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9 Attorneys for Plaintiff Ashley Funches

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **FOR THE COUNTY OF LOS ANGELES**

13 ASHLEY FUNCHES, an individual,
 14 Plaintiff,
 15 v.

16 ASHLEY N. FRANGIPANE, a/k/a HALSEY,
 17 an individual; LEAVING THINGS BEHIND
 TOURING, INC., foreign corporation;
 18 HALSEY MUSIC, LLC, a foreign company;
 19 and DOES 1 through 50, inclusive,
 20 Defendants.

Case No.: **22STCV18905**

COMPLAINT FOR DAMAGES:

- (1) Failure to Pay Overtime Wages
- (2) Failure to Pay Wages on a Timely Basis
- (3) Failure to Reimburse Business Expenses
- (4) Waiting Time Penalties
- (5) Disability Discrimination (FEHA)
- (6) Failure to Accommodate (FEHA)
- (7) Failure to Engage (FEHA)
- (8) Retaliation (FEHA)
- (9) Failure to Prevent (FEHA)
- (10) Violation of Labor Code § 1102.5

Demand for Jury Trial

1 Plaintiff Ashley Funches (“Plaintiff”), an individual, hereby alleges as follows:

2 **INTRODUCTION**

3 1. Plaintiff files this action against defendants Ashley N. Frangipane (“Halsey”),
4 Leaving Things Behind Touring, Inc. (“Leaving Things Behind”), Halsey Music, LLC (“Halsey
5 Music”), and DOES 1 through 50, inclusive (together, “Defendants”) for misclassifying Plaintiff
6 as exempt from overtime in order to avoid complying with California laws protecting non-
7 exempt employees. Plaintiff seeks unpaid wages, penalties, interest, attorneys’ fees, and costs
8 and expenses.

9 2. Moreover, Plaintiff alleges that Defendants illegally and wrongfully terminated
10 her in retaliation for complaining about Defendants’ illegal and unlawful practice of failing to
11 pay her overtime wages and on the basis of her disability and/or perceived disability. Plaintiff
12 seeks lost earnings, actual and general compensatory damages, punitive damages, interest,
13 attorneys’ fees, costs and expenses.

14 **JURISDICTION AND VENUE**

15 3. The Superior Court of the State of California has jurisdiction in this matter
16 because Plaintiff is a resident in the State of California and Defendants are qualified to do
17 business in and regularly conduct business in California. Further, no federal question is at issue
18 because the claims are based solely on California law.

19 4. Venue is proper in this judicial district and the County of Los Angeles, California,
20 because Plaintiff performed work for Defendants in the County of Los Angeles for Defendants
21 and Defendants’ illegal policies and practices that are the subject of this action were applied, at
22 least in part, to Plaintiff in the County of Los Angeles.

23 **THE PARTIES**

24 5. Plaintiff is an individual who at all times relevant is a resident of State of
25 California.

26 6. On information and belief, Defendant Halsey is now, and at all times mentioned
27 in this complaint, was, an individual residing in California, County of Los Angeles.

28 7. On information and belief, Defendant Leaving Things Behind Touring is a

1 foreign corporation and qualified to do business in California.

2 8. On information and belief, Defendant Halsey Music is a foreign company and
3 qualified to do business in California.

4 9. Plaintiff does not know the true names or capacities, whether individual, partner,
5 or corporate, of defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
6 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
7 complaint when the true names and capacities are known. Plaintiff is informed and believes and
8 thereon alleges that each of defendants designated as a DOE were responsible in some way for
9 the matters alleged herein and proximately caused Plaintiff and members of the general public
10 to be subject to the illegal employment practices, wrongs, and injuries complained of herein.

11 10. Plaintiff is informed and believes and based thereon alleges that at all times
12 material to this complaint, Defendants were the joint employers of Plaintiff. Defendants directly
13 or indirectly, itself or through its agents, employed or exercised control over the wages, hours,
14 and/or working conditions of Plaintiff and/or had the right to control the manner or means of
15 accomplishing the result desired. Moreover, Defendants had the power to prevent, but failed to
16 prevent, the violations articulated herein from occurring, despite their knowledge of the same.

17 11. Plaintiff is informed and believes and based thereon alleges that each and every
18 one of the acts and omissions alleged herein were performed by, and/or attributable to, all
19 Defendants, each acting as agents and/or employees, and/or under the direction and control of,
20 each of the other Defendants, and that said acts and failures to act were within the course and
21 scope of said agency, employment, and/or direction and control.

22 12. At all relevant times herein, Plaintiff was employed by Defendants under
23 employment agreements that were partly written, partly oral, and/or partly implied. In
24 perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant
25 to, and in furtherance of, their policies and practices of not paying Plaintiff all wages earned and
26 due, through methods and schemes that include, but are not limited to, misclassifying Plaintiff as
27 an independent contractor, failing to pay overtime premiums, failing to provide meal and rest
28 breaks and/or compensation therefor, failing to properly maintain records, failing to provide

1 accurate itemized statements for each pay period, and requiring, suffering, or permitting
2 employees to work off the clock, in violation of California Labor Code and the applicable
3 Industrial Welfare Commission (“IWC”) Wage Order.

4 **ALLEGATIONS COMMON TO AT LEAST ONE CAUSE OF ACTION**

5 13. In 2021, Plaintiff entered into an employment contract with Leaving Things
6 Behind Touring to work for Halsey as a live-in personal attendant for her newborn child. Plaintiff
7 was paid every two weeks by Halsey Music based on an annual salary. Plaintiff alleges that
8 Defendants Halsey, Leaving Things Behind Touring, and Halsey Music were her employers or
9 joint employers.

10 14. Plaintiff’s duties included caring for the child, preparing meals, cleaning, laundry,
11 cleaning breast pump materials, organizing the nursery, and running errands as needed. Plaintiff
12 alleges that Defendants illegally misclassified her as exempt from overtime under California law.

13 15. Throughout the majority of her employment, Plaintiff worked around the clock
14 on consecutive days with little to no day of rest. In or around October 2021, Plaintiff began
15 complaining to Defendants about her long working hours and Defendants’ failure to pay her
16 overtime wages.

17 16. In response to Plaintiff’s ongoing complaints, in December 2021, Defendants
18 made a one-time payment to Plaintiff in the amount of \$5,000 for her accumulated overtime.
19 However, despite multiple requests by Plaintiff, Defendants offered no explanation as to how
20 the lump sum payment compensated Plaintiff for all of her overtime hours to date. Moreover,
21 notwithstanding Defendants’ acknowledgment that Plaintiff is owed overtime wages under
22 California law, Defendants continued to deny Plaintiff such wages even though Plaintiff
23 continued to work significant amounts of overtime hours caring for Halsey’s child.

24 17. On or about March 16, 2022, Plaintiff sent Defendants a text message informing
25 Defendants that Plaintiff may need to undergo a medical procedure that would require her to take
26 a leave of absence from work. A few days later, without any warning or response to Plaintiff’s
27 text message, Defendants responded by terminating Plaintiff.

28 18. Plaintiff alleges that Defendants wrongfully terminated her in retaliation for

1 complaining about Defendants' violation of law and on the basis of Plaintiff's disability and/or
2 perceived disability.

3 **ADMINISTRATIVE PREREQUISITES**

4 19. Plaintiff has satisfied all private, administrative, and judicial prerequisites prior
5 to initiating this action.

6 20. Plaintiff timely filed charges with the Department of Fair Employment and
7 Housing (DFEH) against Defendant for the wrongful acts alleged herein, and was issued a right-
8 to-sue letter by the DFEH. (See Exhibit A attached hereto.)

9 21. This action is not preempted by the California Workers' Compensation Act
10 because the claims are brought under the Labor Code and the Fair Housing Employment Act
11 ("FEHA"), which are not risks or conditions of employment subject to workers' compensation
12 law.

13 22. This action is not preempted by any collective bargaining agreement, the National
14 Labor Relations Act or other federal law because these claims arise out of violations of the public
15 policies of the State of California as set forth in the California Constitution, California Fair
16 Employment & Housing Act at Government Code § 12900 *et. seq.*, and other state laws.

17 **FIRST CAUSE OF ACTION**

18 **Failure to Pay Overtime Wages (Cal. Labor Code § 1454)**

19 **(Against All Defendants)**

20 23. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
21 fully set forth herein.

22 24. Pursuant to California Labor Code section 1454, Defendants are required to
23 compensate Plaintiff for all overtime at a rate of one and one-half (1½) times the regular rate of
24 pay for all hours worked in excess of nine (9) hours in any workday and for all hours worked
25 more than forty-five (45) hours in the workweek.

26 25. Plaintiff regularly worked over nine hours a day and forty-five hours a week
27 without overtime compensation. As such, Defendants failed to pay overtime at one and one-half
28 (1½) times the regular rate of pay in violation of the California Labor Code and the applicable

1 IWC Wage Order.

2 26. As a direct and proximate cause of the aforementioned violations, Plaintiff has
3 suffered, and continues to suffer, substantial losses related to the use and enjoyment of such
4 wages and lost interest on such wages. Plaintiff is entitled to recover the unpaid balance of wages
5 owed to her by Defendants, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

6 **SECOND CAUSE OF ACTION**

7 **Failure to Pay Wages on a Timely Basis (Cal. Labor Code §§ 204, 210)**

8 **(Against all Defendants)**

9 27. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
10 fully set forth herein.

11 28. Labor Code section 204 requires that “[a]ll wages . . . earned by any person in
12 any employment are due and payable twice during each calendar month, on days designated by
13 the employer as the regular paydays.”

14 29. Defendants' failure to pay Plaintiff her overtime wages in the pay periods in
15 which they were earned by Plaintiff is a violation of labor Code section 204.

16 30. Labor Code section 210 provides that “in addition to, an entirely independent and
17 apart from, any other penalty provided in this article, every person who fails to pay the wages of
18 each employee as provided in Sections . . . 204 . . . shall be subject to a civil penalty as follows:
19 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee;
20 (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars
21 (\$200) for each failure to pay each employee, plus 25% of the amount unlawfully withheld.”

22 31. As a direct and proximate cause of the aforementioned violations, Plaintiff has
23 suffered, and continues to suffer, substantial losses related to the use and enjoyment of such
24 wages and lost interest on such wages. Plaintiff is entitled to recover penalties against
25 Defendants in an amount to be determined at trial pursuant to Labor Code section 210.

26 **THIRD CAUSE OF ACTION**

27 **Failure to Reimburse Business Expenses (Cal. Labor Code §§ 2802, 2800, 1197.1)**

28 **(Against all Defendants)**

1 32. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
2 fully set forth herein.

3 33. At all times relevant herein, Defendants were required to indemnify their
4 employees for all necessary expenditures or losses incurred by the employee in direct
5 consequence of the discharge of the employees' duties, or of the employees' obedience to the
6 Defendants' directions.

7 34. Throughout her employment, Plaintiff was required to use her own personal
8 device to, among other things, respond to work-related phone calls, e-mails and/or text messages
9 with Defendants.

10 35. Defendants' failure to reimburse Plaintiff for her necessary business expenses as
11 described herein is unlawful and creates an entitlement to recovery by Plaintiff for all damages
12 and/or penalties pursuant to Labor Code section 2802, including interest thereon, penalties,
13 reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code
14 section 2802.

15 **FOURTH CAUSE OF ACTION**

16 **Waiting Time Penalties (Cal. Labor Code §§ 201-203)**

17 **(Against All Defendants)**

18 36. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
19 fully set forth herein.

20 37. Labor Code sections 201 and 202 require Defendants to promptly pay all wages
21 owed to an employee at the conclusion of employment.

22 38. Defendants' failure to pay wages, as alleged above was willful in that Defendants
23 knew wages to be due but failed to pay them, thus entitling Plaintiff to penalties under Labor
24 Code section 203, which provides that an employee's wages shall continue as a penalty until
25 paid for a period of up to thirty (30) days from the time they were due.

26 39. As a direct and proximate cause of the aforementioned violations, Plaintiff has
27 suffered, and continues to suffer, substantial losses related to the use and enjoyment of such
28 wages and lost interest on such wages. Plaintiff is entitled to recover penalties against

1 Defendants in an amount to be determined at trial pursuant to Labor Code section 203, which
2 provides that an employee's wages shall continue as a penalty until paid, for a period of up to
3 thirty (30) days from the time they were due.

4 **FIFTH CAUSE OF ACTION**

5 **Disability Discrimination (Gov't Code § 12940)(a)**

6 **(Against all Defendants)**

7 40. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
8 fully set forth herein.

9 41. Defendants are employers subject to Government Code section 12940 *et seq.*

10 42. At all relevant times, Defendants employed Plaintiff with a disability or a
11 perceived disability that limited her to major life activities as described herein.

12 43. Despite her disabilities or perceived disabilities, Plaintiff was able to perform the
13 essential functions of her job with or without reasonable accommodations.

14 44. Defendants knew of Plaintiff's disabilities or perceived disabilities and knew or
15 should have known that they fell within the definition of a disability under Government Code
16 section 12926. Defendants further knew or should have known that despite her disabilities or
17 perceived disabilities, Plaintiff could perform the essential functions of her job with or without
18 reasonable accommodations.

19 45. Despite their knowledge of the foregoing, Defendants aided, abetted, incited,
20 participated in, coerced, and/or compelled unlawful employment practices in violation of
21 California's Fair Employment and Housing Act.

22 46. As a direct and foreseeable result of the aforesaid acts of said Defendants,
23 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at the
24 time of trial. Plaintiff claims such amount as damages together with prejudgment interest under
25 Civil Code section 3287 and/or any other provision of law providing for prejudgment interest.

26 47. As a direct and foreseeable result of the aforesaid acts of Defendants, Plaintiff
27 has suffered and claims general damages for mental and emotional distress and aggravation in
28 an amount to be proven at the time of trial.

1 48. The above-described acts of Defendants, by and through their managing agents,
2 officers, or directors, were engaged in with a deliberate, cold, callous, fraudulent, and intentional
3 manner in order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff’s
4 rights. Such acts were despicable, and constitute malice, fraud, and/or oppression within the
5 meaning of Civil Code section 3294. Plaintiff requests an assessment of punitive damages
6 against Defendants in an amount to be determined at time of trial.

7 49. Plaintiff will also seek and is entitled to recover attorney’s fees in connection with
8 this cause of action under Government Code section 12940 *et seq.*

9 **SIXTH CAUSE OF ACTION**

10 **Failure to Accommodate (Gov’t Code § 12940(m))**

11 **(Against all Defendants)**

12 50. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
13 fully set forth herein.

14 51. Defendants are employers subject to Government Code section 12940 *et seq.*

15 52. At all relevant times, Defendants employed Plaintiff with a disability or a
16 perceived disability that limited her to major life activities as described herein.

17 53. Despite her disabilities or perceived disabilities, Plaintiff was able to perform the
18 essential functions of her job with or without reasonable accommodations.

19 54. Defendants knew of Plaintiff’s disabilities or perceived disabilities and knew or
20 should have known that they fell within the definition of a disability under Government Code
21 section 12926. Defendants further knew or should have known that despite her disabilities or
22 perceived disabilities, Plaintiff could perform the essential functions of her job with or without
23 reasonable accommodations.

24 55. Defendants also knew or should have known, of the need to accommodate
25 Plaintiff’s disabilities or perceived disabilities, including the need to engage in the interactive
26 process to determine how to achieve a reasonable accommodation for Plaintiff. However,
27 Defendants failed and refused to engage in the interactive process with Plaintiff despite her
28 specific requests for consideration and accommodation.

1 56. Instead of engaging in the interactive process, Defendants took adverse action
2 against Plaintiff, including by failing and refusing to accommodate her disabilities or perceived
3 disabilities and by terminating her employment instead of providing an extended leave as an
4 accommodation.

5 57. In engaging in the foregoing conduct, Defendants aided, abetted, incited,
6 participated in, coerced, and/or compelled unlawful employment practices in violation of
7 California's Fair Employment and Housing Act.

8 58. As a direct and foreseeable result of the aforesaid acts of said Defendants,
9 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at the
10 time of trial. Plaintiff claims such amount as damages together with prejudgment interest under
11 Civil Code section 3287 and/or any other provision of law providing for prejudgment interest.

12 59. As a direct and foreseeable result of the aforesaid acts of Defendants, Plaintiff
13 has suffered and claims general damages for mental and emotional distress and aggravation in
14 an amount to be proven at the time of trial.

15 60. The above-described acts of Defendants, by and through their managing agents,
16 officers, or directors, were engaged in with a deliberate, cold, callous, fraudulent, and intentional
17 manner in order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff's
18 rights. Such acts were despicable, and constitute malice, fraud, and/or oppression within the
19 meaning of Civil Code section 3294. Plaintiff requests an assessment of punitive damages
20 against Defendants in an amount to be determined at time of trial.

21 61. Plaintiff will also seek and is entitled to recover attorney's fees in connection with
22 this cause of action under Government Code section 12940 *et seq.*

23 **SEVENTH CAUSE OF ACTION**

24 **Failure to Engage in the Interactive Process (Gov't Code § 12940(n))**

25 **(Against all Defendants)**

26 62. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
27 fully set forth herein.

28 63. Defendants are employers subject to Government Code section 12940 *et seq.*

1 64. At all relevant times, Plaintiff was an employee with disabilities or perceived
2 disabilities that limited a major life activity as described herein.

3 65. Despite her disabilities or perceived disabilities, Plaintiff was able to perform the
4 essential functions of her job with or without reasonable accommodations.

5 66. Defendants, and each of them, knew of Plaintiff's disabilities or perceived
6 disabilities and knew or should have known that they fell within the definition of a disability
7 under Government Code section 12926. Defendants further knew or should have known that
8 despite her disabilities or perceived disabilities, Plaintiff could perform the essential function of
9 her job with or without reasonable accommodations.

10 67. Defendants also knew, or should have known, of the need to accommodate
11 Plaintiff's disabilities or perceived disabilities, including the need to engage in the interactive
12 process to determine how to achieve a reasonable accommodation for Plaintiff. However,
13 Defendants failed and refused to engage in the interactive process with Plaintiff despite her
14 specific request(s) for consideration of accommodations.

15 68. Instead of engaging in the interactive process, Defendants took adverse action
16 against Plaintiff, including by failing and refusing to accommodate her disabilities or perceived
17 disabilities and by terminating her employment.

18 69. By engaging in the foregoing conduct, Defendants aided, abetted, incited,
19 participated in, coerced, and/or compelled unlawful employment practices in violation of
20 California's Fair Employment and Housing Act.

21 70. As a direct and foreseeable result of the aforesaid acts of said Defendants,
22 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at time
23 of trial. Plaintiff claims such amount as damages together with prejudgment interest under Civil
24 Code section 3287 and/or any other provision of law providing for prejudgment interest.

25 71. As a direct and foreseeable result of the aforesaid acts of Defendants, Plaintiff
26 has suffered and claims general damages for mental and emotional distress and aggravation in
27 an amount to be proved at the time of trial.

28 72. The above-described acts of Defendants, by and through their managing agents,

1 officers, or directors, were engaged with a deliberate, cold, callous, fraudulent, and intentional
2 manner in order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff's
3 rights. Such acts were despicable, and constitute malice, fraud, and/or oppression within the
4 meaning of Civil Code section 3294. Plaintiff requests an assessment of punitive damages
5 against Defendants in an amount to be determined at time of trial.

6 73. Plaintiff will also seek and is entitled to recover attorney's fees in connection with
7 this cause of action under Government Code section 12940 *et seq.*

8 **EIGHTH CAUSE OF ACTION**

9 **Retaliation in Violation of the FEHA (Gov't Code § 12940(h))**

10 **(Against all Defendants)**

11 74. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
12 fully set forth herein.

13 75. Defendants entities or individuals subject to Government Code section 12940 *et*
14 *seq.*

15 76. During her employment by Defendants, Plaintiff engaged in legally protected
16 activity by seeking reasonable accommodations, by seeking possible medical leave, and by
17 seeking medical treatment related to her disabilities.

18 77. After Plaintiff engaged in the foregoing described protected activity, she was
19 subjected to adverse employment actions as described above, including the termination of her
20 employment.

21 78. The foregoing described adverse employment actions were taken in part or in
22 whole because of Plaintiff's legally protected activity.

23 79. By engaging in the foregoing conduct, Defendants aided, abetted, incited,
24 participated in, corrected, and/or compelled unlawful employment practices in violation of
25 California's Fair Employment and Housing Act.

26 80. As a direct and foreseeable result of the aforesaid acts of said Defendants,
27 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at time
28 of trial. Plaintiff claims such amount as damages together with prejudgment interest under Civil

1 Code section 3287 and/or any provision of law providing for prejudgment interest.

2 81. As a direct and foreseeable result of the aforesaid acts of Defendants, Plaintiff
3 has suffered and claims general damages for mental and emotional distress and aggravation in
4 an amount to be proven at the time of trial.

5 82. The above-described acts of Defendants, by and through their managing agents,
6 officers, or directors, were engaged in with a deliberate, cold, callous, fraudulent, and intentional
7 manner in order to injure and damage Plaintiff and/or with conscious disregard of Plaintiff's
8 rights. Such acts were despicable, and constitute malice, fraud, and/or oppression within the
9 meaning of Civil Code section 3294. Plaintiff requests an assessment of punitive damages
10 against Defendants in an amount to be determined at time of trial.

11 83. Plaintiff will also seek and is entitled to recover attorney's fees in connection with
12 this cause of action under Government Code section 12940 *et seq.*

13 **NINTH CAUSE OF ACTION**

14 **Failure to Prevent, Discrimination and/or Retaliation (Gov't Code § 12940(k))**

15 **(Against all Defendants)**

16 84. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
17 fully set forth herein.

18 85. Defendants and their agents/employees are entities or individuals subject to
19 Government Code section 12940 *et seq.*

20 86. Said Defendants failed to take all responsible steps necessary to prevent
21 discrimination and retaliation in employment from occurring. Further, said Defendants knew or
22 should have known of the discrimination and retaliation against Plaintiff described above related
23 to Plaintiff's disabilities, yet failed to conduct an adequate investigation into the nature and
24 substance of the discrimination/retaliation and failed to take immediate and appropriate
25 corrective action so as to discipline any of the offenders.

26 87. The response of Defendants and/or their agents/employees to that knowledge was
27 so inadequate as to establish a deliberate indifference to, or tacit authorization of, the alleged
28 offensive practices, and an affirmative causal link existed between Defendants' inaction and the

1 injuries suffered by Plaintiff.

2 88. By failing to take all reasonable steps necessary to prevent discrimination and
3 retaliation and by failing to properly investigate and remedy the discrimination and retaliation
4 that occurred, Defendants committed unlawful employment practices as described and
5 prohibited in Government Code section 12940(k).

6 89. By engaging in the foregoing conduct, Defendants aided, abetted, incited,
7 participated in, coerced, and/or compelled unlawful employment practices in violation of
8 California's Fair Employment and Housing Act.

9 90. As a direct and foreseeable result of the aforesaid acts of said Defendants,
10 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at time
11 of trial. Plaintiff claims such amount as damages together with prejudgment interest under Civil
12 Code section 3287 and/or any other provision of law providing for prejudgment interest.

13 91. As a direct and foreseeable result of the aforesaid acts of Defendants, Plaintiff
14 has suffered and claims general damages for mental and emotional distress and aggravation in
15 an amount to be proven at the time of trial.

16 92. The above-described acts of Defendants, by and through their managing agents,
17 officers, or directors, were engaged in with a deliberate, cold, callous, fraudulent, and intentional
18 manner in order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff's
19 rights. Such acts were despicable, and constitute malice, fraud, and/or oppression within the
20 meaning of Civil Code section 3294. Plaintiff requests an assessment of punitive damages
21 against Defendants in an amount to be determined at time of trial.

22 93. Plaintiff will also seek and is entitled to recover attorney's fees in connection with
23 this cause of action under Government Code section 12940 *et seq.*

24 **TENTH CAUSE OF ACTION**

25 **Violation of Labor Code § 1102.5**

26 **(Against all Defendants)**

27 94. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
28 fully set forth herein.

EXHIBIT A

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

April 28, 2022

RE: Notice of Filing of Discrimination Complaint
DFEH Matter Number: 202204-16836828
Right to Sue: Funches / Frangipane et al.

To All Respondent(s):

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

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

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

No response to DFEH is requested or required.

Sincerely,



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

Department of Fair Employment and Housing

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**
2 **BEFORE THE STATE OF CALIFORNIA**
3 **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**
4 **Under the California Fair Employment and Housing Act**
5 **(Gov. Code, § 12900 et seq.)**

6 **In the Matter of the Complaint of**

7 Ashley Funches

DFEH No. 202204-16836828

8 Complainant,

9 vs.

10 Ashley Frangipane

11 Redacted

12 Calabasas, CA 91302

13 Leaving Things Behind Touring, Inc.

14 345 Park Avenue South

15 New York, NY 10003

16 Halsey Music, LLC

17 Redacted

18 Calabasas, CA 91302

19 Respondents

20

21 1. Respondent **Ashley Frangipane** is an **employer** subject to suit under the California Fair
22 Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

23 2. Complainant is naming **Leaving Things Behind Touring, Inc.** business as Co-
24 Respondent(s).
25 Complainant is naming **Halsey Music, LLC** business as Co-Respondent(s).

26 3. Complainant **Ashley Funches**, resides in the City of **Los Angeles**, State of **CA**.

27 4. Complainant alleges that on or about **March 21, 2022**, respondent took the
28 following adverse actions:

Complainant was discriminated against because of complainant's disability (physical or
mental), medical condition (cancer or genetic characteristic) and as a result of the
discrimination was terminated.

1 **Complainant experienced retaliation** because complainant requested or used a disability-
2 related accommodation and as a result was terminated.

3 **Additional Complaint Details:** Based on my disability and/or perceived disability and my
4 notification to my supervisors related thereto, my former employer discriminated and
5 retaliated against me by taking the following actions, including, but not limited to, terminating
6 my employment.
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1 VERIFICATION

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

5 On April 28, 2022, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Los Angeles, California**

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Date Filed: April 28, 2022

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