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Ann I Jones

FILED
LOS ANGELES SUPERIOR COURT

NOV 26 2008

JOHN A. CLARKE, CLERK
[Signature]
BY RUGENA LOPEZ, DEPUTY

16 SUPERIOR COURT OF CALIFORNIA

17 FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

18 BRIAN QUINTANA, an individual,

19 Plaintiff,

20 vs.

21 JON PETERS, an individual; BP 10
22 TRUST, a company of unknown form;
23 J.P. ORGANIZATION, INC., a company
24 of unknown form; PETERS 1990
25 TRUST, a company of unknown form;
26 PETERS ENTERTAINMENT, INC., a
27 California corporation; and DOES 1
28 through 40 inclusive,

Defendants.

CASE NO. *PC 082909*
UNLIMITED CIVIL CASE

PLAINTIFF'S COMPLAINT FOR:

1. Retaliation Pursuant to §1102.5
2. Violation of Labor Code §§ 201 and 203
3. Unfair Business Practices Pursuant to Business & Professions Code § 17200;
4. Indemnification Pursuant to Labor Code § 2802;
5. Sexual Harassment in Violation of Government Code § 12940
6. Failure to Prevent Discrimination and Harassment in Violation of Government Code § 12940; and
7. Wrongful Termination in Violation of Public Policy
8. Defamation

DEMAND FOR A JURY TRIAL

CIT/CASE: BC082909 LEA/DEF#:
RECEIPT #: 08H47729102
DATE PAID: 11/26/08 03:53:46 PM
PAYMENT: 4320.00 0310
RECEIVED:
CHECK#: 320.00
CASH:
CHANGE:
CARD:

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1 Plaintiff BRIAN QUINTANA, an individual, by and through his attorneys, Kesluk &
2 Silverstein, P.C., and the Law Offices of Alexandra M. Steinberg, hereby complains of Defendant
3 JON PETERS, an individual; BP 10 TRUST, a company of unknown form; J.P.
4 ORGANIZATION, INC, a company of unknown form; PETERS 1990 TRUST, a company of
5 unknown form; PETERS ENTERTAINMENT, INC., a California corporation; and DOES 1
6 through 40, inclusive, and each of them, and alleges as follows:

7
8 **GENERAL ALLEGATIONS**
9

10 1. Plaintiff, BRIAN QUINTANA (hereinafter referred to as "Plaintiff"), is, and at all
11 material times was, an individual residing in the County of Los Angeles, State of California.

12 2. Defendant, JON PETERS (hereinafter referred to as "Peters" or "Defendant") is, and at all
13 material times was, an individual residing in the County of Los Angeles, State of California.

14 3. Defendant, BP 10 TRUST, is, and at all relevant times herein mentioned was, a
15 corporation doing business in the County of Los Angeles, State of California.

16 4. Defendant, J.P. ORGANIZATION, INC., is, and at all relevant times herein mentioned
17 was, a corporation doing business in the County of Los Angeles, State of California.

18 5. Defendant, PETERS 1990 TRUST, is, and at all relevant times herein mentioned was, a
19 corporation doing business in the County of Los Angeles, State of California.

20 6. Defendant, PETERS ENTERTAINMENT, INC., a California corporation, is, and at all
21 times relevant to this Complaint was, a California corporation doing business in the County of
22 Los Angeles, State of California.

23 7. Plaintiff is unaware of the true names and capacities, whether individual, corporate,
24 associate, or otherwise of the Defendant, DOES 1 through 40, inclusive, or any of them, and
25 therefore sues said Defendants, and each of them, by such fictitious names and prays that their
26 true names and capacities, when ascertained, may be incorporated herein by appropriate
27 amendment hereto.

28 8. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant

1 hereto, each of the Defendants designated herein as "DOE" Defendant was legally responsible by
2 agency, contract or agreement, negligently or in some other actionable manner, for the events and
3 happenings referred to herein which caused the damages hereinafter alleged.

4 9. Plaintiff is informed and believes, and based thereon alleges, that at all time herein
5 mentioned, one or more of each named and/or unnamed Defendants was the agent, servant,
6 employee, or employer of one or more of the remaining named and/or unnamed Defendants and,
7 as hereinafter alleged, was acting within the scope of such authority, consent, agency, servancy,
8 or employment.

9 10. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
10 mentioned, one or more of each named and/or unnamed Defendants was in some fashion, by
11 contract or otherwise, the successors, assigns, joint-venturers, co-venturers or partners or one or
12 more of the remaining named and/or unnamed Defendants, and as hereinafter alleged, was acting
13 within that capacity.

14 11. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
15 mentioned, one or more of each unnamed Defendants was in some fashion, by contract or
16 otherwise, the assured, insured, underwriter, bondsman, indemnitor, guarantor of one or more of
17 the remaining named and/or unnamed Defendants for the acts alleged herein and was acting
18 within that capacity.

19 12. Plaintiff is informed and believes, and based thereon alleges, that at all time herein
20 mentioned, one or more of each named and/or unnamed Defendants was the alter-ego of one or
21 more of the remaining named and/or unnamed Defendants, and as hereinafter alleged, was acting
22 for their own benefit and/or the benefit of one or more of the remaining named and/or unnamed
23 Defendants.

24 13. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
25 mentioned, one or more of each unnamed Defendants was in some fashion, by statute, law or
26 otherwise, the agent, agency, branch, governmental department or the like of one or more of the
27 remaining named and/or unnamed Defendants for the acts alleged herein and was acting within
28 that capacity.

1 14. Defendants JON PETERS, BP 10 TRUST, J.P. ORGANIZATION, INC., PETERS 1990
2 TRUST, PETERS ENTERTAINMENT, INC. and DOES 1 through 40 are hereinafter
3 collectively referred to as "Defendants."

4 15. Plaintiff is in the process of exhausting all of his administrative remedies. Plaintiff filed
5 charges against Defendants with the California Department of Fair Employment and Housing
6 ("DFEH") and has received "Right to Sue" letters for each named Defendant. Plaintiff is
7 awaiting a response to his complaint to the Labor and Workforce Development Agency and will
8 seek leave to amend once the same is received.

9
10 **FACTS COMMON TO ALL COUNTS**

11
12 16. Plaintiff was hired by Defendants in June, 2006 as a producer and executive in the motion
13 picture industry.

14 17. Plaintiff's job duties included promoting the Superman franchise; interfacing with various
15 actors, musicians, writers, directors, film executives, and studio chairs; packaging feature films
16 and television shows; marketing and communications; developing new business; political,
17 governmental, charitable and community relations; securing Defendants awards and public
18 accolades; coordination, chairing, and production of galas, parties, events, and even a celebrity
19 wedding for Defendants; creating and having published press releases and PR materials for
20 release in national newspapers and movie industry periodicals; and other duties as assigned.

21 18. At all times, Plaintiff was qualified to do his job, and discharged his job duties in a
22 satisfactory, if not exceptional manner.

23 19. At the time of his hire by Defendants, Plaintiff was promised by Defendants compensation
24 in the amount of \$5,000.00 per month.

25 20. Defendants failed to pay Plaintiff his wages and salary on 10 occasions, and such wages
26 are still outstanding. Plaintiff is owed approximately \$50,000.00 in unpaid wages.

27 21. On one occasion, Defendants failed to pay Plaintiff the total monthly wages owed to him.
28 These unpaid wages are also still outstanding in the amount of \$3,000.00.

1 22. At the time of his hire, Plaintiff was also promised by Defendants bonuses for the
2 completion of certain tasks.

3 23. Plaintiff was promised a bonus of \$100,000.00 if he could secure a star on Hollywood's
4 "Walk of Fame" for Peters. Plaintiff did indeed secure such a star in May, 2007. Plaintiff still
5 has not received his bonus for these efforts.

6 24. Plaintiff was promised a marketing bonus for the sale of Peters' Bel Aire home. Plaintiff
7 did arrange the sale of this home, and was entitled to a \$20,500.00 bonus for his efforts. Plaintiff
8 still has not received this bonus for the Sale of Peters' home.

9 25. In 2008, Plaintiff was promised by Defendants an automobile allowance of \$60,000.00, as
10 he did substantial amounts of driving in discharging his duties to Defendants. Plaintiff has still
11 not been paid this bonus, nor was Plaintiff ever reimbursed for mileage and gas used in the
12 execution of his duties for Defendants.

13 26. Plaintiff was also promised fees and film credits for work on certain forthcoming films.

14 27. Plaintiff was promised a fee of \$150,000.00 and a film credit for co-producing a
15 forthcoming film entitled "Superman: Man of Steel." Plaintiff has still not received this fee.

16 28. Plaintiff was promised a fee of \$150,000.00 and a film credit for co-producing a
17 forthcoming film entitled "Africa." Plaintiff has still not received this fee.

18 29. Plaintiff was promised a 10% marketing fee for the sale of a property called entitled
19 "Tower Lane." Plaintiff is currently unaware of how much this property will sell for, but alleges
20 damages according to proof.

21 30. Plaintiff was promised a 10% commission for the book deal of a biography of Jon Peters.
22 Plaintiff is currently unaware of how much this deal will be, but alleges damages according to
23 proof.

24 31. At the time of his termination, Plaintiff was owed outstanding vacation pay. Plaintiff
25 never received any vacation pay, and as such alleges damages for this amount according to proof.

26 32. Throughout the course of his employment, Plaintiff was subject to continuous and
27 pervasive sexual harassment at the hands of Defendants, including multiple comments and
28 conversations by Peters referring to genitalia, including the genitalia and anatomy of adult males,

1 adult females, minor males, minor females, and horses.

2 33. Throughout the course of his employment, Plaintiff was subject to continuous and
3 pervasive sexual harassment at the hands of Defendants, including multiple comments and
4 conversations by Peters about homosexuality, extensive discussions Peters personal sexual habits,
5 as well as sex acts he had engaged in and with whom, which also included showing pictures of
6 the anatomy of some of these sexual partners to Plaintiff.

7 34. Throughout the course of his employment, Plaintiff was subject to continuous and
8 pervasive sexual harassment at the hands of Defendants, including multiple instances where he
9 was physically sexually harassed by Peters, including being groped by male individuals at Peters'
10 behest, Peters would wrestle and rough-up Plaintiff in a sexual manner, Peters would fondle
11 himself in front of Plaintiff, Peters would often place his hand on Plaintiff's leg in a sexual
12 manner, and touch Plaintiff's buttocks.

13 35. Throughout the course of his employment, Plaintiff was repeatedly asked by Defendants
14 to engage in acts that were illegal, or that Plaintiff had a good faith belief were illegal. These
15 requests included:

- 16 ❖ Demanding Plaintiff perjure himself;
- 17 ❖ Demanding Plaintiff forge signatures;
- 18 ❖ Demanding Plaintiff try to cover up accusations of sexual molestation of minor
19 males by Defendants, including a request by Peters to have one such minor male
20 murdered;
- 21 ❖ Demanding Plaintiff drive male individuals onto the set for the purposes of
22 granting sexual favors for members of the cast and crew at the behest of
23 Defendants;
- 24 ❖ Demanding that Plaintiff cover up allegations that Defendant Peters engaged in
25 sexually inappropriate acts in front of children;
- 26 ❖ Demanding Plaintiff cover up the statutory rape of Peters' daughter, including the
27 destruction of evidence of this rape;
- 28 ❖ Demanding Plaintiff try to dissuade over twenty former employees of Defendants

1 not to bring legal action against Defendants on the grounds of sexual harassment
2 and wrongful termination;

- 3 ❖ Demanding Plaintiff try to bribe witnesses in lawsuits against Defendants;
- 4 ❖ Demanding Plaintiff retrieve illegal prescription drugs for Defendants;
- 5 ❖ Demanding Plaintiff cover up the failure of Peters' children to attend school,
6 zoning violations by Defendants, fraud by Defendants upon various charities,
7 fraud by Defendants upon the DMV, fraud by Defendants upon the IRS, and the
8 obtaining of a fraudulent real estate license by Defendants.

9 36. Plaintiff reasonably believed that the aforementioned conduct of the Defendants was
10 illegal, and in violation of both state and federal laws, and refused to comply with Defendants
11 demands that he engage in these illegal activities.

12 37. In a final illegal act, Defendants demanded that Plaintiff perjure himself by signing
13 community service slips for Homeboy Industries, for community service that Defendant Peters
14 did not complete. When Plaintiff refused to commit this illegal act, Defendant Peters threatened
15 to break his legs. Plaintiff refused to sign the slips, and was terminated by Defendants. Further,
16 Plaintiff has filed a police report for the threats to his person.

17 38. For refusing to engage in the aforementioned illegal acts, Defendants terminated
18 Plaintiff's employment on November 3, 2008.

19 39. Since Plaintiff's termination, Plaintiff has received numerous threatening telephone calls
20 from an as of yet unidentified male caller. These calls all originated in Ventura County, where
21 Defendant Peters maintains one of his residences.

22 40. Throughout the course of his employment, and since his employment, Defendant Peters
23 has repeatedly told third parties that Plaintiff is not competent, that Plaintiff is a convicted felon,
24 and that other people should not work with Plaintiff. None of the above statements are true, and
25 the falsity of these statements was well known to Defendant Peters.

26 ///
27 ///
28 ///

1 FIRST CAUSE OF ACTION

2 **RETALIATION PURSUANT TO LABOR CODE §1102.5**

3 **(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 1-5)**

4
5 41. As a separate and distinct cause of action, Plaintiff complains and realleges all the
6 allegations contained in this complaint, and incorporates them by reference into this cause of
7 action as though fully set forth herein, excepting those allegations which are inconsistent with this
8 cause of action.

9 42. Labor Code §1102.5 (c) prohibits an employer from retaliating against an employee for
10 refusing to participate in an activity that would result in a violation of state and federal statute, or
11 a violation or noncompliance with a state or federal rule or regulation.

12 43. Therefore, Defendants' termination of Plaintiff violates Labor Code § 1102.5 and Plaintiff
13 is entitled to the amounts provided by that section.

14 44. Labor Code §1104 provides that "In all prosecutions under this chapter, the employer is
15 responsible for the acts of his managers, officers, agents, and employees."

16 45. As a proximate result of the conduct of Defendants, Plaintiff has suffered general and
17 special damages in a sum according to proof, but which amount exceeds the jurisdictional
18 minimum of this Court, with interest thereon at the maximum legal rate.

19 46. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages for
20 mental and emotional distress and aggravation in an amount to be proven at the time of trial.

21 47. The acts of Defendants, and each of them, including but not limited to Peters, were done
22 fraudulently, maliciously and oppressively and with the advance knowledge, conscious disregard,
23 authorization, ratification or act of oppression, within the meaning of Civil Code §3294 on the
24 part of Defendants' officers, directors, or managing agents of the corporation. The actions and
25 conduct of Defendants, and each of them, were intended to cause injury to Plaintiff and
26 constituted deceit and concealment of material facts known to Defendants, and each of them, with
27 the intention of the Defendants' part to deprive Plaintiff of property and legal rights, justifying an
28 award of exemplary and punitive damages in an amount according to proof.

1 SECOND CAUSE OF ACTION

2 **WAITING TIME WAGE CONTINUATION UNDER LABOR CODE § 203**
3 **(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 6-10)**
4

5 48. As a separate and distinct cause of action, Plaintiff complains and re-alleges all the
6 allegations contained in this Complaint, and incorporates them by reference into this cause of
7 action as though fully set forth herein, excepting those allegations which are inconsistent with this
8 cause of action.

9 49. Labor Code § 200 defines "wages" as "all amounts for labor performed by employees of
10 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
11 commission basis, or other method of calculation." Labor Code § 200 also defines "labor" as
12 "labor, work, or service whether rendered or performed under contract, subcontract, partnership,
13 station plan, or other agreement if the labor to be paid for is performed personally by the person
14 demanding payment." The amounts due to Plaintiff as described above constitute "wages" as
15 that term is defined under the Labor Code.

16 50. Labor Code § 201(a) provides that if an employer discharges an employee, the wages
17 earned and unpaid at the time of discharge are due and payable immediately.

18 51. Labor Code § 203 provides that if an employer willfully fails to pay, without abatement or
19 reduction, any wages of an employee who is discharged, the wages of the employee shall
20 continue as a penalty from the due date thereof at the same rate until paid; but these penalty
21 wages shall not continue for more than thirty (30) days.

22 52. The Defendants' failure to pay wages, as alleged above, including but not limited to the
23 wages earned and unpaid at the time of termination, was willful in that the Defendants, and each
24 of them, knew wages to be due but failed to pay them, thus entitling Plaintiff to wage
25 continuation under Labor Code §§ 203 and 1194.2

26 53. Defendants have failed to pay Plaintiff a sum certain at the time of termination or within
27 seventy-two hours of his resignation, and have failed to pay those sums for thirty (30) days
28 thereafter. Pursuant to the provisions of the Labor Code § 203, Plaintiff is entitled to wage

1 continuation in the amount of Plaintiff's daily wage multiplied by thirty (30) days.

2 54. As a direct, foreseeable and proximate result of Defendants violation of Labor Code §§
3 201 and 203, Plaintiff has suffered lost income in an amount according to proof. In addition,
4 under Labor Code § 203, Plaintiff is entitled to a "waiting time" penalty in an amount equivalent
5 to 30 days of wages.

6 55. Additionally, as a result of Defendants willful failure to pay Plaintiff amounts due,
7 Plaintiff is entitled to recover prejudgment interest on this unpaid amount pursuant to Labor Code
8 § 218.6 and Civil Code § 3289, as well as reasonable attorneys' fees and costs pursuant to Labor
9 Code § 218.5.

10

11

THIRD CAUSE OF ACTION

12

UNFAIR COMPETITION PURSUANT TO

13

BUSINESS & PROFESSIONS CODE §17200

14

(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 11-15)

15

16 56. As a separate and distinct cause of action, Plaintiff complains and re-alleges all the
17 allegations contained in this Complaint, and incorporates them by reference into this cause of
18 action as though fully set forth herein, excepting those allegations which are inconsistent with this
19 cause of action.

20 57. Plaintiff brings this cause of action against Defendants, and each of them, for unfair
21 business practices pursuant to Business and Professions Code § 17200 *et seq.*

22 58. Plaintiff is a "person" within the meaning of Business and Professions Code § 17204 and,
23 therefore, has standing to bring this cause of action for restitution and other appropriate equitable
24 relief.

25 59. Business and Professions Code §17200, *et seq.* prohibits unlawful and unfair business
26 practices.

27 60. The laws and the public policy of the State of California prohibit retaliation by an
28 employer or person against an employee who has refused to engage unlawful employment

1 practices, including practices made unlawful by Labor Code §1102.5 and Government Code
2 §12940(a).

3 61. The laws and the public policy of the State of California, including Labor Code §1102.5,
4 prohibit any employer or person from terminating the employment of an employee for refusal by
5 that employee to engage in illegal activity.

6 62. Defendants have violated statutes and public policies. Through the conduct alleged in this
7 Complaint, Defendants, and each of them, have acted contrary to these public policies, have
8 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair
9 business practices in violation of Business & Profession Code §17200, *et seq.*; depriving Plaintiff
10 of rights, benefits, and privileges guaranteed to all employees under law.

11 63. Defendants' conduct, as alleged hereinabove, constituted unfair competition in violation
12 of §17200 *et seq.* of the Business & Professions Code.

13 64. Defendants, by engaging in the conduct herein alleged, by retaliating against Plaintiff for
14 refusing to participate in unlawful activity at the behest of Defendants, either knew or in the
15 exercise of reasonable care should have known that the conduct was unlawful. As such it is a
16 violation of §17200 *et seq.* of the Business and Professions Code.

17 65. As a proximate result of the above mentioned acts of Defendants, Plaintiff has been
18 damaged in a sum as may be proven at the time of trial.

19 66. Unless restrained by this Court, Defendants will continue to engage in the unlawful
20 conduct as alleged above. Pursuant to Business & Professions Code, this Court should make such
21 orders or judgments, including the appointment of a receiver, as may be necessary to prevent the
22 use or employment, by Defendants, their agents or employees, of any unlawful or deceptive
23 practice prohibited by the Business & Professions Code, and/or including but not limited to,
24 disgorgement of profits which may be necessary to restore Plaintiff the money Defendants have
25 unlawfully failed to pay Plaintiff.

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28 ///

1 **FOURTH CAUSE OF ACTION**

2 **INDEMNIFICATION PURSUANT TO LABOR CODE § 2802**
3 **(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 16-20)**
4

5 67. As a separate and distinct cause of action, Plaintiff complains and re-alleges all the
6 allegations contained in this Complaint, and incorporates them by reference into this cause of
7 action as though fully set forth herein, excepting those allegations which are inconsistent with this
8 cause of action.

9 68. Under California Labor Code § 2802, an employer must indemnify his or her employee
10 for all necessary expenditures or losses incurred by the employee in direct consequence of the
11 discharge of his or her duties, or of his or her obedience to the directions of the employer.
12 "Necessary expenditures or losses" include all reasonable costs, including, but not limited to,
13 attorney's fees incurred by the employee enforcing these statutory rights.

14 69. In discharging his job duties for Defendants, Plaintiff incurred substantial expenses
15 including, but not limited to mileage, gasoline costs, and a car allowance. None of these costs
16 incurred by Plaintiff have been reimbursed by Defendants.

17 70. As a direct and proximate result of Defendants' failure to reimburse Plaintiff for payments
18 made and/or expenses incurred, as required by Labor Code § 2802, Plaintiff has suffered and
19 continues to suffer damages in an amount in excess of this Court's minimum jurisdiction, the
20 precise of amount of which will be proven at the time of trial.

21 71. Additionally, as a result of Defendants' willful failure to pay Plaintiff amounts due,
22 Plaintiff is entitled to recover prejudgment interest on this unpaid amount pursuant to Labor
23 Code § 2802 and Civil Code § 3289.

24 72. As a result of the aforementioned acts and omissions of the Defendants, Plaintiff is
25 entitled to recover attorneys' fees in connection with this cause of action under Labor Code §
26 2802(c).

27 ///

28 ///

1 FIFTH CAUSE OF ACTION
2 **SEXUAL HARASSMENT IN VIOLATION OF**
3 **GOVERNMENT CODE § 12940(j)**
4 **(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 21-25)**
5

6 73. As a separate and distinct cause of action, Plaintiff complains and re-alleges all the
7 allegations contained in this Complaint, and incorporates them by reference into this cause of
8 action as though fully set forth herein, excepting those allegations which are inconsistent with this
9 cause of action.

10 74. Government Code § 12940, subdivision (j), provides that it is an unlawful employment
11 practice for an employer, because of the person's race, color, national origin, disability and/or
12 sex, to harass the employee. An entity shall take all reasonable steps to prevent the harassment
13 from occurring.

14 75. The facts alleged above constitute violations of the Fair Employment and Housing Act,
15 Government Code §12940, subdivision (j), in that Defendants, and each of them, discriminated
16 against Plaintiff by subjecting Plaintiff to harassment based upon sex, thereby creating a hostile,
17 offensive, and intimidating work environment.

18 76. As a direct and proximate result of the employment discrimination described herein,
19 Plaintiff has suffered lost wages and other benefits of employment in an amount to be proven at
20 trial.

21 77. As a further direct and proximate result of Defendants' unlawful acts, Plaintiff has
22 sustained serious personal injuries, including but not limited to, emotional distress, pain and
23 suffering, all in an amount to be proven at trial.

24 78. The acts of Defendants, and each of them, including but not limited to Peters, were done
25 fraudulently, maliciously and oppressively and with the advance knowledge, conscious disregard,
26 authorization, ratification or act of oppression, within the meaning of Civil Code §3294 on the
27 part of Defendants' officers, directors, or managing agents of the corporation. The actions and
28 conduct of Defendants, and each of them, were intended to cause injury to Plaintiff and

1 constituted deceit and concealment of material facts known to Defendants, and each of them, with
2 the intention of the Defendants' part to deprive Plaintiff of property and legal rights, justifying an
3 award of exemplary and punitive damages in an amount according to proof.

4 79. As a result of the aforementioned acts and omissions of Defendants, Plaintiff is entitled to
5 attorneys' fees pursuant to Government Code §12965.

6
7 **SIXTH CAUSE OF ACTION**
8 **FAILURE TO PREVENT DISCRIMINATION AND HARASSMENT**
9 **IN VIOLATION OF GOVERNMENT CODE § 12940(k)**
10 **(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 26-30)**
11

12 80. As a separate and distinct cause of action, Plaintiff complains and re-alleges all the
13 allegations contained in this Complaint, and incorporates them by reference into this cause of
14 action as though fully set forth herein, excepting those allegations which are inconsistent with this
15 cause of action.

16 81. At all material times, Government Code § 12940(k) was in full force and effect and was
17 binding on Defendants. This subsection requires Defendants, and each of them, to take all
18 reasonable steps necessary to prevent discrimination and harassment from occurring. As alleged
19 above, Defendants violated this subsection by failing to take all reasonable steps necessary to
20 prevent the discrimination from occurring.

21 82. Defendants' failure to prevent discrimination and harassment was a substantial factor in
22 causing damage and injury to Plaintiff as alleged herein.

23 83. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages for
24 mental and emotional distress and aggravation in an amount to be proven at the time of trial.

25 84. The acts of Defendants, and each of them, including but not limited to Peters, were done
26 fraudulently, maliciously and oppressively and with the advance knowledge, conscious disregard,
27 authorization, ratification or act of oppression, within the meaning of Civil Code §3294 on the
28 part of Defendants' officers, directors, or managing agents of the corporation. The actions and

1 conduct of Defendants, and each of them, were intended to cause injury to Plaintiff and
2 constituted deceit and concealment of material facts known to Defendants, and each of them, with
3 the intention of the Defendants' part to deprive Plaintiff of property and legal rights, justifying an
4 award of exemplary and punitive damages in an amount according to proof.

5 85. Plaintiff will also seek and is entitled to recover attorneys' fees in connection with this
6 cause of action under Government Code § 12965.

7

8

SEVENTH CAUSE OF ACTION

9

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

10

(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 31-35)

11

12 86. As a separate and distinct cause of action, Plaintiff complains and re-alleges all the
13 allegations contained in this Complaint, and incorporates them by reference into this cause of
14 action as though fully set forth herein, excepting those allegations which are inconsistent with this
15 cause of action.

16 87. As alleged above, Defendants terminated Plaintiff in retaliation for his refusal to engage in
17 illegal acts.

18 88. Plaintiff's termination occurred in violation of fundamental public policies of the State of
19 California, including, but not limited to, the right to employment free of sex based harassment
20 and retaliation.

21 89. Laws intending to protect workers from discrimination, harassment, and retaliation,
22 including the Fair Employment and Housing Act and Labor Code §1102.5, constitute
23 fundamental public policy of the State of California, and an employer that terminates an
24 employee for questioning the employer's harassment and retaliation violates such public policy.

25 90. These fundamental public policies inure to the benefit of the public, not just the private
26 interests of the employer and employee, because all individuals within the State are afforded these
27 rights.

28 91. As set forth above, said actions by Defendants were wrongful and in violation of the

1 fundamental principles of the public policy of the State of California as reflected in its laws,
2 which include, without limitation: Government Code §12900, *et seq.*, which establish this state's
3 firm public policy to eradicate sex based harassment, discrimination and retaliation.

4 92. As a proximate result of the conduct of Defendants, Plaintiff has suffered general and
5 special damages in a sum according to proof, but which amount exceeds the jurisdictional
6 minimum of this Court, with interest thereon at the maximum legal rate.

7 93. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages for
8 mental and emotional distress and aggravation in an amount to be proven at the time of trial.
9 The acts of Defendants, and each of them, including but not limited to Peters, were done
10 fraudulently, maliciously and oppressively and with the advance knowledge, conscious disregard,
11 authorization, ratification or act of oppression, within the meaning of Civil Code §3294 on the
12 part of Defendants' officers, directors, or managing agents of the corporation. The actions and
13 conduct of Defendants, and each of them, were intended to cause injury to Plaintiff and
14 constituted deceit and concealment of material facts known to Defendants, and each of them, with
15 the intention of the Defendants' part to deprive Plaintiff of property and legal rights, justifying an
16 award of exemplary and punitive damages in an amount according to proof.

17
18 **EIGHTH CAUSE OF ACTION**

19 **DEFAMATION**

20 **(AGAINST DEFENDANTS, AND EACH OF THEM, AND DOES 36-40)**

21
22 94. As a separate and distinct cause of action, Plaintiff complains and re-alleges all the
23 allegations contained in this Complaint, and incorporates them by reference into this cause of
24 action as though fully set forth herein, excepting those allegations which are inconsistent with this
25 cause of action.

26 95. Plaintiff is informed and believes Defendants, and each of them, individually and through
27 their officers, partners, agents and/or employees acting within the scope of their employment,
28 caused to be published false and unprivileged communications tending to directly injure Plaintiff

1 in his business and professional reputation. For example, Defendants published false statements
2 regarding Plaintiff's character, integrity and qualifications.

3 96. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of
4 them, by the herein-described acts, conspired to, and in fact, did negligently, recklessly, and
5 intentionally cause publication of defamation, of and concerning Plaintiff, to third persons and to
6 the community. These false and defamatory statements included express and implied
7 accusations: that Plaintiff had a criminal history; that Plaintiff was incompetent; that people
8 should not work with Plaintiff; etc. Plaintiff, due to his termination, has been forced to disclose
9 the alleged reasons for his termination to third parties, thus constituting self-compelled
10 defamation.

11 97. The statements made by Defendants, and each of them, were slanderous and/or libelous
12 per se because they tended to directly injure Plaintiff in his office, profession, trade or business.

13 98. The statements made by Defendants, and each of them, were published with express
14 malice on the part of each of the Defendants, and with the design and intent to injure Plaintiff in
15 his good name, reputation and employment.

16 99. Plaintiff is informed and believes, and based thereon alleges, that the publications were
17 made, in part, for the improper purpose of retaliating against him for him above said objections to
18 the Defendants' illegal acts, and other illicit conduct, and were later published to embarrass,
19 humiliate and harm Plaintiff. These publications were outrageous, negligent, reckless,
20 intentional, and maliciously published and republished by Defendants, and each of them.

21 100. During the above-described time-frame, Defendants, and each of them, conspired
22 to, and in fact, did negligently, recklessly, and intentionally cause excessive and unsolicited
23 publication of defamation, of and concerning Plaintiff, to third persons, who had no need or
24 desire to know. Those third person(s) to whom these Defendants published this defamation are
25 believed to include, but are not limited to, other agents and employees of Defendants, and each of
26 them, and the community, all of whom are known to Defendants, and each of them, but unknown
27 at this time to Plaintiff. The defamatory meaning of all of the above-described false and
28 defamatory statements and their reference to Plaintiff, were understood by these above-referenced

1 third person recipients and other members of the community who are known to Defendants, and
2 each of them, but unknown to Plaintiff at this time.

3 101. Plaintiff is informed, believes and fears that these false and defamatory per se
4 statements will continue to be published by Defendants, and each of them, and will be foreseeably
5 republished by their recipients, all to the ongoing harm and injury to Plaintiff's business,
6 professional, and personal reputations. Plaintiff also seeks redress in this action for all
7 foreseeable republications.

8 102. None of Defendants' defamatory publications against Plaintiff referenced above
9 are true.

10 103. Each of these publications by Defendants, and each of them, was made with
11 knowledge that no investigation supported the unsubstantiated and obviously false statements.
12 The Defendants published these statements knowing them to be false, unsubstantiated by any
13 reasonable investigation and the product of hostile witnesses. These acts of publication were
14 known by Defendants, and each of them, to be negligent to such a degree as to be reckless. In
15 fact, not only did Defendants, and each of them, have no reasonable basis to believe these
16 statements, but they also had no belief in the truth of these statements, and in fact knew the
17 statements to be false.

18 104. As a proximate result of the publication and republication of these defamatory
19 statements by Defendants, and each of them, Plaintiff has suffered injury to his personal, business
20 and professional reputation including suffering embarrassment, humiliation, severe emotional
21 distress, shunning, anguish, fear, loss of employment, and employability, and economic loss in
22 the form of lost wages and future earnings, all to Plaintiff's economic, emotional, and general
23 damage in an amount according to proof.

24 105. Defendants, and each of them, committed the acts alleged herein recklessly,
25 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, for
26 an improper and evil motive amounting to malice (as described above), and which abused and/or
27 prevented the existence of any conditional privilege, which in fact did not exist, and with a
28 reckless and conscious disregard of Plaintiff's rights. All actions of Defendants, and each of

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1 them, their agents and/or employees, hercin alleged were known, ratified and approved by the
2 Defendants, and each of them. Thus, Plaintiff is entitled to recover punitive and exemplary
3 damages from Defendants, and each of them, for these wanton, obnoxious, and despicable acts in
4 an amount according to proof at time of trial.

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PRAYER

WHEREFORE, Plaintiff prays for relief as follows;

1. For compensatory damages according to proof at trial;
2. For general damages;
3. For statutory penalties;
4. For liquidated damages pursuant to Labor Code § 1194.2;
5. For equitable relief, including but not limited to, granting of an equitable accounting of the restitution owed;
6. For an award of punitive damages;
7. For attorneys' fees and costs;
8. For prejudgment interest on all amounts claimed; and
9. For such other and further relief as the Court deems just and proper.

Dated: November 26, 2008

KESLUK & SILVERSTEIN, P.C.

By:


Douglas N. Silverstein, Esq.
Benjamin J. Zicherman, Esq.
Attorneys for Plaintiff Brian Quintana


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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all issues so triable herein.

Dated: November 26, 2008

KESLUK & SILVERSTEIN, P.C.

By: 
Douglas N. Silverstein, Esq.
Benjamin J. Zicherman, Esq.
Attorneys for Plaintiff Brian Quintana