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1 NATALIA FOLEY, SBN 295923  
2 WORKERS DEFENDERS ANAHEIM  
3 UAN: 13792552  
4 WORKERS DEFENDERS LAW GROUP  
5 751 S Weir Canyon Rd Ste 157-455  
6 Anaheim CA 92808  
7 tel 714 948 5054  
8 fax 310 626 9632  
9 [workerlegalinfo@gmail.com](mailto:workerlegalinfo@gmail.com)  
10 ATTORNEY FOR APPLICANT

11  
12 **WORKERS' COMPENSATION APPEALS BOARD**  
13 **STATE OF CALIFORNIA**

14 ALENA KHAMENIA,  
15 Applicant

16 vs

17 MACYS INC DBA BLOOMINGDALES LLC  
18 Defendants

CASE # ADJ17287529; ADJ17287564

**PETITION FOR DISCRIMINATION  
BENEFITS PURSUANT TO LABOR CODE  
SECTION 132(a)**

19 **TO THE WORKERS' COMPENSATION APPEALS BOARD:**

20 COMES NOW Applicant and the Attorney of Record, WORKERS DEFENDERS LAW  
21 GROUP, and claiming benefits against the employer MACYS INC DBA BLOOMINGDALES  
22 LLC for discrimination benefits pursuant to California Labor Code Section I 32(a) alleges as  
23 follows:

24 **I**

25 During the period from 03/06/2022 – 01/15/2023 ( hereinafter – “relevant time”), Applicant,  
26 while employed by MACYS INC DBA BLOOMINGDALES LLC (hereinafter – “Employer”), as a  
27 SALES PERSON sustained cumulative injury to her psych, skin, and other body parts and systems  
28 as a result of an industrial harmful exposure and repetitive movements, while in the course and  
scope of her employment.

**II.**

During the relevant time Applicant complained about her pain and stress to her managers  
and co-workers, yet she was never offered to receive a medical help form the industrial clinic. In  
addition, Applicant complained about extreme fear, anxiety and depression related to numerous

1 exposures to robberies committed by local gangs at the store in the presence of the workers and the  
2 Applicant. Applicant was asking for help, protection and medical assistance expressing potential  
3 intent to file for workers compensation benefits. Instead of providing help and medical assistance,  
4 Applicant was terminated in retaliation for expressing intent to file for workers compensation  
5 benefits in an apparent violation of Section 132A of the labor code.

6 III.

7 APPLICANT IS ENTITLED TO MULTIPLE BENEFITS

8 Upon the Board's Finding of wrongful discrimination, Applicant is entitled to a 50% penalty  
9 assessed against benefits paid or due up to \$10,000.

10 In addition, Applicant demands back wages and other benefits. The Board may order back  
11 and front wages until reinstatement. BARNES vs. WCAB (1994) 59 CCC 156; Eubanks v. WCAB  
12 (1994) 59CCC223; United Airlines v. WCAB (1998) 63 CCC 1445. This can include payment of  
13 the Employer's portion of the Unemployment tax, reimbursement of group health benefits, seniority  
14 and cost of living increases, and increased retirement benefits.

15 If an Award of increased retirement benefits would violate ERIS provisions, the Board can  
16 order, instead, a dollar Award for the lost value of the enhanced retirement benefits.`

17 Eubanks v. WCAB, supra:

18 "The employee's retirement account must be brought up-to-date if possible.

19 Otherwise, she is to receive the amount of money which would have been credited  
20 for her retirement."

21 Finally, pursuant to the Supreme Court's decision in Currie v. WCAB (2001) 66 CCC 208,  
22 24 Cal. 4111 1109, Applicant must be awarded all pre-judgment interest on all back pay due  
23 Applicant. The Court stated that:

24 " ... the Award must include all pre-Award interest on all back pay from the date it  
25 accrued pursuant to CC Section 3287(a). Interest is recoverable on each salary or  
26 pension payment from the date it fell due.

27 "CC Section 3287(a) states 'Every person who is entitled to recover damages  
28 certain, or capable of being made certain by calculation, and the right to recover  
which is vested in him on a particular day, is entitled also to recover interest thereon  
from that day.' "

The Supreme Court's Holding in that case was:

1 "We agree that CC Section 3287(a) applies to back pay Awards made under LC  
2 Section 132a ... without the pre-judgment interest, the back pay remedy may lose a  
3 significant portion of its value, and the Employee is left 'less than fully reimbursed'  
4 for his or her lost wages."

5 WHEREFORE, Applicant requests that she be awarded benefits under Labor Code Section 132a,  
6 including:

- 7     ▪ Increased compensation;
- 8     ▪ Reinstatement;
- 9     ▪ Reimbursement for lost wages and work benefits caused by said Defendant's act such work  
10       benefits to include, but not limited to, cost-of-living increases, accrued vacation and sick  
11       leave benefits, the Employer's portion of the Unemployment tax, enhancement of retirement  
12       benefits;
- 13     ▪ And pre-Award interest on all back pay.

14 Dated: 10/30/2023

15 Respectfully Submitted:  
16 WORKERS DEFENDERS LAW GROUP



17 \_\_\_\_\_  
18 BY NATALIA FOLEY, ESQ  
19 Attorney for Applicant  
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1 NATALIA FOLEY, SBN 295923  
2 WORKERS DEFENDERS ANAHEIM  
3 UAN: 13792552  
4 WORKERS DEFENDERS LAW GROUP  
5 751 S Weir Canyon Rd Ste 157-455  
6 Anaheim CA 92808  
7 tel 714 948 5054  
8 fax 310 626 9632  
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8 **WORKERS' COMPENSATION APPEALS BOARD**  
9 **STATE OF CALIFORNIA**

10 ALENA KHAMENIA,  
11 Applicant

12 vs

13 MACYS INC DBA BLOOMINGDALES LLC  
14 Defendants

CASE # ADJ17287529; ADJ17287564

**VERIFICATION**

15 I, NATALIA FOLEY, declare as follows

16 I am one of the attorneys for Applicant in this action. I have read the enclosed PETITION  
17 FOR DISCRIMINATION BENEFITS PURSUANT TO LABOR CODE SECTION 132 (A) and  
18 know its contents.

19 All facts alleged in the PETITION FOR DISCRIMINATION BENEFITS PURSUANT TO  
20 LABOR CODE SECTION 132 (A) CASE are true of my own personal knowledge or with respect  
21 to those facts which are alleged upon information and belief. I am informed of the same and believe  
22 the same to be true.

23 I declare under penalty of perjury that the foregoing is true and correct and that this  
24 declaration was executed at Anaheim, California.

25 Respectfully submitted,

26 Dated: 10/30/2023

27 Respectfully Submitted:  
28 WORKERS DEFENDERS LAW GROUP

  
\_\_\_\_\_  
29 BY NATALIA FOLEY, ESQ.  
30 Attorney for Applicant

1 E-Filer: NATALIA FOLEY, ESQ  
2 UAN: WORKERS DEFENDERS ANAHEIM  
3 EAMS #: 13792552  
4 Address: WORKERS DEFENDERS LAW GROUP  
751 S Weir Canyon Rd Ste 157-455 Anaheim CA 92808  
tel 714 948 5054/ fax 310 626 9632 / workerlegalinfo@gmail.com

5 **PROOF OF SERVICE**

6 *State Of California*  
7 *County of Los Angeles*

8 I am employed in the county of Los Angeles, State of California.

9 I am over the age of 18 years and not a party to the within action; my business address is:

751 S Weir Canyon Rd Ste 157-455 Anaheim CA 92808

10 I am readily familiar with the firm's business practice of processing correspondence for mailing. In the  
11 ordinary course of business, the correspondence would be deposited with the United States Postal Service on  
that same day with postage thereon fully prepaid at my business address above. I am aware that on motion of  
the party served, service is presumed invalid if postal cancellation date or postage meter date is more than  
one day after the date of deposit for mailing as listed.

12 On 10/30/2023 I served the foregoing documents described as:

13 **PETITION FOR DISCRIMINATION**  
14 **BENEFITS PURSUANT TO LABOR CODE SECTION 132(a)**

15 \_\_\_\_\_  
16 on the interested parties in this action, by placing a true copy thereof in a sealed envelope with postage  
thereon fully prepaid, in the United States Mail at my address stated above, addressed as follows:

17 WCAB (AHM)  
1065 N PACIFIC CENTER DR STE 170  
18 ANAHEIM CA 92806

Ms. Marsha Mathews  
Sedgwick Lexington  
PO BOX 14450  
Lexington KY 40512

19 Jillelynn M Roderick, Esq  
20 FELLMAN & ASSOCIATES  
5777 W. Century Blvd., Suite 1195  
21 Los Angeles, CA 90045-5664

22 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and  
correct.

23 Executed on: 10/30/2023 at Los Angeles, CA

24 \_\_\_\_\_  
By IRINA PALEES,  
25 Legal Assistant to Attorney  
Natalia Foley, Esq  
26  
27  
28