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8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**
(Central Division)
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10 THOMAS R. AYLOTT,

11 Plaintiff,

12 vs.

13 COMMODITY TRUCKING
14 ACQUISITION, LLC, a California
limited liability company dba Dispatch
15 Transportation and Western
Transportation; and DOES 1 through 20,

16 Defendants.
17

CASE NO.: 37-2017-00014783-CU-WT-CTL

COMPLAINT FOR DAMAGES

1. **Retaliation for Refusing To Break the Law By Texting While Driving (Labor Code §1102.5);**
2. **Wrongful Termination In Violation of Public Policy (*Tameny*); and**
3. **Age Discrimination (FEHA).**

18 Plaintiff, Thomas R. Aylott ("Aylott"), alleges:

19 1. Defendant, Commodity Trucking Acquisition, LLC ("Commodity Trucking"), is a
20 California limited liability company that does business in San Diego County, California, under the
21 fictitious business names of "Dispatch Transportation" and "Western Transportation."

22 2. Aylott is an adult resident of San Diego County, California. He is fifty-three years
23 old.

24 3. The true names and capacities, whether individual or otherwise, of defendants Does
25 1 through 20 are unknown to Plaintiff who therefore sues them by such fictitious names pursuant
26 to California Code of Civil Procedure § 474. Plaintiff is informed and believes that each of the Doe
27 defendants is responsible in some manner for the acts of omissions alleged in this complaint or
28 cause Plaintiff's damages.

1 4. At all material times, all of the defendants named in this complaint were agents,
2 employees, partners, joint-venturers, or co-conspirators of the other defendants and when doing the
3 acts alleged in this complaint they acted within the course and scope of such agency. At all material
4 times, all of the defendants named in this complaint aided and abetted, authorized, and ratified all
5 of the acts of the other defendants.

6 5. Commodity Trucking hired Aylott on July 21, 2014, as a Project Manager and Safety
7 Manager for its San Diego Division. Aylott supervised Class A licensed truck drivers employed
8 and/or contracted by Commodity Trucking to haul materials. Aylott's duties included driving to
9 and from work sites to communicate with customers, supervise employees and manage projects.
10 He also enforced Commodity Trucking's safety policies, which obviously included a "hands free"
11 policy that prohibited its employees from texting while driving.

12 6. In approximately December 2016, Commodity Trucking hired James Cloud to take
13 over the general management responsibilities at its San Diego division where Aylott worked. In
14 approximately March 2017, Cloud and Aylott had a discussion in which Aylott reiterated his
15 commitment to the law and policy against texting and driving. This conversation, however, did not
16 include any commitment expressed by Cloud toward the hands free policy. Instead, the
17 conversation stemmed from a text Cloud had sent Aylott, which went unnoticed because Aylott was
18 driving. Aylott informed Cloud that he did not text and drive, and that if Cloud wanted to contact
19 him while he was driving, Cloud should call Aylott so he could use bluetooth.

20 7. A few weeks later, on or about April 6, 2017, Cloud sent Aylott a text while Aylott
21 was driving from Riverside County to San Diego, in which Cloud asked Aylott to make a stop in
22 San Diego before returning to the office. Because he was driving, Aylott did not see the text.
23 However, Aylott stopped to buy a bottle of water, at which time he saw Cloud's message. Aylott
24 telephoned Cloud, and during the call, again urged Cloud not to text him, and instead to place a
25 telephone call if Cloud needed to communicate with Aylott. Cloud responded with obvious
26 frustration, commenting that Aylott should text and drive "like everyone else." Aylott refused
27 Cloud's illegal demand, and reiterated that texting and driving was illegal and against Commodity
28 Trucking's policy.

1 because he was allegedly “too old to change [his] ways.” As such, Aylott’s age was a motivating
2 reason for Aylott’s termination.

3 24. As a result of these wrongful acts, plaintiff sustained economic damages for lost
4 wages and benefits, and non-economic damages for emotional distress, anxiety, humiliation and
5 mental suffering.

6 25. Cloud and Sullivan were managing agents of Commodity Trucking. Cloud’s
7 conduct in discriminating and retaliating against Aylott because of his age, and Sullivan’s
8 ratification of the same, was vile, and they acted with malice, oppression, fraud, and in conscious
9 disregard of plaintiff’s rights and well-being, entitling Aylott to recover punitive damages against
10 Commodity Trucking pursuant to Civil Code §3294.

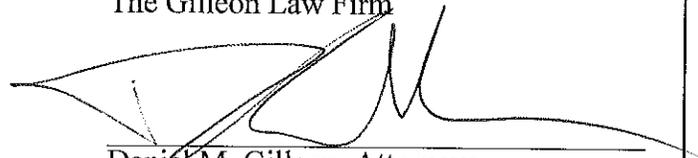
11 **REQUEST FOR RELIEF**

12 THEREFORE, plaintiff Tom Aylott requests a judgment against defendants Commodity
13 Trucking Acquisition, LLC and Does 1 to 20 for:

- 14 a. Special and general damages according to proof;
15 b. Punitive damages;
16 c. Statutory attorney’s fees and costs of court; and
17 d. Other proper relief.

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19 Dated: April 24, 2017

The Gilleon Law Firm



Daniel M. Gilleon, Attorneys
for Plaintiff Thomas R. Aylott

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