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1 NATALIA FOLEY, SBN 295923 (UAN 1194930)
2 NATALIA FOLEY BEVERLY HILLS
3 Law Offices of Natalia Foley
4 8306 Wilshire Blvd Ste 115
5 Beverly Hills CA 90211
6 tel 310 707 8098/ fax 310 626 9632
7 nfoleylaw@gmail.com
8 ATTORNEY FOR APPLICANT

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**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

VICTORIA SARVER

Applicant,

vs.

LIGHTHOUSE COASTAL COMMUNITY
CHURCH

Defendants.

Case No. *ADJ11096006*
ADJ11248785
ADJ11096005

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

COMES NOW Applicant VICTORIA SARVER and the Attorney of Record, NATALIA FOLEY BEVERLY HILLS, and claiming benefits against the employer LIGHTHOUSE COASTAL COMMUNITY CHURCH for discrimination benefits pursuant to California Labor Code Section 132(a) alleges as follows:

I. STATEMENT OF FACTS

Between *09/01/2013 - 09/01/2017*, Applicant, while employed by LIGHTHOUSE COASTAL COMMUNITY CHURCH as a janitor, sustained injury to her upper and lower extremities, lower back, hernia and also experienced stress, depression and anxiety as a result of the sexual abuse and hostile work environment, while in the course and scope of her employment.

After complaining to the head of the church about job place harassment and physical pain on the industrial basis in hope to receive some help, the applicant instead was retaliated against, ostracized, prohibited to attend certain church' gatherings, to work during the day time, prohibited to

1 bring a helper while moving extremely heavy chairs, although the church administration knew very
2 well that Applicant was working through pain due to her back and hernia injuries. Furthermore, in
3 retaliation for complaining about industrial injuries and work space harassment, applicant's
4 working hours were immediately reduced almost in half, but no light duty was offered and no
5 doctor referrals were made. Applicant nonetheless continued complaining about her pain caused by
6 the heavy workload, requesting medical attention on industrial basis, and in retaliation for that on
7 **09/01/2017** she was terminated in an apparent violation of Section 132A of the labor code.

8 Applicant is informed and believes, and thereon alleges, that Defendant's actions were
9 nothing other than an attempt to discriminate against Applicant for expressing her intent to file for
10 Workers Compensation benefits.

11 **II. APPLICANT IS ENTITLED TO MULTIPLE BENEFITS**

12 Upon the Board's Finding of wrongful discrimination, Applicant is entitled to a 50% penalty
13 assessed against benefits paid or due up to \$10,000. In addition, Applicant demands back wages
14 and other benefits. The Board may order back and front wages until reinstatement. *Barns v. WCAB*
15 (1994) 59 CCC 156; *Eubanks v. WCAB* (1994) 59CCC 223; *United Airlines v. WCAB* (1998) 63
16 CCC 1445. This can include payment of the Employer's portion of the unemployment tax,
17 reimbursement of group health benefits, seniority and cost of living increases, and increased
18 retirement benefits.

19 If an Award of increased retirement benefits would violate ERISA provisions, the Board can
20 order, instead, a dollar Award for the lost value of the enhanced retirement benefits. *Eubanks v.*
21 *WCAB, supra*:

22 "The employee's retirement account must be brought up-to-date
23 if possible. Otherwise, she is to receive the amount of money
24 which would have been credited for her retirement."

25 Finally, pursuant to the Supreme Court's decision in *Currie v. WCAB* (2001) 66 CCC 208, 24 Cal.
26 4th 1109, Applicant must be awarded all pre-judgment interest on all back pay due Applicant. The
27 Court stated that:

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

"CC Section 3287(a) states 'Every person who is entitled to

1 recover damages certain, or capable of being made certain
2 by calculation, and the right to recover which is vested in him
3 on a particular day, is entitled also to recover interest thereon
4 from that day.’ “

5 The Supreme Court’s Holding in that case was:

6 “We agree that CC Section 3287(a) applies to back pay Awards
7 made under LC Section 132a... without the pre-judgment interest,
8 the back pay remedy may lose a significant portion of its value,
9 and the Employee is left ‘less than fully reimbursed’ for his or
10 her lost wages.”

11 **III. CONCLUSION**

12 WHEREFORE, Applicant respectfully requests that she be awarded the benefits provided by
13 California Labor Code Section 132(a) including the following benefits:

14 Increased compensation;

15 Reinstatement;

16 Reimbursement for lost wages and work benefits caused by said Defendant’s act; such work
17 benefits to include, but not limited to, cost-of-living increases, accrued vacation and sick leave
18 benefits, the Employer’s portion of the Unemployment tax, enhancement of retirement benefits;

19 And pre-Award interest on all back pay.

20 Defendants to be given credit for all income earned by Applicant from the date of termination in her
21 good-faith attempt to mitigate damages.

22 Respectfully Submitted:

23 LAW OFFICES OF NATALIA FOLEY.

24
25 BY NATALIA FOLEY, ESQ (SBN 295923)

26 Applicant Attorney
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1 NATALIA FOLEY, SBN 295923 (UAN 1194930)
2 NATALIA FOLEY BEVERLY HILLS
3 Law Offices of Natalia Foley
4 8306 Wilshire Blvd Ste 115
5 Beverly Hills CA 90211
6 tel 310 707 8098/ fax 310 626 9632
7 nfolelaw@gmail.com
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10 **WORKERS' COMPENSATION APPEALS BOARD**
11 **STATE OF CALIFORNIA**

12 VICTORIA SARVER

13 Applicant,

14 vs.

15 LIGHTHOUSE COASTAL COMMUNITY
16 CHURCH

17 Defendants.

Case No. *ADJ11096006*
ADJ11248785
ADJ11096005

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

18 **VERIFICATION**

19 I, Natalia Foley, declare as follows:

20 I am the attorney for Application in this action I have read the enclosed 132 (A) Petition for
21 and know its content. All facts alleged in the Petition pursuant to Labor § Code 132(A) are true of
22 my own personal knowledge or with respect to those facts which are alleged upon information and
23 belief. I am informed of the same and believe the same to be true.

24 I declare under penalty of perjury that the foregoing is true and correct and that this
25 declaration was executed at Los Angeles, CA

26 Dated: 6/14/2019

27 Respectfully Submitted:

28 LAW OFFICES OF NATALIA FOLEY.


BY NATALIA FOLEY, ESQ

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PROOF OF SERVICE

VICTORIA SARVER vs LIGHTHOUSE | ADJ11096005 (DOI08/30/2017)
COASTAL COMMUNITY CHURCH | ADJ11096006 (DOI: 09/01/2013 - 09/01/2017)

State Of California
County of Los Angeles

I am employed in the county of Los Angeles, State of California.
I am over the age of 18 years and not a party to the within action; my business address is:
8306 WILSHIRE BLVD STE 115
BEVERLY HILLS CA 90211

I am readily familiar with the firm's business practice of processing correspondence for mailing. In the 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.

On 6/14/2019 I served the foregoing documents described as:

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

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:

LAO
WORKERS' COMPENSATION APPEALS
BOARD
320 W 4TH ST,
LOS ANGELES, CA 90013

MIKE MAZUREK, ESQ
FAMIGLIETTI & VOLPE
1748 W KATELLA AVE # 209
ORANGE CA 92867

VICTORIA SARVER
666 W 18TH STR APT 4
COSTA MESA CA 92627

JANICE-GARDNER, CLAIMS EXAMINER
BROTHERHOOD MUTUAL
6400 BROTHERHOOD WAY
PO BOX 2227
FORT WAYNE INDIANA 46801

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

Executed on: 6/14/2019 at Los Angeles, CA

By IRINA PALEES,
Legal Assistant to Attorney
Natalia Foley, Esq

