STEVEN M. CHIZEN, State Bar No. 329160
CHIZEN LAW, PROFESSIONAL CORPORATION
5111 Telegraph Avenue, Suite 301
Oakland, CA 94609
Telephone: (510) 545-9556
Email: steven.chizen@chizenlaw.com

Attorney for Plaintiffs Gregory Johnson and Destiny Hayes

ELECTRONICALLY
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Superior Court of California,
County of San Francisco
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

GREGORY JOHNSON, an individual; and **DESTINY HAYES**, an individual,

Plaintiffs,

v.

RICHMOND RESTAURANTS, LLC, a California Limited Liability Company; and **DOES** 1 through 20, inclusive,

Defendants.

CASE NO.: **CGC-23-608730**

Unlimited Jurisdiction

COMPLAINT FOR:

1) **RETALIATION IN VIOLATION OF LABOR CODE SECTION 6310**
2) **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5**
3) **WRONGFUL TERMIANTION IN VIOLATION OF LABOR CODE SECTION 6311**
4) **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
5) **FAILURE TO PAY ALL WAGES EARNED UPON DISCHARGE / WAITING TIME PENALTIES**

JURY TRIAL DEMANDED

Plaintiffs **GREGORY JOHNSON** ("Mr. Johnson") and **DESTINY HAYES** ("Ms. Hayes") bring this action, by and through counsel, for damages against Defendant **RICHMOND RESTAURANTS, LLC**, a California Limited Liability Company and **DOES** 1 through 20, inclusive (collectively, "Aziza" or "Defendants"), and each of them. Plaintiffs hereby complain of Defendants, and/or each of them, named hereinabove as follows:

INTRODUCTION

1. As Captains (lead wait staff) at Aziza Restaurant in San Francisco, California, Mr. Johnson and Ms. Hayes endured threats and bullying from a coworker, Oktay, which created a hostile, unsafe work environment.

2. When Mr. Johnson's and Ms. Hayes's physical safety were imminently in jeopardy, they reported Oktay's behavior to Scott Chilcutt, Aziza's Managing Partner.

3. Intolerant of their filing of a complaint, Mr. Chilcutt terminated Mr. Johnson and Ms. Hayes in retaliation the very next day.

4. Mr. Johnson and Ms. Hayes were left unemployed. Even worse, they suffered, and continue to suffer, substantial emotional distress and pain and suffering due to the retaliation they endured.

JURISDICTION AND VENUE

5. Jurisdiction is proper because Mr. Johnson and Ms. Hayes worked for Aziza in the State of California, County of San Francisco, and Defendants committed all unlawful conduct, including the wrongful termination, in the State of California, County of San Francisco. Significant relief is being sought against Defendants whose violations of California employment laws form a significant basis for Mr. Johnson's and Ms. Hayes's claims.

6. Venue is proper because Mr. Johnson and Ms. Hayes primarily performed work for Defendants in the County of San Francisco and a substantial portion of the transactions and occurrences related to this action occurred in this County, including, without limitation, the wrongful discharge of Mr. Johnson and Ms. Hayes. Civ. Proc. Code § 395. Had the unlawful

conduct, including the wrongful termination, not occurred, Mr. Johnson and Ms. Hayes would still be working for Aziza in the County of San Francisco.

PARTIES

7. Plaintiff **GREGORY JOHNSON** (Mr. Johnson) is a natural person who at all times relevant to this claim was a resident of San Francisco County and employed in San Francisco County.

8. Plaintiff **DESTINY HAYES** (Ms. Hayes) is a natural person who at all times relevant to this claim was a resident of San Francisco County and employed in San Francisco County.

9. Mr. Johnson and Ms. Hayes are informed and believe, and thereon allege, that Defendant **RICHMOND RESTAURANTS, LLC** (Aziza) is, and at all times relevant to this claim, was, a California Limited Liability Company headquartered and doing business in San Francisco County, State of California, organized and existing under the laws of the state of California, with its principal place of business located at 5800 Geary Boulevard, San Francisco, California, 94121. Aziza is a collection of restaurants by renowned chef, Mourad Lahlou, including "Aziza Restaurant," where Mr. Johnson and Ms. Hayes worked.

10. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants DOES 1 through DOES 20, inclusive, are unknown to Mr. Johnson and Ms. Hayes who therefore sue said Defendants by such fictious names pursuant to Code of Civil Procedure section 474. Mr. Johnson and Ms. Hayes further allege that each of said fictitious Defendants are in some manner responsible for the acts and occurrences hereinafter set forth. Mr. Johnson and Ms. Hayes will amend this Complaint to show their true names and capacities when the same are ascertained, as well as the manner in which each fictitious Defendant is responsible.

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FACTS

11. In April 2023, Mr. Johnson and Ms. Hayes began their employment as Captains at Aziza Restaurant located in San Francisco, California.

12. Mr. Johnson and Ms. Hayes have extensive experience in the food service industry, including at Michelin Star restaurants.

13. For example, Mr. Johnson worked as a Captain at Eight Tables, Saison, and Quince Restaurants, just to name a few.

14. Ms. Hayes worked at Ssal, Eight Tables, Saison, and Quince Restaurants.

15. Suffice to say, these two individuals are well established in high-end restaurant service.

16. They were more than prepared to use their experience to the fullest to ensure an excellent dining environment for guests.

17. They were both excited to take their careers to Michelin Starred Chef Mourad Lahlou's restaurant, Aziza.

18. At Aziza, located at or around 5800 Geary Boulevard, San Francisco, California 94121, Mr. Johnson and Ms. Hayes were extremely effective Captains.

19. They had a strong work ethic and had been tasked with various responsibilities, proving themselves to be great additions to the Aziza team. Neither received any negative work performance reviews and both acted as true leaders in their positions each night.

20. Unfortunately, Mr. Johnson and Ms. Hayes were repeatedly subjected to threats and bullying by a coworker and then wrongfully terminated from their employment on or about July 13, 2023.

21. From the start of their employment in or around April 2023, Mr. Johnson and Ms. Hayes noticed that Aziza, on information and belief, did not appear to require Sexual Harassment and Abusive Conduct Prevention training.

22. Although Mr. Johnson and Ms. Hayes are in fact certified, Aziza never asked for documentation of their certificates.

23. It appears that Aziza turned a blind eye to such requirement, leading to the toxic work environment Mr. Johnson and Ms. Hayes would go on to endure.

24. Throughout their employment at Aziza, Mr. Johnson and Ms. Hayes experienced hostile interactions with Oktay, another Captain on their shifts.

25. Oktay did not like how Mr. Johnson and Ms. Hayes completed their tasks.

26. Instead of asking them nicely to fix things or getting the help of a supervisor, he was rude and condescending. He would scream and curse at them. He would become abusive in his tone and demeanor.

27. For example, roughly four or five weeks after starting work at Aziza, Mr. Johnson was verbally attacked by Oktay for not doing enough side work during his shift.

28. Oktay yelled at Mr. Johnson and stalked him around the kitchen.

29. A chef, George, had to step in to stop Oktay, as his beratement could be heard from the dining room.

30. After the shift, Mr. Chilcutt, Oktay, Mr. Johnson, and Ms. Hayes attempted to remedy the situation, but Oktay got out of his chair and started yelling at all of them.

31. On or about July 9, 2023, Oktay was again angry with Mr. Johnson and Ms. Hayes.

32. He approached them and demanded that they start polishing (a common side task).

33. Mr. Chilcutt had recently left for another state, so another manager, Brian, was on duty.

34. Mr. Johnson and Ms. Hayes were not too sure when Mr. Chilcutt would be returning.

35. They were scared Oktay would eventually jeopardize their safety. And they were right.

36. On or about July 12, 2023, at approximately 3:45 P.M., Mr. Johnson and Ms. Hayes were working a shift at Aziza with their coworkers Oktay and Sharon.

37. While folding napkins and candy stripes—diligently preparing for their guests to come as usual—their coworker Oktay began a threatening conversation by stating, "*Greg, are you going to do your fucking job today?*"

38. Mr. Johnson was scared for his physical safety but politely responded with "[w]hat do you mean" as he was obviously confused about this sudden aggression.

39. Oktay continued to provoke Mr. Johnson, "*Are you going to do any side work today,*" to which Mr. Johnson said "[y]eah."

40. Mr. Johnson, Ms. Hayes, and Sharon all hoped Oktay's provocative confrontation would come to an end, but to no one's surprise, Oktay continued to get upset and acted increasingly aggressively towards his coworkers.

41. After a few attempts by the three of them to neutralize the situation, an angry Oktay yelled, "*I just want to know if you're going to do your fucking side work tonight*" to Mr. Johnson, along with other vile curses.

42. Oktay then approached Mr. Johnson with intense hostility that made Mr. Johnson and Ms. Hayes extremely uncomfortable and uneasy.

43. At that moment, Mr. Johnson and Ms. Hayes reasonably feared Oktay would become physical and attack them.

44. Ms. Hayes stepped in and told Oktay to stop antagonizing the situation.

45. As Mr. Johnson walked away, Oktay tried to follow him while continuing to yell insulting words.

46. Ms. Hayes put her hand out to stop Oktay from following Mr. Johnson and, suddenly, Oktay turned his aggression on her.

47. He said to her, right up in her face in a threatening manner, to "*mind your business and do your fucking job.*"

48. At that point, Mr. Johnson and Ms. Hayes felt very unsafe.

49. They were reasonably worried that Oktay might strike either one of them at any moment.

50. Oktay's position had Ms. Hayes pressed up against the bar and for a moment, she reasonably believed had nowhere to escape.

51. Luckily, Oktay moved on to berating Mr. Johnson some more.

52. At that point, Mr. Johnson and Ms. Hayes were extremely worried for their safety and started their mandated break.

53. They could not readily locate a manager on duty—the manager stayed in an office out of the way and Oktay was continuing to threaten and berate them. In fact, they were not aware of whether or not Mr. Chilcutt was in the office or even on property that day as they had not seen him.

54. The only reasonable option to ensure their safety was to leave the premises and text Mr. Chilcutt, who they had texted before.

55. Immediately after they found safety, at approximately 4:10 P.M., Mr. Johnson and Ms. Hayes each sent a text message to Mr. Chilcutt to describe the unsafe incident and express their concern about continuing the shift that day in an unsafe environment.

56. Much to their disappointment, all Mr. Chilcutt texted back was "*[g]uess I will address [the incident] tomorrow.*"

57. Not once did Mr. Chilcutt tell Mr. Johnson or Ms. Hayes to head back to work to speak to him or another manager.

58. Not once did Mr. Chilcutt or another manager ensure the worksite was safe before bringing Mr. Johnson and Ms. Hayes back on shift.

59. Mr. Johnson and Ms. Hayes did not even know if Mr. Chilcutt was at the restaurant that day.

60. With Oktay prowling around the worksite to scream, intimidate, and possibly become violent with them, leaving the premises made sense.

61. Mr. Johnson and Ms. Hayes, still feeling unsafe and that Mr. Chilcutt was not taking them seriously with his text answer, texted Brian for HR's contact information. Brian responded that his understanding was that "*Scott [Chilcutt] is HR for aziza*."

62. After careful deliberation, on the same night as the incident at around 11:02 P.M., Mr. Johnson and Ms. Hayes filed what they believed to be a more formal complaint.

63. In the email complaint, they described how Oktay was "face to face with Greg," how Oktay followed Mr. Johnson and got aggressive with Ms. Hayes, how Oktay told Ms. Hayes to "mind your business and do your fucking job."

64. Mr. Johnson and Ms. Hayes specifically explained that there was a "looming threat to personal wellbeing." They looked forward to working with HR to make the restaurant space comfortable and safe again.

65. The next day at around 3:09 P.M., having expected some response from Mr. Chilcutt regarding potential solutions but receiving none, Mr. Johnson and Ms. Hayes emailed him asking for a status update. They were too scared to return and face Oktay, who they were sure would continue to berate and intimidate them and possibly become physical.

66. Mr. Chilcutt had enough of Mr. Johnson's and Ms. Hayes's complaints.

67. The very next day, on or about July 13, 2023, Mr. Chilcutt fired Mr. Johnson and Ms. Hayes, under the guise that they had abandoned their jobs when they sought safety from Oktay's threats and violent, unsafe demeanor.

68. The timing speaks for itself. Mr. Chilcutt did not want complainers on his staff. That is the real reason—and the only reason—for the termination.

69. Aziza willfully failed to pay Mr. Johnson and Ms. Hayes their final paychecks until on or about July 22, 2023.

70. Mr. Johnson and Ms. Hayes have endured significant emotional distress since the termination.

71. They were scared of Oktay's behavior. They had the courage to tell their supervisor of the threat to their physical safety, only to be fired.

72. This is causing each of them sustained anxiety and humiliation, as well as harm to their professional reputations.

73. Additionally, they were left without a paycheck, causing additional financial distress during a particularly vulnerable time for restaurant workers in San Francisco.

FIRST CAUSE OF ACTION

Retaliation in Violation of Labor Code Section 6310

(Against all Defendants)

74. Mr. Johnson and Ms. Hayes re-allege and incorporate by reference each and every allegation set forth above and below.

75. Mr. Johnson and Ms. Hayes were employees of Aziza.

76. Mr. Johnson and Ms. Hayes separately and together made bona fide complaints to Aziza's Managing Partner, Mr. Chilcutt, about an unsafe and unhealthy workplace condition, i.e., Oktay threatening and bullying them to the point that they were fearful of their physical safety, both in text messages and more formally over email.

77. Aziza discharged Mr. Johnson and Ms. Hayes.

78. Mr. Johnson's and Ms. Hayes's complaints were a substantial motivating reason for Aziza's decision to discharge them.

79. Mr. Johnson and Ms. Hayes were harmed.

80. Aziza's conduct was a substantial factor in causing Mr. Johnson and Ms. Hayes the harm.

81. As a direct result of the unlawful employment practices of Defendants as alleged hereinabove, Mr. Johnson and Ms. Hayes have suffered damages including, without limitation, lost income, compensation and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

82. Defendants' actions were fraudulent, malicious and oppressive, because, among other things, the conduct was carried out and ratified by Aziza's Managing Partner with zero regard for Mr. Johnson and/or Ms. Hayes's safety. Thus, Mr. Johnson and Ms. Hayes are entitled to recover punitive damages from Defendants, and each of them.

SECOND CAUSE OF ACTION

Retaliation in Violation of Labor Code 1102.5

(Against all Defendants)

83. Mr. Johnson and Ms. Hayes re-allege and incorporate by reference each and every allegation set forth above and below.

84. Mr. Johnson and Ms. Hayes were employees of Aziza.

85. Mr. Johnson and Ms. Hayes separately and together disclosed to their supervisor Mr. Chilcutt, Aziza's Managing Partner who had authority to investigate the matter, an unsafe and unhealthy workplace condition, i.e., Oktay threatening and bullying them to the point that they were fearful of their physical safety, both in text messages and more formally over email.

86. Mr. Johnson and Ms. Hayes separately and together refused to put themselves in danger by performing work near Oktay, who had threatened and bullied them to the point that they were fearful of their physical safety.

87. Mr. Johnson and Ms. Hayes had reasonable cause to believe that the information disclosed a violation of state and/or federal law or local ordinances, including, without limitation, Labor Code section 6400 and Labor Code section 6401.

88. Mr. Johnson and Ms. Hayes had reasonable cause to believe that further participation in performing work near Oktay would result in a further violation of state and/or federal law or local ordinances, including, without limitation, Labor Code section 6400 and Labor Code section 6401.

89. Aziza discharged Mr. Johnson and Ms. Hayes.

90. Mr. Johnson's and Ms. Hayes's disclosure of information and/or refusal to perform work near Oktay were each independently contributing and substantial factors in Aziza's decision to discharge Mr. Johnson and Ms. Hayes.

91. Mr. Johnson and Ms. Hayes were harmed.

92. Aziza's conduct was a substantial factor in causing Mr. Johnson and Ms. Hayes the harm.

93. As a direct result of the unlawful employment practices of Defendants as alleged hereinabove, Mr. Johnson and Ms. Hayes have suffered damages including, without limitation, lost income, compensation and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

94. Defendants' actions were fraudulent, malicious and oppressive, because, among other things, the conduct was carried out and ratified by Aziza's Managing Partner with zero regard for Mr. Johnson and/or Ms. Hayes's safety. Thus, Mr. Johnson and Ms. Hayes are entitled to recover punitive damages from Defendants, and each of them.

THIRD CAUSE OF ACTION

Wrongful Termination in Violation of Labor Code Section 6311

(Against all Defendants)

95. Mr. Johnson and Ms. Hayes re-allege and incorporate by reference each and every allegation set forth above and below.

96. Mr. Johnson and Ms. Hayes were employees of Aziza.

97. Mr. Johnson and Ms. Hayes separately and together refused to put themselves in danger by performing work near Oktay, who had threatened and bullied them to the point that they were fearful of their physical safety.

98. Performing this work would result in a violation of numerous Occupational Safety and Health laws, including, without limitation, Labor Codes sections 6400 and 6401.

99. The violation of such laws would create a real and apparent hazard to Mr. Johnson and Ms. Hayes, including a genuine risk to their physical and personal safety.

100. Aziza discharged Mr. Johnson and Ms. Hayes.

101. Mr. Johnson's and Ms. Hayes's refusal to perform work near Oktay was a contributing and substantial factor in Aziza's decision to discharge Mr. Johnson and Ms. Hayes.

102. Mr. Johnson and Ms. Hayes were harmed.

103. Aziza's conduct was a substantial factor in causing Mr. Johnson and Ms. Hayes the harm.

104. As a direct result of the unlawful employment practices of Defendants as alleged hereinabove, Mr. Johnson and Ms. Hayes have suffered damages including, without limitation, lost income, compensation and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

105. Defendants' actions were fraudulent, malicious and oppressive, because, among other things, the conduct was carried out and ratified by Aziza's Managing Partner with zero regard for Mr. Johnson and/or Ms. Hayes's safety. Thus, Mr. Johnson and Ms. Hayes are entitled to recover punitive damages from Defendants, and each of them.

FOURTH CAUSE OF ACTION

Wrongful Termination in Violation of Public Policy

(Against all Defendants)

106. Mr. Johnson and Ms. Hayes re-allege and incorporate by reference each and every allegation set forth above and below.

107. Mr. Johnson and Ms. Hayes were employees of Aziza.

108. It is an unlawful employment practice and violation of public policy to discharge an employee based because that employee complained of an unsafe working condition and/or refused to perform work that would result in an unsafe working condition in violation of numerous statutes including, without limitation, Labor Codes sections 6310, 6311, 6400, 6401, and 1102.5.

109. Aziza discharged Mr. Johnson and Ms. Hayes because they complained of unsafe working conditions and/or refused to perform work that would result in unsafe working conditions.

110. Mr. Johnson and Ms. Hayes were harmed.

111. Aziza's conduct was a substantial factor in causing Mr. Johnson and Ms. Hayes the harm.

112. As a direct result of the unlawful employment practices of Defendants as alleged hereinabove, Mr. Johnson and Ms. Hayes have suffered damages including, without limitation, lost income, compensation and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

113. Defendants' actions were fraudulent, malicious and oppressive, because, among other things, the conduct was carried out and ratified by Aziza's Managing Partner with zero regard for Mr. Johnson and/or Ms. Hayes's safety. Thus, Mr. Johnson and Ms. Hayes are entitled to recover punitive damages from Defendants, and each of them.

FIFTH CAUSE OF ACTION

Failure to Pay All Wages Earned Upon Discharge / Waiting Time Penalties

(Against all Defendants)

114. Mr. Johnson and Ms. Hayes re-allege and incorporate by reference each and every allegation set forth above and below.

115. Sections 201 and 202 of the Labor Code require employers to promptly pay all wages owing to an employee at the conclusion of employment, that is, on the day of discharge.

116. Aziza discharged Mr. Johnson and Ms. Hayes on or about July 13, 2023.

117. Aziza willfully failed to pay Mr. Johnson and Ms. Hayes their final wages on July 13, 2023.

118. Aziza finally paid Mr. Johnson and Ms. Hayes their final wages on or about July 22, 2023.

119. Mr. Johnson and Ms. Hayes average rate for wages was $54 per hour, or $432 per day.

120. Thus, pursuant to Labor Code section 2023, at a minimum, Mr. Johnson and Ms. Hayes are each entitled to $3,888.00 in waiting time penalties and/or an amount according to proof at trial, plus statutory attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Mr. Johnson and Ms. Hayes pray that this Court enter judgment in their favor on every claim and relief against Defendants and each of them, as follows:

1. For compensatory damages;
2. For punitive damages;
3. For pre-judgment and post-judgment interest, at the legal rate;
4. For attorney's fees and costs;
5. For applicable penalties;
6. For costs of suit;
7. For declaratory relief; and
8. For all such other and further relief as the court may deem just, proper and equitable.

Dated: August 30, 2023

Chizen Law, Professional Corporation

/s/ Steven Chizen
Steven Chizen

Attorney for Plaintiffs Gregory Johnson and Destiny Hayes

JURY DEMAND

PLAINTIFFS GREGORY JOHNSON AND DESTINY HAYES demand trial by jury on all issues so triable.

Dated: August 30, 2023

Chizen Law, Professional Corporation

/s/ Steven Chizen
Steven Chizen

Attorney for Plaintiffs Gregory Johnson and Destiny Hayes