race.

26 90. At all relevant times during his employment with DEFENDANTS, PLAINTIFF
27 performed his duties in an exemplary fashion.

28 91. As alleged herein, DEFENDANTS retaliated against Plaintiff, including, without

1 limitation, by failing to implement his reasonable accommodations and allowing certain LBBS
2 personnel to knowingly harass him while he was receiving treatments and/or procedures related to
3 management of cancer, and by withholding his rightful, agreed-upon salary and case assignments,
4 and requested reasonable accommodations for his disability.

5 92. DEFENDANTS also refused to take any action when PLAINTIFF complained he
6 was being retaliated against. So, from the DEFENDANTS' first awareness of PLAINTIFF'S
7 disabilities to the present, DEFENDANTS ratified, condoned and/or encouraged its agents and
8 employees to expose PLAINTIFF to retaliation and/or harassment in the workplace in order to
9 induce PLAINTIFF's physical and emotional suffering.

10 93. As a direct and proximate result of DEFENDANTS' conduct, PLAINTIFF suffered
11 damages, including, but not limited to, lost past and future wages and benefits, and mental anguish
12 and emotional suffering, all in an amount to be proven at trial and in excess of the jurisdictional
13 minimum of this court.

14 94. As a further direct and legal result of the acts and conduct of DEFENDANTS, and
15 each of them, as aforesaid, PLAINTIFF has been caused to and did suffer and continues to suffer
16 severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain,
17 discomfort, and anxiety. The exact nature, duration, and extent of said injuries is presently
18 unknown to PLAINTIFF.

19 95. PLAINTIFF is informed and believes and thereon alleges that by the above-
20 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
21 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
22 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
23 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
24 determined at trial.

25 96. As a result of DEFENDANTS' retaliatory and discriminatory acts as alleged
26 herein, PLAINTIFF is entitled to reasonable attorney's fees and costs of suit as provided in
27 Section 12965(b) of the California Government Code.

28 **SEVENTH CAUSE OF ACTION**

1 **Failure to Prevent Discrimination and Retaliation in Violation of the FEHA**

2 **(Government Code section 12940(k)**

3 **(Against LBBS and DOES 1-10, inclusive)**

4 97. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

5 98. “Government Code section 12940, subdivision (k), prohibits an employer from
6 failing ‘to take all reasonable steps necessary to prevent discrimination.’ As the leading California
7 treatise states it, ‘This provision creates a statutory tort action with the usual tort elements (duty of
8 care to plaintiff, breach of duty, causation and damages.’” (*Veronese v. Lucasfilm Ltd.* (2012) 212
9 Cal.App.4th 1, 28.)

10 99. As alleged above, DEFENDANT LBBS failed to prevent discrimination and
11 retaliation in PLAINTIFF’S workplace. Specifically, PLAINTIFF suffered discrimination based
12 on disability, medical condition, and race as well as retaliation.

13 100. At a minimum, DEFENDANT LBBS failed to have in place adequate policies,
14 trainings and practices to prevent discrimination and retaliation in PLAINTIFF’S workplace,
15 and/or failed to successfully implement and enforce same.

16 101. PLAINTIFF is informed and believes and thereon alleges that by the above-
17 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
18 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
19 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
20 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
21 determined at trial.

22 102. As a direct and proximate result of DEFENDANTS’ conduct, PLAINTIFF has
23 suffered, and continues to suffer, damages, including, but not limited to lost past and future wages
24 and benefits, and mental anguish, emotional suffering and reputational harm, all in an amount to
25 be proven at trial and in excess of the jurisdictional minimum of this court.

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28 **EIGHTH CAUSE OF ACTION**

1 **Retaliation in Violation of Labor Code § 1102.5**

2 **(Against LBBS and DOES 1-10, inclusive)**

3 103. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

4 104. PLAINTIFF was, during the relevant time period, employed by the
5 DEFENDANTS.

6 105. In doing the things herein alleged, and as otherwise will be proven at trial,
7 DEFENDANTS, and each of them, violated Labor Code §§ 1102.5(a)-(c), which provides, in part,
8 that:

- 9 a. “An employer may not adopt, or enforce any rule, regulation, or policy preventing
10 an employee from disclosing information to a government or law enforcement
11 agency, where the employee has reasonable cause to believe that the information
12 discloses a violation of state or federal statute, or a violation or noncompliance with
13 a state or federal rule or regulation.
14 b. An employer may not retaliate against an employee for disclosing information to a
15 government or law enforcement agency, where the employee has reasonable cause
16 to believe that the information discloses a violation of state or federal statute, or a
17 violation or noncompliance with a state or federal rule or regulation.
18 c. An employer may not retaliate against an employee for refusing to participate in an
19 activity that would result in a violation of state or federal statute, or a violation or
20 noncompliance with a state or federal rule or regulation.”

21 106. PLAINTIFF had a reasonable belief that he was engaging in protected activities
22 when he requested accommodations from his employer for his disability—and was in fact
23 engaging in protected activity when doing so.

24 107. By retaliating against PLAINTIFF as a result of his protected activities
25 DEFENDANTS, and each of them, violated Labor Code §1102.5.

26 108. As a direct and proximate result of DEFENDANTS’ conduct, PLAINTIFF suffered
27 damages, including, but not limited to, lost past and future wages and benefits, earnings capacity,
28 and mental anguish and emotional suffering, all in an amount to be proven at trial and in excess of
the jurisdictional minimum of this court.

109. DEFENDANT LBBS, through its employees and agents acting within the course
and scope of employment and/or agency, intentionally retaliated against PLAINTIFF by
deliberately reducing his hours, threatening to cancel his medical insurance and harassing him
about billables while he was incapacitated due to health issues. DEFENDANT LBBS not only
failed to accommodate PLAINTIFF’s disability by and through its employees and agents,

1 DEFENDANT LBBS also failed to act when LBBS personnel intentionally discriminated and/or
2 harassed PLAINTIFF based on his disability and race, and further protected status as an employee
3 seeking reasonable accommodations under the law.

4 110. Even after Plaintiff memorialized his concerns about disability and, inter alia, race
5 discrimination, as well as lost wages and other economic damages, in his CRD complaint—a copy
6 of which was received by DEFENDANTS—DEFENDANTS continued their course of unlawful
7 retaliation against him, persisting in the above-described unlawful conduct.

8 111. PLAINTIFF is informed and believes and thereon alleges that by the above-
9 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
10 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
11 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
12 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
13 determined at trial.

14 112. This right to be free from retaliation is guaranteed and protected by Labor Code
15 section 1102.5, the violation of same by DEFENDANTS entitling PLAINTIFF to damages and
16 relief, including but not limited to statutory damages, treble damages, and attorney’s fees and costs
17 pursuant to Labor Code 1102.5(j), all of which are requested herein.

18 **NINTH CAUSE OF ACTION**

19 **Wrongful Termination in Violation of Public Policy**

20 **(Against LBBS and DOES 1-10, inclusive)**

21 113. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

22 114. “The elements of a claim for wrongful discharge in violation of public policy are
23 (1) an employer-employee relationship, (2) the employer terminated the plaintiff’s employment,
24 (3) the termination was substantially motivated by a violation of public policy, and (4) the
25 discharge caused the plaintiff harm.” (*Yau v. Allen* (2014) 229 Cal.App.4th 144, 154.)

26 115. “Constructive discharge occurs only when the employer coerces the employee’s
27 resignation, either by creating working conditions that are intolerable under an objective standard,
28 or by failing to remedy objectively intolerable working conditions that actually are known to the

1 employer. We have said ‘a constructive discharge is legally regarded as a firing rather than a
2 resignation.’” (*Mullins v. Rockwell Internat. Corp.* (1997) 15 Cal.4th 731, 737.)

3 116. PLAINTIFF alleges that he was constructively discharged by LBBS, his employer,
4 as a result of its systematic discrimination against him—on the basis of his race, disability, and
5 medical condition—and in retaliation for seeking reasonable accommodations, in violation of
6 public policy as codified California statutes, including but not limited to those enumerated above
7 and resulting in financial, emotional, psychological and reputational harm to PLAINTIFF.

8 117. Because LBBS stripped PLAINTIFF of all, or nearly all, of his cases and refused
9 for months to pay him his contractually agreed upon salary, PLAINTIFF was no longer in a
10 position to bill hours, had been “set up to fail”, and was effectively barred from performing his
11 duties. Thus, PLAINTIFF was left with no reasonable choice but to resign, tendering his
12 resignation on or around October 16, 2023.

13 118. PLAINTIFF further alleges that the wrongfulness of this discharge as against
14 public policy is also codified in constitutional and/or statutory provisions, including but not
15 limited to Labor Code § 1102.5.

16 119. PLAINTIFF further alleges that these constitutional or statutory provisions inure to
17 the general benefit of the public at large, rather than serving merely the interests of the individual.

18 120. PLAINTIFF further asserts that these constitutional or statutory provisions were
19 well established at the time of his wrongful discharge, and are substantial and fundamental in
20 nature.

21 121. PLAINTIFF is informed and believes and thereon alleges that by the above-
22 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
23 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
24 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
25 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
26 determined at trial.

27 122. As a direct and proximate result of DEFENDANTS’ violation of Labor Code §
28 1102.5 and other relevant statutes, including but not limited to the FEHA causes of action also

1 enumerated above, PLAINTIFF suffered injuries including, but not limited to, the infliction of
2 severe emotional distress, financial, psychological and reputational harm, past and future loss of
3 earnings and/or earning capacity, and other economic and non-economic damages in an amount
4 not yet ascertained, but which exceed the minimum jurisdictional limits of this Court.

5 **TENTH CAUSE OF ACTION**

6 **Retaliation or Discrimination**

7 **in Violation of Public Policy**

8 **(Against LBBS and DOES 1-10, inclusive)**

9 123. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

10 124. A valid claim under Government Code section 12940(h) may also give rise to a
11 claim for Retaliation or Discrimination in Violation of Public Policy: "...allegations...pled
12 pursuant to Government Code section 12940, subdivision (h), are adequate to establish a statutory
13 claim [and therefor] is legally sufficient [to establish a violation of public policy] because one of
14 the alleged sources of public policy is Government Code section 12940." (*Doe v. Capital Cities*
15 (1996) 50 Cal.App.4th 1038, 1052.)

16 125. PLAINTIFF alleges that the FEHA statutory provisions, as alleged above, all inure
17 to the general benefit of the public at large, rather than serving merely the interests of the
18 individual.

19 126. PLAINTIFF further asserts that these statutory provisions were well established at
20 the time he was retaliated against, subject to discrimination, and harassed by LBBS personnel, and
21 further that the FEHA statutes are and were at the time substantial and fundamental in nature.

22 127. PLAINTIFF is informed and believes and thereon alleges that by the above-
23 referenced acts of its managing agents, officers and/or directors, and/or ratification of said acts,
24 LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted
25 with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF, thereby
26 justifying the award of punitive and exemplary damages, against LBBS in an amount to be
27 determined at trial.

28 128. As a direct and proximate result of DEFENDANTS' violation of Government Code

1 section 12940(h) and other relevant statutes, including but not limited to the other FEHA causes of
2 action also enumerated above, PLAINTIFF suffered injuries due to DEFENDANTS' violation of
3 public policies, including, but not limited to financial, emotional, psychological and reputational
4 harm, past and future loss of earnings and/or earning capacity, and other economic and non-
5 economic damages in an amount not yet ascertained, but which exceed the minimum jurisdictional
6 limits of this Court.

7 **ELEVENTH CAUSE OF ACTION**

8 **Intentional Infliction of Emotional Distress**

9 **(Against LBBS and DOES 1-10, inclusive)**

10 129. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

11 130. DEFENDANTS, through the LBBS employees all acting within the scope of their
12 employment, engaged in outrageous conduct toward PLAINTIFF with the intention to cause, or
13 reckless disregard for the probability of causing, PLAINTIFF to suffer severe emotional distress,
14 and with wanton and reckless disregard for injurious result to PLAINTIFF.

15 131. As set forth in detail under 'Facts Common to All Causes of Action,'
16 DEFENDANTS willfully ignored PLAINTIFF'S repeated requests for DEFENDANT to assume
17 responsibility for providing reasonable workplace accommodations after PLAINTIFF suffered a
18 disabling condition related to his battle with cancer. As a result, DEFENDANT, through its
19 employees who were acting within the scope of their employment, knowingly inflicted upon
20 PLAINTIFF—who was already severely traumatized from the unexpected side effects of a
21 routine procedure—extreme emotional distress.

22 132. To the extent not separately responsible, DEFENDANT is vicariously responsible
23 for its employees' conduct.

24 133. By the aforesaid acts and omissions of DEFENDANTS, and each of them,
25 PLAINTIFF has been directly and legally caused to suffer actual damages including, but not
26 limited to, loss of earning and future earning capacity, costs of suit, and other pecuniary loss not
27 presently ascertained.

28 134. As a further direct and legal result of the acts and conduct of DEFENDANTS, and

1 each of them, as aforesaid, As a direct and proximate result of the aforesaid acts and omissions of
2 DEFENDANTS, and each of them, PLAINTIFF has suffered economic and non-economic
3 damages in an amount according to proof, including, without limitation, loss of enjoyment of life,
4 pain and suffering, emotional distress, medical expenses, costs of suit, other pecuniary losses not
5 yet ascertained. has been caused to and did suffer and continues to suffer severe emotional and
6 mental distress, anguish, humiliation, embarrassment, reputational damage, fright, pain,
7 sleeplessness, discomfort, and anxiety.

8 135. Additionally, PLAINTIFF is informed and believes and thereon alleges that by the
9 above-referenced acts of its managing agents, officers and/or directors, and/or ratification of said
10 acts, LBBS engaged in willful, malicious, intentional, oppressive and despicable conduct, and
11 acted with willful and conscious disregard of the rights, welfare and safety of PLAINTIFF,
12 thereby justifying the award of punitive and exemplary damages, against LBBS in an amount to be
13 determined at trial.

14 **TWELFTH CAUSE OF ACTION**

15 **Negligent Infliction of Emotional Distress**

16 **(Against LBBS and DOES 1-10, inclusive)**

17 136. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

18 137. DEFENDANTS owed a duty of care to PLAINTIFF to ensure that PLAINTIFF
19 was not exposed to foreseeable harm.

20 138. DEFENDANT LBBS, through its employees acting within the scope of their
21 employment, breached their duty of care by actually or constructively knowing that PLAINTIFF
22 was being, or would be, subjected to race and/or disability-based discrimination, retaliation and
23 harassment in his workplace, and by then failing to protect PLAINTIFF from these foreseeable
24 and/or known risks.

25 139. DEFENDANT further knew or should have known PLAINTIFF would suffer
26 extreme emotional harm resulting from DEFENDANTS' racial animus and refusal to provide
27 reasonable accommodations to PLAINTIFF after he suffered injury and illness resulting in
28 disability.

1 140. By the aforesaid acts and omissions of DEFENDANT, PLAINTIFF has been
2 directly and legally caused to suffer actual damages including, but not limited to, loss of earning
3 and future earning capacity, interest, costs of suit, and other pecuniary loss not presently
4 ascertained.

5 141. As a further direct and legal result of the acts and conduct of DEFENDANT LBBS,
6 PLAINTIFF has been caused to suffer and continues to suffer severe emotional and mental
7 distress, anguish, humiliation, embarrassment, fright, pain, discomfort, sleeplessness and anxiety.
8 The exact nature and extent of said injuries is presently unknown to PLAINTIFF, who will seek
9 leave of Court to assert the same when they are ascertained.

10 142. DEFENDANT LBBS, through its employees who were acting within the scope of
11 their employment, engaged in outrageous conduct toward PLAINTIFF with the intention to cause,
12 or reckless disregard for the probability of causing, PLAINTIFF to suffer severe emotional
13 distress, and with wanton and reckless disregard for injurious result to PLAINTIFF. As set forth in
14 detail under "Facts Applicable to All Causes of Action," DEFENDANT willfully ignored
15 PLAINTIFF'S requests for legally mandated accommodations.

16 143. By the aforesaid acts and omissions of DEFENDANT LBBS, PLAINTIFF has
17 been directly and legally caused to suffer actual damages including, but not limited to, loss of
18 earning and future earning capacity, costs of suit, and other pecuniary loss not presently
19 ascertained.

20 144. As a further direct and legal result of the acts and conduct of DEFENDANT LBBS,
21 as aforesaid, PLAINTIFF has been caused to and did suffer and continues to suffer severe mental
22 and emotional distress, anguish, humiliation, embarrassment, fright, pain, discomfort, reputational
23 harm and anxiety.

24 **THIRTEENTH CAUSE OF ACTION**

25 **Breach of Contract**

26 **(Against LBBS and DOES 1-10, inclusive)**

27 145. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

28 146. DEFENDANT LBBS breached its contract with PLAINTIFF by failing to pay him

1 his agreed-upon base salary of \$260,000 and health benefits, for a minimum of six months, before
2 which time no performance review would take place.

3 147. LBBS breached its contract with PLAINTIFF by prematurely conditioning any
4 receipt of his base salary on billable hour minimums, in direct violation of his employment
5 contract.

6 148. Rather than waiting the contracted six-month period before conducting a
7 productivity/billable hour review, on March 29, 2023, LBBS unilaterally informed Mr. Lofton that
8 “effective April 1, 2023, you are being converted to a hourly Contract Partner and will be paid
9 \$136.84 per hour for billable hours worked.”

10 149. LBBS further breached Mr. Lofton’s Employment Agreement by revoking the
11 opportunity to work remotely, an express condition of his employment codified on page 2 of that
12 agreement.

13 150. PLAINTIFF therefore seeks the payment of all salary and any and all other monies
14 due as provided in his LBBS Employment Agreement and/or as required by law.

15 **FOURTEENTH CAUSE OF ACTION**

16 **Violation of Labor Code Section 204**

17 **(Against LBBS and DOES 1-10, inclusive)**

18 151. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

19 152. Labor Code section 204 requires, in relevant part, that “All wages...[generally]
20 earned by any person in any employment are due and payable twice during each calendar month.”
21 (Lab. Code, § 204.)

22 153. LBBS failed to adhere to this payment schedule, depriving Mr. Lofton of his
23 rightful wages from, at a minimum, February 15-March 15, 2023 and in all other payment periods
24 wherein he did not receive his full salary as memorialized in his LBBS Employment Agreement.

25 154. By the aforesaid acts and omissions of DEFENDANT LBBS, PLAINTIFF has
26 been directly and legally caused to suffer actual damages including, but not limited to, loss of
27 earning and future earning capacity, costs of suit, and other pecuniary loss not presently
28 ascertained.

1 155. A violation of Labor Code section 204 also entitles PLAINTIFF to reasonable
2 attorney’s fees.

3 **FIFTEENTH CAUSE OF ACTION**

4 **Violation of Labor Code Section 226**

5 **(Against LBBS and DOES 1-10, inclusive)**

6 156. PLAINTIFF hereby realleges and incorporates paragraphs 3 through 39.

7 157. Labor Code section 226 requires employers to provide to employees itemized wage
8 statements that contain, among many other requirements, the gross wages earned, amounts of all
9 deductions inclusive of taxes and benefits, and net wages earned, and identifying the relevant
10 payment period.

11 158. As alleged above, PLAINTIFF did not receive a wage statement with his
12 compensation check on at least one occasion.

13 159. Pursuant to this section, “(1) An employee suffering injury as a result of a knowing
14 and intentional failure by an employer to comply with subdivision (a) is entitled to recover the
15 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
16 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
17 not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of
18 costs and reasonable attorney’s fees.

19 160. Pursuant to Labor Code Section 226, subsection (h), PLAINTIFF is also “entitled
20 to an award of costs and reasonable attorney’s fees.” (Lab. Code, § 226 (Deering, Lexis Advance
21 through the 2023 Extra Session Ch 1, 2023 Regular Session Ch. 890).)

22 **PRAYER FOR RELIEF**

23 **WHEREFORE,** Plaintiff seeks judgment as follows:


- 24 1. For general damages;
- 25 2. For loss of earnings and other economic or pecuniary damages, according to proof;
- 26 3. For unpaid wages and compensation, and statutory penalties, according to proof;
- 27 4. For restitution of all compensation due, including but not limited to unpaid wages
28 and benefits, as a result of Defendants’ unlawful and unfair business practices,

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- according to proof;
- 5. Declaratory relief, including but not limited to a declaration that LBBS discriminated against PLANTIFF on the basis of race and disability;
- 6. Reasonable attorneys' fees and costs pursuant to, inter alia, California Labor Code sections 204, 226, 1194, 2699, California Code of Civil Procedure section 1021.5;
- 7. Interest accrued on damages and penalties include pre-judgment interest, pursuant to, inter alia, California Labor Code Section 218.6, 1194, and 1194.2, and California Civil Code sections 3287 and 3288;
- 8. Any all applicable statutory penalties;
- 9. Punitive damages and exemplary damages, according to proof; and
- 10. Such other and further relief as the Court deems just and proper.

DATED: March 19, 2024

SCHONBRUN SEPLOW HARRIS
HOFFMAN & ZELDES LLP

By: 
Wilmer J. Harris
Emily C. Barbour
Attorneys for Plaintiff, Robert Lofton


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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury for all his claims.

DATED: March 19, 2024

SCHONBRUN SEPLOW HARRIS
HOFFMAN & ZELDES LLP

By: 
Wilmer J. Harris
Emily C. Barbour
Attorneys for Plaintiff, Robert Lofton