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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ORANGE, CENTRAL DISTRICT**

Judge Charles Margines

ROY BARNHART, an individual,  
Plaintiff,

v.

RESCUE 1 FINANCIAL, LLC, a California  
Limited Liability Company, and DOES 1  
through 20, inclusive,  
Defendants.

Case No. 30-2019-01096530-CU-WT-CJC

**COMPLAINT FOR DAMAGES FOR:**

1. **WRONGFUL TERMINATION IN VIOLATION OF FEHA (GOVT. CODE § 12940 ET SEQ.);**
2. **DISCRIMINATION IN VIOLATION OF THE CFRA (GOVT. CODE §§ 12940 ET SEQ., 12945.2 ET SEQ.);**
3. **RETALIATION IN VIOLATION OF THE CFRA (GOVT. CODE §§ 12940 ET SEQ., 12945.2 ET SEQ.);**
4. **FEHA VIOLATIONS BASED UPON DISABILITY DISCRIMINATION;**
5. **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.;**
6. **FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.;**
7. **FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.;**
8. **FEHA VIOLATIONS BASED UPON RETALIATION; AND**
9. **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

**DEMAND OVER \$25,000**

**[DEMAND FOR JURY TRIAL]**

**EMPLOYEES FIRST LABOR LAW**  
225 S. LAKE AVE., 3<sup>RD</sup> FLOOR  
PASADENA, CALIFORNIA 91101

1 COMES NOW PLAINTIFF, ROY BARNHART, for causes of action against Defendants and  
2 each of them, alleges as follows:

3 **JURISDICTION**

4 1. This Court is the proper court, and this action is properly filed in Orange County, because  
5 Defendants' obligations and liability arise therein, because Defendants maintain locations and transact  
6 business within Orange County, and because the work that is the subject of this action was performed  
7 by Plaintiff in Orange County.

8 **THE PARTIES**

9 2. Plaintiff, ROY BARNHART, is and at all times relevant hereto was a resident of the County  
10 of Orange, State of California.

11 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant  
12 hereto, Defendant RESCUE 1 FINANCIAL, LLC (hereinafter referred to as "Defendant") was and is  
13 a California corporation doing business at 16842 Von Karman Ave., Ste. 300, Irvine, CA 92606, in  
14 the County of Orange, State of California.

15 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant  
16 hereto, Defendant owned and/or operated a debt management and financial services company and  
17 availed itself of the rights and privileges of the State of California.

18 5. Defendant was Plaintiff's employer within the meaning of Government Code §§12926,  
19 subdivision (d), 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employs  
20 five (5) or more persons and are therefore subject to the jurisdiction of this Court.

21 6. The true names and capacities, whether individual, corporate, associate, or otherwise, of  
22 Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore  
23 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to  
24 insert the true names and capacities of said Defendants when the same become known to Plaintiff.  
25 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named  
26 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as  
27 alleged hereinafter.

28

1 7. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant  
2 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,  
3 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the  
4 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part  
5 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,  
6 successor status and/or joint venture and with the permission and consent of each of the other  
7 Defendants.

8 8. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each of  
9 them, including those defendants named as DOES 1-20, acted in concert with one another to commit  
10 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in  
11 the wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code  
12 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants,  
13 and each of them, including those defendants named as DOES 1-20, and each of them, formed and  
14 executed a conspiracy or common plan pursuant to which they would commit the unlawful acts  
15 alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy,  
16 intended to cause and actually causing Plaintiff harm.

17 9. Whenever and wherever reference is made in this complaint to any act or failure to act by a  
18 Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts  
19 and/or failures to act by each Defendant acting individually, jointly and severally.

20 10. Plaintiff has filed complaints of discrimination, harassment, retaliation, failure to prevent  
21 discrimination or retaliation, and wrongful termination under Government Code §§12940, et seq., the  
22 California Fair Employment and Housing Act (“FEHA”) with the California Department of Fair  
23 Employment and Housing (“DFEH”), and has satisfied Plaintiff’s administrative prerequisites with  
24 respect to these and all related filings.

25 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

26 11. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of  
27 interest and ownership between Defendant and DOES 1-20 that the individuality and separateness of  
28 Defendant has ceased to exist.

1 12. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of  
2 purported corporate existence, Defendant and DOES 1-20 are, in reality, one and the same as  
3 Defendant, including, but not limited to because:

4 a. Defendant is completely dominated and controlled by DOES 1-20, who  
5 personally committed the frauds and violated the laws as set forth in this complaint, and who have  
6 hidden and currently hide behind Defendant to perpetrate frauds, circumvent statutes, or accomplish  
7 some other wrongful or inequitable purpose.

8 b. DOES 1-20 derive actual and significant monetary benefits by and through  
9 Defendant's unlawful conduct, and by using Defendant as the funding source for their own personal  
10 expenditures.

11 c. Plaintiff is informed and believes that Defendant and DOES 1-20, while really  
12 one and the same, were segregated to appear as though separate and distinct for purposes of  
13 perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or inequitable  
14 purpose.

15 d. Plaintiff is informed and believes that Defendant does not comply with all  
16 requisite corporate formalities to maintain a legal and separate corporate existence.

17 e. Plaintiff is informed and believes, and based thereon alleges, that the business  
18 affairs of Defendant and DOES 1-20 are, and at all times relevant were, so mixed and intermingled  
19 that the same cannot reasonably be segregated, and the same are in inextricable confusion. Defendant  
20 is, and at all times relevant hereto was, used by DOES 1-20 as a mere shell and conduit for the conduct  
21 of certain of Defendant's affairs, and is, and was, the alter ego of DOES 1-20. The recognition of the  
22 separate existence of Defendant would not promote justice, in that it would permit Defendant to  
23 insulate itself from liability to Plaintiff for violations of the Government Code and other statutory  
24 violations. The corporate existence of Defendant and DOES 1-20 should be disregarded in equity and  
25 for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff  
26 herein.

27 13. Accordingly, Defendant constitutes the alter ego of DOES 1-20, and the fiction of their  
28 separate corporate existence must be disregarded.

1 14. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon  
2 alleges that Defendant and DOES 1-20 are Plaintiff's joint employers by virtue of a joint enterprise,  
3 and that Plaintiff was an employee of Defendant, and DOES 1-20. Plaintiff performed services for  
4 each and every one of Defendant, and to the mutual benefit of all Defendant, and all Defendant shared  
5 control of Plaintiff as an employee, either directly or indirectly, and the manner in which Defendant's  
6 business was and is conducted.

7 15. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and  
8 between DOES 1-20 and Defendant, (1) there is an express or implied agreement of assumption  
9 pursuant to which DOES 1-20 agreed to be liable for the debts of Defendant, (2) the transaction  
10 between DOES 1-20 and Defendant amounts to a consolidation or merger of the two corporations, (3)  
11 DOES 1-20 is a mere continuation of Defendant, or (4) the transfer of assets to DOES 1-20 is for the  
12 fraudulent purpose of escaping liability for Defendant's debts. Accordingly, DOES 1-20 are the  
13 successors of Defendant, and are liable on that basis.

14 **FACTUAL ALLEGATIONS**

15 16. Defendant hired Plaintiff on or about August 1, 2017 as a director of business development.  
16 At the time Plaintiff commenced his employment with Defendant, his salary was \$10,000 per month  
17 in addition to \$2,000 guaranteed in commissions along with a \$500 stipend.

18 17. Plaintiff performed all of his job duties satisfactorily for Defendant. Indeed, given Plaintiff's  
19 consistent quality performance, Plaintiff routinely earned significant income through his commissions.  
20 For instance, in 2018, Plaintiff earned roughly \$150,000 total, well over his base salary, due do the  
21 substantial commissions he was able to secure.

22 18. Plaintiff continued to grow in his position in the short time he spent working at Defendant. In  
23 fact, in 2019, based on the commissions he earned in the earlier part of the year, Plaintiff was on pace  
24 to earn roughly \$225,000 for the year.

25 19. On or about April 20, 2019, Plaintiff became ill. He noticed that he had developed brown  
26 spots on his arms and legs and routinely experienced severe itching all over his body. When his  
27 symptoms failed to improve, Plaintiff consulted his doctor on or about May 1, 2019 for treatment.

28

1 20. Plaintiff's doctor evaluated Plaintiff, quickly determined that Plaintiff needed specialized  
2 treatment, and sent Plaintiff to the emergency room. There, Plaintiff was diagnosed with Primary  
3 Biliary Cirrhosis ("PBC").

4 21. The emergency room doctors concluded that there was no medication they could prescribe to  
5 Plaintiff since they were not equipped to treat his underlying PBC. Thus, they referred Plaintiff to a  
6 gastroenterologist.

7 22. Of note, throughout this time period, Plaintiff's wife was the manager of human resources for  
8 Defendant. Not only was Plaintiff's wife aware of Plaintiff's illness, but Plaintiff also separately  
9 notified Defendant's CEOs, Bradley Smith and Branden Millstone, via email of his medical condition  
10 and that he had to go to the emergency room for treatment.

11 23. After his visit to the emergency room, while waiting for his first appointment with the  
12 gastroenterologist, Plaintiff continued to seek treatment with his primary care physician and even  
13 occasionally would visit the emergency room, as his symptoms were becoming increasingly difficult  
14 to cope with. Plaintiff's itchiness grew to intense and unbearable discomfort. He also experienced  
15 extreme fatigue, swelling of his ankles and feet, severe abdominal pain, and developed jaundice.

16 24. Plaintiff's PBC caused him to miss time from work due to treatment, or at times because his  
17 symptoms were so acute that Plaintiff was simply too unwell to go to the office. Each time Plaintiff  
18 needed to be absent from work, he promptly notified Mr. Smith and Mr. Millstone.

19 25. Though Plaintiff's wife informed Plaintiff that he qualified for protected leave under CFRA,  
20 Defendant failed to provide Plaintiff with any notice of his rights under CFRA or give him the  
21 opportunity to formally take such leave.

22 26. In fact, Defendant repeatedly asked Plaintiff during his absences when he would return to  
23 work and pressured him to return quickly. The company would plainly not allow Plaintiff to take any  
24 form of an extended absence in spite of Plaintiff's right to do so.

25 27. Moreover, the day after Plaintiff returned from his initial emergency room visit, Defendant  
26 immediately began a practice of increasingly decreasing Plaintiff's compensation. That day,  
27 Defendant demoted Plaintiff to a base salary only \$5,000 per month plus commission, and though  
28

1 Defendant did not officially change Plaintiff's title, it made Plaintiff co-sales manager with an  
2 employee who had previously been Plaintiff's direct report.

3 28. Only one week after that, Defendant informed Plaintiff that he would no longer be permitted to  
4 earn commissions, and that Defendant was also stripping Plaintiff of his stipend.

5 29. On or about early June of 2019, Plaintiff met with Mr. Smith and Mr. Millstone, who at that  
6 time changed Plaintiff from a salaried employee to an hourly employee, earning \$57.00 per hour.

7 30. Shortly thereafter, Plaintiff visited his doctor, who prescribed Plaintiff a new medication for  
8 his PBC that was beginning to reduce Plaintiff's symptoms. However, only days later, on or about  
9 June 23, 2019, Mr. Smith and Mr. Millstone called Plaintiff into a meeting wherein they explained to  
10 Plaintiff that they could no longer continue to employ him due to his need to miss work for treatment  
11 of his PBC.

12 31. Plaintiff protested, explaining that he was on new medication that was thus far proving to have  
13 a positive impact, and begged Defendant to give him more time at the company. He even offered to  
14 transfer to another division if it would have enabled Defendant to continue employing him.

15 32. Nonetheless, Defendant upheld Plaintiff's termination and refused to allow Plaintiff's  
16 continued employment with the company due to Plaintiff's medical condition.

17 33. As a result of Plaintiff's disability, Plaintiff requested accommodations including time off  
18 falling within CFRA leave.

19 34. Plaintiff took time off that was eligible for CFRA leave for his serious health condition and  
20 disability.

21 35. At all relevant times, Defendant failed to properly engage in a good faith interactive process in  
22 an effort to properly accommodate Plaintiff's disability and/or medical condition such that Plaintiff  
23 could continue working for Defendant.

24 36. At all relevant times, Defendant failed to reasonably accommodate Plaintiff even though  
25 Plaintiff was able to perform Plaintiff's essential job duties with or without accommodations.

26 37. Plaintiff's termination was substantially motivated by Plaintiff's disability or perceived  
27 disability, medical condition or perceived medical condition, request for accommodation, and/or  
28

1 engagement in protected activities, without any discussion of disability accommodations or any good  
2 faith attempt to engage in the interactive process with Plaintiff.

3 38. Defendant's conduct described herein was undertaken, authorized, and/or ratified by  
4 Defendant's officers, directors and/or managing agents, including, but not limited to those identified  
5 herein as DOES 1 through 20, who were authorized and empowered to make decisions that reflect  
6 and/or create policy for Defendant. The aforementioned conduct of said managing agents and  
7 individuals was therefore undertaken on behalf of Defendant who further had advanced knowledge of  
8 the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and  
9 approved by managing agents whose precise identities are unknown to Plaintiff at this time and are  
10 therefore identified and designated herein as DOES 1 through 20, inclusive.

11 39. As a result of Defendant's actions, Plaintiff has suffered and will continue to suffer general  
12 and special damages, including severe and profound pain and emotional distress, anxiety, depression,  
13 headaches, tension, and other physical ailments, physical injury related to emotional distress, as well  
14 as medical expenses, expenses for psychological counseling and treatment, and past and future lost  
15 wages and benefits.

16 40. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,  
17 commissions, benefits and loss or diminution of earning capacity.

18 41. Plaintiff claims general damages for emotional and mental distress and aggravation in a sum in  
19 excess of the jurisdictional minimum of this Court. Because the acts taken toward Plaintiff were  
20 carried out by officers, directors and/or managing agents acting in a deliberate, cold, callous, cruel and  
21 intentional manner, in conscious disregard of Plaintiff's rights and in order to injure and damage  
22 Plaintiff, Plaintiff requests that punitive damages be levied against Defendants and each of them, in  
23 sums in excess of the jurisdictional minimum of this Court.

24 **FIRST CAUSE OF ACTION**  
25 **WRONGFUL TERMINATION IN VIOLATION OF FEHA**  
26 **(Cal. Gov. Code §§ 12940 et seq.)**  
27 **Against All Defendants and All DOE Defendants**

28 42. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
into this cause of action as if it was fully alleged herein.



1 43. Defendants, and each of them, including their agents, employees and representatives are  
2 subject to suit under Sections 12940, et. seq., of the California Fair Employment and Housing Act  
3 (“FEHA”) as embodied in the California Government Code.

4 44. California Government Code §12921(a) states, “[t]he opportunity to seek, obtain, and hold  
5 employment without discrimination because of...physical disability...medical condition...sex,  
6 gender...is hereby recognized as and declared to be a civil right.” Moreover, Government Code  
7 §12940 states in relevant part, “[i]t is an unlawful employment practice, unless based upon a bona fide  
8 qualification...[f]or an employer, because of...physical disability, medical condition ...sex, gender  
9 ...to discharge the person from employment or to discriminate against the person in compensation or  
10 in terms, conditions, or privileges of employment.”

11 45. Plaintiff is a man who has a physical disability/medical condition, as defined under  
12 Government Code § 12926 et. seq. Moreover, at the time of this Complaint and at all relevant times,  
13 Plaintiff was disabled.

14 46. Plaintiff is informed and believes and thereon alleges that Defendants and each of them, in  
15 violation of Government Code §§ 12940 et seq., terminated Plaintiff’s employment because of his  
16 physical disability.

17 47. Plaintiff filed a complaint with the California Department of Fair Employment and Housing  
18 (“DFEH”). On Sept. 9, 2019 Plaintiff received a “Right-to-Sue” Letter from the California  
19 Department of Fair Employment and Housing. Attached hereto as EXHIBIT 1 is a true and correct  
20 copy of the referenced “Right-to-Sue” Letter that Plaintiff received.

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

24 49. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages for mental  
25 and emotional distress, physical injury related to emotional distress, and aggravation in an amount to  
26 be proven at the time of trial.

27 50. The acts and conduct of Defendants, and each of them, constituted “malice,” “oppression”  
28 and/or “fraud” (as those terms are defined in Civil Code § 3294(c)), in that they were intended by

1 Defendants, and each of them, to cause injury to Plaintiff or was despicable conduct which was  
2 carried on by Defendants, and each of them, with a willful and conscious disregard of the rights of  
3 Plaintiff.

4 51. The acts of Defendants, and each of them, were done fraudulently, maliciously and  
5 oppressively and with the advanced knowledge, conscious disregard, authorization, or ratification  
6 within the meaning of Civil Code §3294 on the part of Defendants’ officers, directors, or managing  
7 agents of the business. The actions and conduct of Defendants, and each of them, were intended to  
8 cause injury to Plaintiff and constituted deceit and concealment of material facts known to  
9 Defendants, and each of them, with the intention of Defendants’ part to deprive Plaintiff of property  
10 and legal rights, justifying an award of exemplary and punitive damages in an amount according to  
11 proof.

12 52. Plaintiff is further entitled to attorneys’ fees pursuant to Government Code § 12965(b).

13 **SECOND CAUSE OF ACTION**  
14 **DISCRIMINATION IN VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT**  
15 **(Cal. Govt. Code §§ 12940, et seq., 12945.2 et seq.)**  
16 **Against All Defendants and All DOE Defendants**

17 53. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
18 into this cause of action as if it was fully alleged herein.

19 54. Under the California Family Rights Act (“CFRA”), an employee is entitled to a leave of  
20 absence for a serious health condition and/or to care for a child, parent, or spouse with a serious health  
21 condition.

22 55. At all relevant times, Defendant, including its agents, employees and representatives, was and  
23 is a “covered” employer within the meaning of the CFRA.

24 56. At all relevant times, Plaintiff had a serious health condition that required Plaintiff to take  
25 CFRA leave.

26 57. Plaintiff had provided more than 12 months of services to Defendant and had at least 1,250  
27 hours of service with Defendant during the previous 12-month period, prior to his taking medical  
28 leave.

1 58. Cal. Gov. Code § 12945.2(l) and CCR § 11094 declare it an unlawful employment practice  
2 and unlawful retaliation for any employer to refuse to hire, or discharge, fine, suspend, expel, or  
3 discriminate against any individual because of an individual’s exercise of the right to family care and  
4 medical leave provided by Cal. Gov. Code § 12945.2(a).

5 59. Defendant unlawfully discriminated against Plaintiff because of his serious health condition  
6 and medical leave of absence by terminating him in violation of Cal. Gov. Code §§ 12945.2(a),  
7 12945.2(t), 12945.2(l).

8 60. Plaintiff’s protected status, and/or exercise of and attempts to exercise her right to take CFRA  
9 leave was a substantial motivating factor in Defendant’s decision to discriminate against Plaintiff as to  
10 the terms, conditions, and privileges of employment.

11 61. Plaintiff filed a complaint with the California Department of Fair Employment and Housing  
12 (“DFEH”). On Sept. 9, 2019, Plaintiff received his “Right-to-Sue” Letter from the California  
13 Department of Fair Employment and Housing. Attached hereto as EXHIBIT 1 is a true and correct  
14 copy of the referenced “Right-to-Sue” Letter that Plaintiff received.

15 62. As a direct, foreseeable, and proximate result of the conduct of Defendant, as alleged herein,  
16 Plaintiff has suffered general and special damages in a sum according to proof, but which amount  
17 exceeds the jurisdictional minimum of this Court, with interest thereon at the maximum legal rate.

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

20 64. The acts and conduct of Defendant constituted “malice,” “oppression” and/or “fraud” (as those  
21 terms are defined in Civil Code § 3294(c)), in that it was intended by Defendant to cause injury to  
22 Plaintiff or was despicable conduct which was carried on by Defendant with a willful and conscious  
23 disregard of the rights of Plaintiff.

24 65. The acts of Defendant were done fraudulently, maliciously and oppressively and with the  
25 advance knowledge, conscious disregard, authorization, or ratification within the meaning of Civil  
26 Code §3294 on the part of Defendant’s officers, directors, or managing agents of the business. The  
27 actions and conduct of Defendant were intended to cause injury to Plaintiff and constituted deceit and  
28 concealment of material facts known to Defendant, with the intention of Defendant’s part to deprive

1 Plaintiff of property and legal rights, justifying an award of exemplary and punitive damages in an  
2 amount according to proof.

3 **THIRD CAUSE OF ACTION**  
4 **RETALIATION IN VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT**  
5 **(Cal. Govt. Code §§ 12940, et seq., 12945.2 et seq.)**  
6 **Against All Defendants and All DOE Defendants**

7 66. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
8 into this cause of action as if it was fully alleged herein.

9 67. Under the California Family Rights Act (“CFRA”), an employee is entitled to a leave of  
10 absence for a serious health condition and/or to care for a child, parent, or spouse with a serious health  
11 condition.

12 68. At all relevant times, Defendant, including its agents, employees and representatives, was and  
13 is a “covered” employer within the meaning of the CFRA.

14 69. At all relevant times, Plaintiff had a serious health condition that required Plaintiff to take  
15 CFRA leave.

16 70. Plaintiff had provided more than 12 months of services to Defendant and had at least 1,250  
17 hours of service with Defendant during the previous 12-month period, prior to his taking medical  
18 leave.

19 71. Cal. Gov. Code § 12945.2(l) and CCR § 11094 declare it an unlawful employment practice  
20 and unlawful retaliation for any employer to refuse to hire, or discharge, fine, suspend, expel, or  
21 discriminate against, any individual because of an individual’s exercise of the right to family care and  
22 medical leave provided by Cal. Gov. Code § 12945.2(a).

23 72. Defendant unlawfully retaliated against Plaintiff because of his serious health condition and  
24 medical leave of absence by terminating him in violation of Cal. Gov. Code §§ 12945.2(a),  
25 12945.2(t), 12945.2(l).

26 73. Plaintiff’s protected status, and/or exercise of and attempts to exercise her right to take CFRA  
27 leave was a substantial motivating factor in Defendant’s decision to terminate Plaintiff, discharge  
28 Plaintiff, and/or discriminate against Plaintiff as to the terms, conditions, and privileges of  
employment.

1 74. Plaintiff filed a complaint with the California Department of Fair Employment and Housing  
2 (“DFEH”). On Sept. 9, 2019, Plaintiff received her “Right-to-Sue” Letter from the California  
3 Department of Fair Employment and Housing. Attached hereto as EXHIBIT 1 is a true and correct  
4 copy of the referenced “Right-to-Sue” Letter that Plaintiff received.

5 75. As a direct, foreseeable, and proximate result of the conduct of Defendant, as alleged herein,  
6 Plaintiff has suffered general and special damages in a sum according to proof, but which amount  
7 exceeds the jurisdictional minimum of this Court, with interest thereon at the maximum legal rate.

8 76. As a result of the aforesaid acts of Defendant, Plaintiff claims general damages for mental and  
9 emotional distress and aggravation in an amount to be proven at the time of trial.

10 77. The acts and conduct of Defendant constituted “malice,” “oppression” and/or “fraud” (as those  
11 terms are defined in Civil Code § 3294(c)), in that it was intended by Defendant to cause injury to  
12 Plaintiff or was despicable conduct which was carried on by Defendant with a willful and conscious  
13 disregard of the rights of Plaintiff.

14 78. The acts of Defendant were done fraudulently, maliciously and oppressively and with the  
15 advance knowledge, conscious disregard, authorization, or ratification within the meaning of Civil  
16 Code §3294 on the part of Defendant’s officers, directors, or managing agents of the business. The  
17 actions and conduct of Defendant were intended to cause injury to Plaintiff and constituted deceit and  
18 concealment of material facts known to Defendant, with the intention of Defendant’s part to deprive  
19 Plaintiff of property and legal rights, justifying an award of exemplary and punitive damages in an  
20 amount according to proof.

21 **FOURTH CAUSE OF ACTION**  
22 **FEHA VIOLATIONS BASED UPON DISABILITY DISCRIMINATION**  
23 **(Cal. Govt. Code § 12940(a), et seq.)**  
24 **Against All Defendants and All DOE Defendants**

25 79. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
26 into this cause of action as if it was fully alleged herein.

27 80. This cause of action is based upon:  
28

1 a. Cal. Gov. Code § 12940(a), which prohibits employers from discriminating against an  
2 employee in compensation or in terms, conditions, or privileges of employment  
3 because of his or her disability.

4 81. Plaintiff alleges Defendants treated him differently from similarly situated employees because  
5 he was disabled. Plaintiff contends that if he were not disabled, Defendants would not have exhibited  
6 the behavior and conduct alleged in this Complaint.

7 82. Plaintiff has exhausted his administrative remedies against Defendants for FEHA prohibited  
8 disability discrimination, as evidence by the documents attached as Exhibit "1" to this Complaint.

9 83. As a direct, foreseeable, and proximate result of the outrageous conduct of Defendants, and  
10 each of them, Plaintiff has suffered, and continues to suffer emotional distress, including stress,  
11 anxiety, anger, humiliation, loss of self confidence, loss of self-esteem, feelings of hopelessness, and  
12 feelings of betrayal, physical injury related to emotional distress, plus future expenses incurred in  
13 seeking professional medical treatment for the aforementioned symptoms, all of which was and is to  
14 his damage in a sum within the minimum jurisdiction of this Court, to be ascertained according to  
15 proof.

16 84. Plaintiff is informed, believes, and based thereon, alleges that the outrageous conduct of  
17 Defendants, and each of them, as described above was done with oppression and malice, and was  
18 thereafter ratified by those other individuals who were either officers, directors, and/or managing  
19 agents of the named corporate Defendants. These unlawful acts were further ratified by the corporate  
20 Defendant and/or its agents as they were done with a conscious disregard for Plaintiff's rights and  
21 with the intent, design and purpose of injuring Plaintiff given that the harm to him was readily  
22 foreseeable. By reason thereof, Plaintiff is entitled to punitive or exemplary damages against  
23 Defendants, and each of them, for their acts as described in this cause of action in a sum to be  
24 determined at the time of trial.

25 85. The grossly reckless, and/or intentional, malicious, and bad faith manner in which Defendants,  
26 and each of them, engaged in those acts as described in this cause of action by willfully violating  
27 those statutes enumerated in this cause of action, Plaintiff is entitled to punitive damages against said  
28 Defendants, and each of them, in an amount within the jurisdiction of this court, to be ascertained by

1 the fact finder, that is sufficiently high to punish said Defendants, deter them from engaging in such  
2 conduct again, and to make an example of them to others.

3 86. For the part of this cause of action for FEHA liability, Plaintiff pleads for reversed attorney's  
4 fees and costs as allowed by California Government Code § 12965(b).

5 **FIFTH CAUSE OF ACTION**  
6 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**  
7 **Against All Defendants and All DOE Defendants**

8 87. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
9 into this cause of action as if it was fully alleged herein.

10 88. Plaintiff, on behalf of himself, Employees, and the general public, brings this claim pursuant to  
11 Business & Professions Code § 17200 et seq. The conduct of Defendants as alleged in this Complaint  
12 has been and continues to be unfair, unlawful, and harmful to Employees and the general public.  
13 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of valid  
14 California law and specifically Code of Civil Procedure § 1021.5.

15 89. Plaintiff is a “person” within the meaning of Business & Professions Code  
16 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive  
17 relief, restitution, and other appropriate equitable relief.

18 90. Business & Professions Code § 17200 et seq. prohibits unlawful and unfair business practices.

19 91. Defendants have violated statutes and public policies. Through the conduct alleged in this  
20 Complaint, Defendants have acted contrary to these public policies, has violated specific provisions of  
21 the Labor Code, and has engaged in other unlawful and unfair business practices in violation of  
22 Business & Professions Code § 17200 et seq.; which conduct has deprived Plaintiff, and all persons  
23 similarly situated, and all interested persons, of the rights, benefits, and privileges guaranteed to all  
24 employees under the law.

25 92. Defendants’ conduct, as alleged hereinabove, constitutes unfair competition in violation of the  
26 Business & Professions Code § 17200 et seq.

27 93. Defendants, by engaging in the conduct herein alleged, by discriminating against Plaintiff due  
28 to his disability and medical condition violated well established public policy of the State of  
California; therefore its conduct violates the Business & Professions Code § 17200 et seq.

1 94. As a proximate result of the above-mentioned acts of Defendants, Employees have been  
2 damaged, in a sum to be proven at trial.

3 95. Unless restrained by this Court, Defendants will continue to engage in such unlawful conduct  
4 as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or  
5 judgments, including the appointment of a receiver, as may be necessary to prevent the use by  
6 Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the  
7 Business & Professions Code, including but not limited to the disgorgement of such profits as may be  
8 necessary to restore Employees to the money Defendants has unlawfully failed to pay.

9  
10 **SIXTH CAUSE OF ACTION**  
11 **FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**  
12 **IN VIOLATION OF GOVT. CODE §§ 12940 ET SEQ.**  
13 **Against All Defendants and All DOE Defendants**

14 96. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
15 into this cause of action as if it was fully alleged herein.

16 97. At all times hereto, the FEHA, including in particular Government Code §12940(m), was in  
17 full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on  
18 Defendants to make reasonable accommodation for the known physical disability and/or medical  
19 condition of an employee.

20 98. At all relevant times, Plaintiff was a member of a protected class within the meaning of, in  
21 particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a disability, a  
22 physical condition that affected Plaintiff's major life activities, and medical condition of which  
23 Defendants had both actual and constructive knowledge.

24 99. At all times herein, Plaintiff was willing and able to perform the duties and functions of the  
25 position in which Plaintiff was employed, or could have performed the duties and functions of that  
26 position with reasonable accommodations. At no time would the performance of the functions of the  
27 employment position, with a reasonable accommodation for Plaintiff's disability or medical condition,  
28 actually or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's  
health or safety. Accommodation of Plaintiff's disability or medical condition, real or perceived by  
Defendants, would not have imposed an undue hardship on Defendants. Defendants failed and refused



1 to accommodate Plaintiff's disability, failed to engage in the interactive process with Plaintiff and  
2 continued to violate this obligation, up to and including the date of Plaintiff's termination or, if  
3 Defendants contend Plaintiff was never terminated, through the present and ongoing.

4 100. The above said acts of Defendants constitute violations of the FEHA, and were a proximate  
5 cause in Plaintiff's damage as stated below.

6 101. The damage allegations described above are herein incorporated by reference.

7 102. The foregoing conduct of Defendants individually, and/or by and through their officers,  
8 directors, and/or managing agents, was intended by Defendants to cause injury to Plaintiff or was  
9 despicable conduct carried on by Defendants with a willful and conscious disregard of the rights of  
10 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights  
11 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to  
12 punitive damages in an amount appropriate to punish or make an example of Defendants.

13 103. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of attorneys'  
14 fees and costs, including expert fees pursuant to the FEHA.

15 **SEVENTH CAUSE OF ACTION**  
16 **FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**  
17 **IN VIOLATION OF GOVT. CODE §§ 12940 ET SEQ.**  
18 **Against All Defendants and All DOE Defendants**

19 104. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
20 into this cause of action as if it was fully alleged herein.

21 105. At all times hereto, the FEHA, including in particular Government Code §12940(n), was in  
22 full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on  
23 Defendants to engage in a timely, good faith, interactive process with the employee to determine  
24 effective reasonable accommodations, if any, in response to a request for reasonable accommodation  
25 by an employee with a known physical disability or known medical condition and/or becoming aware  
26 of the employee's need for accommodation.

27 106. At all relevant times, Plaintiff was a member of a protected class within the meaning of, in  
28 particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a physical

1 disability that affected Plaintiff's major life activities, and medical condition of which Defendants had  
2 both actual and constructive knowledge.

3 107. Plaintiff reported the disability to Defendants and requested accommodation, triggering  
4 Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein,  
5 Defendants failed and refused to do so. Thereafter, despite Defendants' continuing obligation to  
6 engage in the interactive process with Plaintiff, despite Plaintiff's submission of a doctors' notes  
7 identifying Plaintiff's condition and Plaintiff's desire to continue working in some capacity,  
8 Defendants failed and refused to have any dialogue with Plaintiff whatsoever, on any of these  
9 occasions, and Defendants violated, and continued to violate this obligation up to and including the  
10 date of Plaintiff's termination or, if Defendants contends Plaintiff was never terminated, through the  
11 present and ongoing.

12 108. The above said acts of Defendants constitute violations of the FEHA, and were a proximate  
13 cause in Plaintiff's damage as stated below.

14 109. The damage allegations, as set forth above inclusive, are herein incorporated by reference.

15 110. The foregoing conduct of Defendants individually, and/or by and through their officers,  
16 directors, and/or managing agents, was intended by Defendants to cause injury to Plaintiff or was  
17 despicable conduct carried on by Defendants with a willful and conscious disregard of the rights of  
18 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights  
19 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to  
20 punitive damages in an amount appropriate to punish or make an example of Defendants.

21 111. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of attorneys'  
22 fees and costs, including expert fees pursuant to the FEHA.

23 **EIGHTH CAUSE OF ACTION**  
24 **FEHA VIOLATIONS BASED UPON RETALIATION**  
25 **IN VIOLATION OF GOVT. CODE § 12940(h) ET SEQ.**  
26 **Against All Defendants and All DOE Defendants**

27 112. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
28 into this cause of action as if it was fully alleged herein.

113. This cause of action is based upon:

- 1 a. California Government Code Section 12940(h), which prohibits employers from  
2 retaliating against employees who complain of practices forbidden by the California  
3 Fair Employment and Housing Act (the "FEHA"), including discrimination based on  
4 disability and medical conditions;
- 5 b. California Government Code Section 12940(k), which prohibits employers from failing  
6 to take all reasonable steps necessary to prevent discrimination from occurring in the  
7 workplace; and
- 8 c. Title II, California Code of Regulations, Section 7287.8(a), which prohibits employers  
9 from retaliating against employees who complain of practices forbidden by the  
10 "FEHA", including discrimination based on disability and medical conditions.

11 114. Defendant engaged in conduct that taken as a whole, materially and adversely affected the  
12 terms and conditions of Plaintiff's employment.

13 115. Plaintiff's assertion of his rights under California Government Code Section 12900 et seq. and  
14 opposition to unlawful conduct was a substantial motivating reason for Defendant's decision to  
15 retaliate against and terminate him. Defendant's conduct was a substantial factor in causing harm to  
16 Plaintiff as set forth herein.

17 116. At all times relevant to this action, Defendant unlawfully retaliated against Plaintiff, in  
18 violation of California Government Code Sections 12940(h), 12940(m)(2), by terminating him.

19 117. Plaintiff has exhausted his administrative remedies as to the corporate Defendant under the  
20 FEHA. On Sept. 9, 2019, Plaintiff filed charges of disability discrimination, retaliation, and wrongful  
21 termination against Defendants which are attached hereto, made a part hereof, and Marked as Exhibit  
22 "1". On Sept. 9, 2019, the Department of Fair Housing and Employment (DFEH) issued Plaintiff a  
23 Notice of Case Closure/Right to Sue Letter, which is attached hereto, made a part hereof, and is also  
24 marked as Exhibit "1".

25 118. As a direct, foreseeable, and proximate result of the outrageous conduct of all Defendants  
26 named in this cause of action, and each of them, Plaintiff has suffered, and continues to suffer  
27 emotional distress, including stress, anxiety, anger, humiliation, loss of self confidence, loss of self-  
28 esteem, feelings of hopelessness, and feelings of betrayal, physical injury related to emotional distress,

1 plus future expenses incurred in seeking professional medical treatment for the aforementioned  
2 symptoms, all of which was and is to his damage in a sum within the minimum jurisdiction of this  
3 Court, to be ascertained according to proof.

4 119. The grossly reckless, and/or intentional, malicious, and bad faith manner in which all named  
5 Defendants, and each of them, engaged in those acts as described in this cause of action by willfully  
6 violating those statutes enumerated in this cause of action, Plaintiff is entitled to punitive damages  
7 against said Defendants, and each of them, in an amount within the jurisdiction of this court, to be  
8 ascertained by the fact finder, that is sufficiently high to punish said Defendants, deter them from  
9 engaging in such conduct again, and to make an example of them to others.

10 120. For the part of this cause of action for FEHA liability, Plaintiff pleads for reversed attorney's  
11 fees and costs recoverable under California Government Code § 12965(b).

12 **NINTH CAUSE OF ACTION**  
13 **FOR WRONGFUL TERMINATION**  
14 **IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**  
15 **Against All Defendants and All DOE Defendants**

16 121. Plaintiff re-alleges the information set forth in the preceding paragraphs and incorporates it  
17 into this cause of action as if it was fully alleged herein.

18 122. At all relevant times mentioned in this complaint, the FEHA was in full force and effect and  
19 was binding on Defendants. This law requires Defendants to refrain from, among other things,  
20 discriminating against any employee on the basis of disability, medical condition, real or perceived,  
21 and use of medical leave, and from retaliating against any employee who engages in protected  
22 activity.

23 123. At all times mentioned in this complaint, it was a fundamental policy of the State of California  
24 that Defendants cannot discriminate and/or retaliate against any employee on the basis of disability,  
25 medical condition, real or perceived, use of medical leave and/or engagement in protected activity.

26 124. Plaintiff believes and thereon alleges that Plaintiff's disability and/or medical condition, real or  
27 perceived, use of medical leave, engagement in protected activity with respect to these protected  
28 classes, and/or some combination thereof, were factors in Defendants' conduct as alleged  
hereinabove.

1 125. Such discrimination, resulting in the wrongful termination of Plaintiff's employment on the  
2 basis of disability, medical condition, real or perceived, or use of medical leave, Plaintiff's  
3 complaining of discrimination due to these protected classes, Plaintiff's engagement in protected  
4 activity, and/or some combination of these factors, were a proximate cause in Plaintiff's damages as  
5 stated below.

6 126. The above said acts of Defendants constitute violations of the Government Code and the  
7 public policy of the State of California embodied therein as set forth above. Defendant violated these  
8 laws by discriminating and retaliating against Plaintiff and terminating Plaintiff's employment in  
9 retaliation for exercise of protected rights.

10 127. At all times mentioned in this complaint, it was a fundamental policy of the State of California  
11 that Defendants cannot discriminate and/or retaliate against any employee on the basis of use of  
12 CFRA leave or in violation of FEHA.

13 128. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's status as a  
14 protected member of the class under FEHA was a proximate cause in Plaintiff's damages as stated  
15 below.

16 129. The damage allegations, as set forth above inclusive, are herein incorporated by reference.

17 130. The foregoing conduct of Defendants individually, or by and through its officers, directors  
18 and/or managing agents, was intended by Defendants to cause injury to Plaintiff or was despicable  
19 conduct carried on by Defendants with a willful and conscious disregard of the rights of Plaintiff or  
20 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to  
21 constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive  
22 damages in an amount appropriate to punish or make an example of Defendants.

23 131. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of attorneys'  
24 fees and costs, including expert fees pursuant to the FEHA.

25  
26  
27 [THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]  
28

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff hereby prays that the Court enter judgment in his favor and against Defendants, and each of them, as follows:

1. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money, together with interest on these amounts; for other special damages; and for general damages for mental pain and anguish and emotional distress, physical injury related to emotional distress and loss of earning capacity;
2. For prejudgment interest on each of the foregoing at the legal rate from the date the obligation became due through the date of judgment in this matter;
3. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and condemning Defendants' discriminatory practices;
4. For injunctive relief barring Defendants' discriminatory employment policies and practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;
5. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;
6. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA and/or any other basis;
7. For post-judgment interest; and
8. For any other relief that is just and proper.

DATED: September 9, 2019

**EMPLOYEES FIRST LABOR LAW**

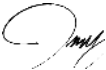
By:   
Jonathan P. LaCour, Esq.  
Lisa Noveck, Esq.  
Attorneys for Plaintiff  
ROY BARNHART

**DEMAND FOR JURY TRIAL**

Plaintiff demands trial of all issues by jury.

DATED: September 9, 2019

**EMPLOYEES FIRST LABOR LAW**

By:   
Jonathan P. LaCour, Esq.  
Lisa Noveck, Esq.  
Attorneys for Plaintiff  
ROY BARNHART

**EMPLOYEES FIRST LABOR LAW**  
225 S. LAKE AVE., 3<sup>RD</sup> FLOOR  
PASADENA, CALIFORNIA 91101

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**EMPLOYEES FIRST LABOR LAW**  
225 S. LAKE AVE., 3<sup>RD</sup> FLOOR  
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**EXHIBIT 1**





## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

September 9, 2019

RE: **Notice of Filing of Discrimination Complaint**  
DFEH Matter Number: 201909-07488709  
Right to Sue: Barnhart / Rescue 1 Financial, LLC

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

September 9, 2019

Roy Barnhart  
225 S. Lake Ave., Suite 300  
Pasadena, California 91101

RE: **Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 201909-07488709  
Right to Sue: Barnhart / Rescue 1 Financial, LLC

Dear Roy Barnhart,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective September 9, 2019 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**  
2 **BEFORE THE STATE OF CALIFORNIA**  
3 **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**  
4 **Under the California Fair Employment and Housing Act**  
5 **(Gov. Code, § 12900 et seq.)**

6 **In the Matter of the Complaint of**  
7 Roy Barnhart

DFEH No. 201909-07488709

8 Complainant,

9 vs.

10 Rescue 1 Financial, LLC  
11 16842 Von Karman Ave., Ste. 300  
12 Irvine, California 92606

13 Respondents

14 1. Respondent **Rescue 1 Financial, LLC** is an **employer** subject to suit under the  
15 California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

16 2. Complainant **Roy Barnhart**, resides in the City of **Pasadena** State of **California**.

17 3. Complainant alleges that on or about **June 23, 2019**, respondent took the  
18 following adverse actions:

19 **Complainant was harassed** because of complainant's family care or medical leave  
20 (cfra) (employers of 50 or more people), disability (physical or mental), medical  
21 condition (cancer or genetic characteristic).

22 **Complainant was discriminated against** because of complainant's family care or  
23 medical leave (cfra) (employers of 50 or more people), disability (physical or mental),  
24 medical condition (cancer or genetic characteristic) and as a result of the  
25 discrimination was terminated, demoted, denied any employment benefit or  
26 privilege, denied reasonable accommodation for a disability, denied work  
27 opportunities or assignments.

28 **Complainant experienced retaliation** because complainant reported or resisted  
any form of discrimination or harassment, requested or used a disability-related  
accommodation, requested or used leave under the California Family Rights Act or  
FMLA (employers of 50 or more people) and as a result was terminated, demoted,

1 denied any employment benefit or privilege, denied reasonable accommodation for a  
2 disability.

3 **Additional Complaint Details:** Defendant hired Plaintiff on or about August 1, 2017  
4 as a director of business development. At the time Plaintiff commenced his  
5 employment with Defendant, his salary was \$10,000 per month in addition to \$2,000  
6 guaranteed in commissions along with a \$500 stipend.

7 Plaintiff performed all of his job duties satisfactorily for Defendant. Indeed, given  
8 Plaintiff's consistent quality performance, Plaintiff routinely earned significant income  
9 through his commissions. For instance, in 2018, Plaintiff earned roughly \$150,000  
10 total, well over his base salary, due do the substantial commissions he was able to  
11 secure.

12 Plaintiff continued to grow in his position in the short time he spent working at  
13 Defendant. In fact, in 2019, based on the commissions he earned in the earlier part  
14 of the year, Plaintiff was on pace to earn roughly \$225,000 for the year.

15 On or about April 20, 2019, Plaintiff became ill. He noticed that he had developed  
16 brown spots on his arms and legs and routinely experienced severe itching all over  
17 his body. When his symptoms failed to improve, Plaintiff consulted his doctor on or  
18 about May 1, 2019 for treatment.

19 Plaintiff's doctor evaluated Plaintiff, quickly determined that Plaintiff needed  
20 specialized treatment, and sent Plaintiff to the emergency room. There, Plaintiff was  
21 diagnosed with Primary Biliary Cirrhosis ("PBC").

22 The emergency room doctors concluded that there was no medication they could  
23 prescribe to Plaintiff since they were not equipped to treat his underlying PBC.  
24 Thus, they referred Plaintiff to a gastroenterologist.

25 Of note, throughout this time period, Plaintiff's wife was the manager of human  
26 resources for Defendant. Not only was Plaintiff's wife aware of Plaintiff's illness, but  
27 Plaintiff also separately notified Defendant's CEOs, Bradley Smith and Branden  
28 Millstone, via email of his medical condition and that he had to go to the emergency  
29 room for treatment.

30 After his visit to the emergency room, while waiting for his first appointment with the  
31 gastroenterologist, Plaintiff continued to seek treatment with his primary care  
32 physician and even occasionally would visit the emergency room, as his symptoms  
33 were becoming increasingly difficult to cope with. Plaintiff's itchiness grew to intense

1 and unbearable discomfort. He also experienced extreme fatigue, swelling of his  
2 ankles and feet, severe abdominal pain, and developed jaundice.

3 Plaintiff's PBC caused him to miss time from work due to treatment, or at times  
4 because his symptoms were so acute that Plaintiff was simply too unwell to go to the  
5 office. Each time Plaintiff needed to be absent from work, he promptly notified Mr.  
6 Smith and Mr. Millstone.

7 Though Plaintiff's wife informed Plaintiff that he qualified for protected leave under  
8 CFRA, Defendant failed to provide Plaintiff with any notice of his rights under CFRA  
9 or give him the opportunity to formally take such leave.

10 In fact, Defendant repeatedly asked Plaintiff during his absences when he would  
11 return to work and pressured him to return quickly. The company would plainly not  
12 allow Plaintiff to take any form of an extended absence in spite of Plaintiff's right to  
13 do so.

14 Moreover, the day after Plaintiff returned from his initial emergency room visit,  
15 Defendant immediately began a practice of increasingly decreasing Plaintiff's  
16 compensation. That day, Defendant demoted Plaintiff to a base salary only \$5,000  
17 per month plus commission, and though Defendant did not officially change  
18 Plaintiff's title, it made Plaintiff co-sales manager with an employee who had  
19 previously been Plaintiff's direct report.

20 Only one week after that, Defendant informed Plaintiff that he would no longer be  
21 permitted to earn commissions, and that Defendant was also stripping Plaintiff of his  
22 stipend.

23 On or about early June of 2019, Plaintiff met with Mr. Smith and Mr. Millstone, who  
24 at that time changed Plaintiff from a salaried employee to an hourly employee,  
25 earning \$57.00 per hour.

26 Shortly thereafter, Plaintiff visited his doctor, who prescribed Plaintiff a new  
27 medication for his PBC that was beginning to reduce Plaintiff's symptoms. However,  
28 only days later, on or about June 23, 2019, Mr. Smith and Mr. Millstone called  
29 Plaintiff into a meeting wherein they explained to Plaintiff that they could no longer  
30 continue to employ him due to his need to miss work for treatment of his PBC.

31 Plaintiff protested, explaining that he was on new medication that was thus far  
32 proving to have a positive impact, and begged Defendant to give him more time at  
33 the company. He even offered to transfer to another division if it would have  
34 enabled Defendant to continue employing him.

1 Nonetheless, Defendant upheld Plaintiff's termination and refused to allow Plaintiff's  
2 continued employment with the company due to Plaintiff's medical condition.

3 As a result of Plaintiff's disability, Plaintiff requested accommodations including time  
4 off falling within CFRA leave.

5 Plaintiff took time off that was eligible for CFRA leave for his serious health condition  
6 and disability.

7 At all relevant times, Defendant failed to properly engage in a good faith interactive  
8 process in an effort to properly accommodate Plaintiff's disability and/or medical  
9 condition such that Plaintiff could continue working for Defendant.

10 At all relevant times, Defendant failed to reasonably accommodate Plaintiff even  
11 though Plaintiff was able to perform Plaintiff's essential job duties with or without  
12 accommodations.

13 Plaintiff's termination was substantially motivated by Plaintiff's disability or perceived  
14 disability, medical condition or perceived medical condition, request for  
15 accommodation, and/or engagement in protected activities, without any discussion  
16 of disability accommodations or any good faith attempt to engage in the interactive  
17 process with Plaintiff.

18 Defendant's conduct described herein was undertaken, authorized, and/or ratified by  
19 Defendant's officers, directors and/or managing agents, including, but not limited to  
20 those identified herein as DOES 1 through 20, who were authorized and empowered  
21 to make decisions that reflect and/or create policy for Defendant. The  
22 aforementioned conduct of said managing agents and individuals was therefore  
23 undertaken on behalf of Defendant who further had advanced knowledge of the  
24 actions and conduct of said individuals whose actions and conduct were ratified,  
25 authorized, and approved by managing agents whose precise identities are  
26 unknown to Plaintiff at this time and are therefore identified and designated herein  
27 as DOES 1 through 20, inclusive.

28 As a result of Defendant's actions, Plaintiff has suffered and will continue to suffer  
general and special damages, including severe and profound pain and emotional  
distress, anxiety, depression, headaches, tension, and other physical ailments,  
physical injury related to emotional distress, as well as medical expenses, expenses  
for psychological counseling and treatment, and past and future lost wages and  
benefits.

As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,  
commissions, benefits and loss or diminution of earning capacity.

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Plaintiff claims general damages for emotional and mental distress and aggravation in a sum in excess of the jurisdictional minimum of this Court.

Because the acts taken toward Plaintiff were carried out by officers, directors and/or managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this Court.

1 VERIFICATION

2 I, **Jonathan LaCour, Esq.**, am the **Attorney** in the above-entitled complaint. I have  
3 read the foregoing complaint and know the contents thereof. The matters alleged are  
4 based on information and belief, which I believe to be true.

5 On September 9, 2019, I declare under penalty of perjury under the laws of the State  
6 of California that the foregoing is true and correct.

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**Pasadena, California**