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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

JENNIFER SPARGIFIORE, an individual,
Plaintiff,

v.

PANDA RESTRAURANT GROUP, INC., a
California corporation; ALIVE SEMINARS
AND COACHING ACADEMY, a California
nonprofit corporation; and DOES 1-20,
inclusive,
Defendants.

Case No. **21STCV07909**

COMPLAINT

- (1) Sexual Battery (Cal. Civ. Code § 1708.5);**
- (2) Hostile Work Environment Harassment Based on Sex/Gender in Violation of the FEHA (Cal. Gov. Code § 12940(j));**
- (3) Failure to Prevent Harassment in Violation of the FEHA (Cal. Gov. Code § 12940(k));**
- (4) Constructive Discharge in Violation of Public Policy;**
- (5) Intentional Infliction of Emotional Distress**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

Plaintiff, JENNIFER SPARGIFIORE (“Plaintiff”), by and through her attorneys, alleges upon personal knowledge as to her own acts, and upon information and belief as to other acts, as follows:

1 **JURISDICTION AND VENUE**

2 1. Plaintiff hereby brings this complaint for compensatory, special, general, and
3 punitive damages under California’s Fair Employment and Housing Act (FEHA) for hostile work
4 environment harassment and failure to prevent harassment. Plaintiff also brings this complaint
5 for compensatory, special, general, and punitive damages for sexual battery, constructive
6 discharge in violation of public policy, and intentional infliction of emotional distress. This Court
7 has jurisdiction over Defendants’ violations because their actions against Plaintiff occurred in the
8 State of California and the amount in controversy exceeds the Court’s jurisdictional minimum.

9 2. Venue is proper under Code of Civil Procedure §§ 395(a) and 395.5 because
10 Defendants do business in Los Angeles County and the acts alleged herein took place within Los
11 Angeles County. Further, Plaintiff at all relevant resided in Los Angeles County and was
12 employed by Defendant Panda Restaurant Group, Inc. within Los Angeles County.

13 **PARTIES**

14 3. Plaintiff Jennifer Spargifiore (“Ms. Spargifiore” or “Plaintiff”) is an individual
15 over the age of eighteen (18). At all relevant times herein, Plaintiff was a California resident
16 residing in Los Angeles County. Plaintiff started working for Defendant Panda Restaurant Group,
17 Inc. (“Panda Express”) on or about August 10, 2016 and was constructively discharged by Panda
18 Express on or about July 15, 2019.

19 4. Defendant Panda Express is a California corporation doing business in Los
20 Angeles County and throughout the country under several brands, including the Panda Express
21 chain of restaurants. Plaintiff was employed at the Panda Express located at 26447 Bouquet
22 Canyon Road, Santa Clarita, CA 91350.

23 5. Defendant Alive Seminars and Coaching Academy (“Alive Seminars”) (Panda
24 Express and Alive collectively referred to as “Defendants”) is a California nonprofit corporation
25 doing business in Los Angeles County. Alive Seminars conducts Panda Express-sponsored “self
26 improvement” seminars attended exclusively, or nearly exclusively, by Panda Express
27 employees.

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1 6. The true names and capacities of defendants named herein Does 1 through 20,
2 inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff, who
3 therefore sues such defendants by fictitious names pursuant to California Code of Civil Procedure
4 § 474. Plaintiff will amend this complaint to show such true names and capacities of Does 1
5 through 20, inclusive, when they have been determined.

6 7. At all times mentioned herein, each Defendant was the agent and employee of each
7 and all of the other Defendants and was acting in the course of such agency and employment.

8 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

9 8. Plaintiff started working at the Panda Express restaurant located at 26447 Bouquet
10 Canyon Road, Santa Clarita, CA 91350 on or about August 10, 2016. Her job duties entailed
11 working the counter as a cashier, ensuring customer satisfaction, ensuring store cleanliness, and
12 closing the cash till at the end of the day.

13 9. Plaintiff has also worked at other nearby Panda Express locations as required by
14 Panda Express.

15 10. During her time as a Panda Express employee, she was subjected to difficult and
16 harsh conditions. For example, Panda Express supervisors once told Plaintiff that she was not
17 allowed to be sick and must come in for all her scheduled shifts. In another instance, Plaintiff
18 was required to abandon a family funeral when she was called into work.

19 11. Yet, despite her harsh treatment from Panda Express supervisors, Plaintiff was a
20 self-motivated and ambitious employee who was eager to move up within the supervisory and
21 managerial ranks at Panda Express. Indeed, she had already earned several pay raises through
22 her diligence and the quality of her work.

23 12. Seeking to continue advancing and taking on greater responsibilities, Plaintiff
24 frequently inquired of her managers what steps she should take to maximize her opportunities for
25 promotion. **Panda Express sends Plaintiff to the Alive Seminars and Coaching Academy**

26 13. The “area coach of operation” (ACO) in charge of Plaintiff’s store, Matthiu
27 Simuda, informed Plaintiff that in order to be considered for promotion, she needed to complete
28 a “self-improvement” seminar run by Alive Seminars. Eager to improve her skills and advance

1 within the company, Plaintiff signed up and paid out of pocket to attend a four-day program
2 starting on July 11, 2019 (the “July Seminar”).

3 14. Alive Seminars offer a series of “self-improvement” classes that run from
4 anywhere from 1 to 4 days.

5 15. Alive Seminars has a close association with Panda Express. At the July Seminar,
6 for example, every person in attendance was a Panda Express employee.

7 16. Panda Express pushed its employees in the Los Angeles region to complete Alive
8 Seminars training. In many cases, it was a prerequisite to promotion. Panda Express even paid
9 some of its employees to attend (while others, like Plaintiff, were forced to spend several hundred
10 dollars out-of-pocket). At the seminar, Panda Express employees were required to provide their
11 employee ID numbers so that the seminar fee could be debited directly from their Panda Express
12 employee accounts, if they were one of the employees for whom Panda Express was paying. All
13 employees received seminar materials featuring the Panda Express logo. Alive Seminars served
14 – in essence – as an extension of Panda Express’ own Human Resources department.

15 **Plaintiff is subjected to abuse and harassment at the seminars**

16 17. From the beginning, the Panda-sponsored Alive seminar attended by Ms.
17 Spargifiore was bizarre and quickly devolved into psychological abuse. At the start, the attendees
18 were told to sit down and not talk, and were left in eerie isolation for a full hour before a man
19 stormed in, yelling in Spanish and berating the attendees for sitting there and doing nothing when
20 that is exactly what they had been instructed to do. The man, an Alive Seminars employee, loudly
21 proclaimed that the attendees are “nothing” and “don’t matter,” rounding on some people to berate
22 them individually, spittle flying. The overall effect was that of a particularly nasty drill sergeant
23 yelling into Ms. Spargifiore’s face.

24 18. It became apparent almost immediately that the goal of the seminar staff was to
25 isolate and intimidate Ms. Spargifiore and the other attendees. The attendees were prohibited from
26 using their cell phones; there was no clock in the room; the doors and windows were all covered
27 with black cloth. The atmosphere resembled less a self-improvement seminar than a site for off-
28 the-books interrogation of terrorist suspects. The sensory isolation and intimidation was

1 reinforced by constant yelling and verbal abuse by seminar staff, creating an atmosphere of fear
2 in the room.

3 19. Nevertheless, most attendees, including Plaintiff, felt that they had no choice but
4 to remain because they were sent to the seminar by Panda Express and told that their opportunity
5 for promotion would depend on completion of the seminar.

6 20. On Friday, July 12, 2019 Plaintiff was forced to participate in an “exercise” where
7 the seminar attendees were to pretend that they are on a sinking ship and that only four of them
8 get to live. Each participant in turn was then informed by their peers whether they would live or
9 die. Meanwhile, seminar staff continued to yell abuse to the effect that nobody will care if
10 Plaintiff, or the other participants, live or die because they do not stand out sufficiently.

11 21. On Saturday, July 13, 2019, Plaintiff showed up to find a new “exercise” wherein
12 she was forced to strip down to her underwear under the guise of “trust-building.” Plaintiff –
13 stripped almost naked in front of strangers and co-workers – was extremely uncomfortable but
14 pressed on because she knew it was her only chance at a promotion. Plaintiff felt extremely
15 uncomfortable at the situation but compelled to continue because her prospects for advancement
16 at Panda Express depended on completion of the seminar.

17 22. Meanwhile, Alive Seminars staff were openly ogling the women in their state of
18 undress, smiling, and laughing.

19 23. The exercise culminated when Plaintiff, along with other participants, had to take
20 turns standing up to yell about their inner struggles until everyone else in the group “believed”
21 them. The last male participant had some difficulty “convincing” the others and as a result, broke
22 down in tears. Plaintiff was told to stand up and go to the middle of the room with the male
23 participant, where they were forced to “hug it out” wearing nothing but their underwear. Plaintiff
24 was humiliated but did as she was told.

25 24. The seminar more and more resembled a cult initiation ritual as time went on.
26 Alive Seminars staff proceeded to dim the lights. Plaintiff and the other attendees were instructed
27 to stand up and close their eyes, pretending that a light from above would come down and take
28 all the “negative energy” out of them, then pretend that a hole opened up in the ground and

1 swallowed the “negative energy.” While this was happening, one of the Alive Seminars staff had
2 a cell phone with the light on, recording Plaintiff in her state of undress.

3 25. The afternoon session on July 13 was to proceed in a similar manner. At this point,
4 Plaintiff had had enough and made an excuse of a family emergency to leave the seminar.

5 26. The entire time the seminar was being conducted, Plaintiff and the other attendees
6 were confined in an atmosphere of fear and intimidation. If Plaintiff wanted to use the restroom,
7 someone from the Alive Seminars staff would stand outside the restroom door. When another
8 participant ran into the restroom to throw up, Alive Seminars staff ran after her. Another male
9 participant was only given a small trash can to throw up in and was forced to do it in front of all
10 the other attendees.

11 27. Plaintiff went into the July Seminar hopeful and optimistic about her future at
12 Panda Express. She left it three days later scarred and downtrodden. Panda Express told her to
13 attend the Alive Seminar and made it clear that any promotion depended on it. Panda Express,
14 however, did not care about Plaintiff’s experience at Alive Seminars or that she had been
15 humiliated in front of her co-workers. Her chances of promotion were destroyed. She had been
16 forced to strip in-front of her co-workers. Plaintiff’s working conditions had become intolerable
17 and Panda Express had no interest in addressing the situation. As a result, Plaintiff was
18 constructively terminated from her position with Panda Express in July 2019.

19 28. Plaintiff exhausted her administrative remedies by filing a DFEH complaint and
20 obtaining a right to sue on August 19, 2020.

21 **FIRST CAUSE OF ACTION**

22 **SEXUAL BATTERY (CAL. CIV. CODE § 1708.5)**

23 **(AGAINST ALL DEFENDANTS)**

24 29. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as
25 though fully set forth herein.

26 30. Plaintiff was forced to have, and did in fact suffer, unwanted and offensive contact
27 with a male Panda Express employee that included contact with her breasts when she was ordered
28 to “hug it out” with the male Panda Express employee while dressed only in underwear.

1 31. Panda Express funneled its employees into Alive Seminars courses, made
2 completion of these specific seminars a prerequisite for promotion for certain employees, allowed
3 Alive Seminars the use of its trademarks on seminar materials, and created an actual and/or
4 apparent principal-agent relationship between itself and Alive Seminars.

5 32. In coercing Plaintiff to have close an intimate contact with a male Panda Express
6 employee, which resulted in the aforementioned harmful and sexually offensive contact, Alive
7 Seminars staff acted with the intent to cause the harmful and sexually offensive contact in the
8 course and scope of their agency with Panda Express.

9 33. These actions of Alive Seminars staff were committed in the course of a series of
10 acts which were authorized by Panda Express, namely the conduct of the seminar as a whole.

11 34. Defendants' unlawful conduct as alleged above was a substantial factor in causing
12 damage and/or injury to Plaintiff.

13 35. As a direct and proximate result of Defendants' acts and failures to act, as alleged
14 herein, Plaintiff has suffered and continues to suffer economic loss and damages, physical
15 ailments, emotional distress, and attorneys' fees and costs in an amount to be proven at trial.

16 36. 44. The conduct of Defendants, and their agents and employees as described
17 herein, was malicious and/or oppressive, and done with a willful and conscious disregard for
18 Plaintiff's rights, and for the deleterious consequences to Plaintiff of Defendants' actions.
19 Defendants, and their agents and employees, authorized, condoned, and ratified the unlawful
20 conduct of each other. Consequently, Plaintiff is entitled to punitive damages against Defendants.

21 **SECOND CAUSE OF ACTION**

22 **HOSTILE WORK ENVIRONMENT HARASSMENT BASED ON SEX/GENDER IN**
23 **VIOLATION OF THE FEHA (CAL. GOV. CODE § 12940(j))**
24 **(AGAINST DEFENDANT PANDA EXPRESS)**

25 37. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as
26 though fully set forth herein.

27 38. At all times herein mentioned, California's Fair Employment and Housing Act
28 ("FEHA"), Cal. Gov't Code §§ 12900, *et seq.*, was in full force and effect and was fully binding

1 upon Panda Express. Specifically, §§ 12940(j) prohibits an employer from sexually harassing an
2 employee on the basis of her sex.

3 39. The actions of Alive Seminar staff at the Panda Express-sponsored seminar, as
4 described herein, were so severe that they created a hostile and abusive sexual environment which
5 materially altered Plaintiff's working conditions and which constitutes sexual harassment in
6 violation of Gov't Code § 12940(j)(1).

7 40. Panda Express had actual and/or constructive knowledge of the conduct of Alive
8 Seminar staff.

9 41. Panda Express failed to take any action to prevent or remedy the harassing conduct
10 of Alive Seminar staff, and in fact condoned it by requiring Panda Express employees to attend
11 the seminars if they wanted to position themselves for promotion within the company.

12 42. Plaintiff is informed and believes and based thereon alleges that the hostile work
13 environment was the sole, direct, and proximate cause of Plaintiff's constructive termination, in
14 violation of Gov't Code § 12940(a) et seq.

15 43. Panda Express' unlawful conduct as alleged above was a substantial factor in
16 causing damage and/or injury to Plaintiff.

17 44. As a direct and proximate result of Panda Express' acts and failures to act, as
18 alleged herein, Plaintiff has suffered and continues to suffer economic loss and damages, physical
19 ailments, emotional distress, and attorneys' fees and costs in an amount to be proven at trial.

20 45. The conduct of Panda Express, and its agents and employees as described herein,
21 was malicious and/or oppressive, and done with a willful and conscious disregard for Plaintiff's
22 rights, and for the deleterious consequences to Plaintiff of Panda Express' actions. Panda
23 Express, and its agents and employees, authorized, condoned, and ratified the unlawful conduct
24 of each other. Consequently, Plaintiff is entitled to punitive damages against Panda.

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THIRD CAUSE OF ACTION

**FAILURE TO PREVENT HARASSMENT IN VIOLATION OF THE FEHA
(AGAINST DEFENDANT PANDA EXPRESS)**

46. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

47. Panda Express knew or should have known that the conduct of the Alive Seminars staff created a hostile and abusive environment based on Plaintiff's sex, which materially altered the conditions of Plaintiff's employment.

48. Nonetheless, Panda Express failed to take immediate and appropriate corrective action, or indeed any action at all, to remedy the hostile and abusive environment based on Plaintiff's sex, endorsing the actions of Alive Seminars staff and requiring Plaintiff and other of its employees to endure those actions as a condition and prerequisite for promotion.

49. Panda Express thus adopted, ratified, and endorsed the offending conduct and authorized it as if it had been its own policy, rendering Panda Express vicariously liable for the actions of its actual and/or apparent agent, Alive Seminars.

50. Panda Express' unlawful conduct as alleged above was a substantial factor in causing damage and/or injury to Plaintiff.

51. As a direct and proximate result of Panda Express' acts and failures to act, as alleged herein, Plaintiff has suffered and continues to suffer economic loss and damages, physical ailments, emotional distress, and attorneys' fees and costs in an amount to be proven at trial.

52. The conduct of Panda Express, and its agents and employees as described herein, was malicious and/or oppressive, and done with a willful and conscious disregard for Plaintiff's rights, and for the deleterious consequences to Plaintiff of Panda Express' actions. Panda Express, and its agents and employees, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against Panda Express.

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1 **FOURTH CAUSE OF ACTION**

2 **CONSTRUCTIVE DISCHARGE IN VIOLATION OF PUBLIC POLICY**

3 **(AGAINST DEFENDANT PANDA EXPRESS)**

4 53. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as
5 though fully set forth herein.

6 54. California has enshrined its public interest in eradicating harassment in the
7 workplace on account of someone's sex or gender. Under the FEHA, employers are prohibited
8 from harassment against employees for their sex or gender. An employer who violates the FEHA
9 violates the public policy advanced by California law.

10 55. During the Panda Express-sponsored seminar, Panda Express knowingly and
11 intentionally created working conditions, and subjected Plaintiff to the same, so intolerable that
12 Plaintiff had no reasonable alternative but to resign.

13 56. Plaintiff resigned as a result of these intolerable working conditions, and Panda
14 Express' unlawful conduct as alleged above was a substantial factor in causing damage and/or
15 injury to Plaintiff.

16 57. As a direct and proximate result of Panda Express' acts and failures to act, as
17 alleged herein, Plaintiff has suffered and continues to suffer economic loss and damages, physical
18 ailments, emotional distress, humiliation, embarrassment, and attorneys' fees and costs in an
19 amount to be proven at trial.

20 58. The conduct of Panda Express, and its agents and employees, as described herein,
21 was malicious and/or oppressive, and done with a willful and conscious disregard for Plaintiff's
22 rights, and for the deleterious consequences to Plaintiff of Panda Express' actions. Panda Express
23 and its agents and employees authorized, condoned, and ratified the unlawful conduct of each
24 other. Consequently, Plaintiff is entitled to punitive damages against Panda Express.

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1 **FIFTH CAUSE OF ACTION**

2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

3 **(AGAINST ALL DEFENDANTS)**

4 59. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as
5 though fully set forth herein.

6 60. The conduct of Defendants as set forth above was so extreme and outrageous that
7 it exceeded the boundaries of human decency. This conduct was intended to cause severe
8 emotional distress, or was done in reckless disregard of the probability of causing severe
9 emotional distress.

10 61. As an actual and proximate result of Defendants' wrongful conduct, Plaintiff has
11 suffered and continues to suffer severe and continuous humiliation, emotional distress, and
12 physical and mental pain and anguish, all to her damage in an amount according to proof at the
13 time of trial.

14 62. Defendants committed the acts herein maliciously, fraudulently, oppressively, and
15 despicably, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
16 amounting to malice, and in conscious disregard of Plaintiff's rights. Plaintiff is thus entitled to
17 recover punitive damages from Defendant, in an amount according to proof.

18 **PRAYER**

19 WHEREFORE, Plaintiff prays for judgment for herself against Defendants, as follows:

20 1. Upon the First Cause of action, for compensatory, consequential, general, and
21 special damages according to proof pursuant to Cal. Civ. Code § 1708.5;

22 2. Upon the Second Cause of Action, for compensatory, consequential, general, and
23 special damages according to proof pursuant to Cal. Gov. Code § 12900 et seq.;

24 3. Upon the Third Cause of Action, for compensatory, consequential, general, and
25 special damages according to proof pursuant to Cal. Gov. Code § 12900 et seq.;

26 4. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
27 special damages according to proof for Defendants' constructive discharge in violation of public
28 policy;

1 5. Upon the Fifth Cause of Action, for compensatory, consequential, general, and
2 special damages according to proof for Defendants' extreme and outrageous conduct targeted
3 against Plaintiff;

4 6. On all causes of action, punitive damages in an amount sufficient to punish and
5 deter Defendants' conduct;

6 7. On all causes of action, for attorneys' fees and costs as provided by Code of Civil
7 Procedure § 1021.5, Civil Code 1708.5, and Government Code § 12900 et seq.

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10 DATED: February 25, 2021

BLAIR & RAMIREZ LLP

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12 By: _____



Oscar Ramirez, Esq.
Attorneys for Plaintiff
JENNIFER SPARGIFIORE

1 **DEMAND FOR JURY TRIAL**

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3 Plaintiff JENNIFER SPARGIFIORE hereby demands a jury trial with respect to all
4 issues triable by jury.

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6 DATED: February 25, 2021

BLAIR & RAMIREZ LLP

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9 By: _____



Oscar Ramirez, Esq.
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JENNIFER SPARGIFIORE