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BRYON TOMMERAASON

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION

BRYON TOMMERAASON, an
individual;

Plaintiff,

vs.

SIEMENS MOBILITY, INC., a
Delaware corporation; and DOES 1
through 10, inclusive,

Defendants.

COMPLAINT FOR DAMAGES

- 1. RETALIATION IN VIOLATION OF CAL. LABOR CODE § 6310;**
- 2. RETALIATION IN VIOLATION OF CAL. LABOR CODE § 1102.5;**
- 3. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY; AND**
- 4. UNFAIR BUS. PRACTICES IN VIOLATION OF BUS. AND PROF. CODE §§ 17200, ET SEQ.**

[DEMAND FOR JURY TRIAL]

1 Plaintiff BRYON TOMMERAASON (“Plaintiff”) hereby brings this Complaint for
2 damages against Defendant SIEMENS MOBILITY, INC. (“Defendant”), and DOES 1
3 through 10, inclusive, and alleges as follows on his knowledge or on information and
4 belief as to all other matters:

5 **I.**

6 **PARTIES**

7 1. At the relevant times mentioned herein, Plaintiff was employed by
8 Defendant Siemens Mobility, Inc. (“Defendant” or the “Company”).

9 2. The Company is registered as a Delaware corporation, operating multiple
10 locations in California.

11 3. Plaintiff performed work for the Company in Sacramento, California. The
12 unlawful conduct alleged herein occurred in Sacramento County, CA.

13 4. At all times relevant to this Complaint, Plaintiff was a resident of Sacramento
14 County.

15 5. Plaintiff is ignorant of the true names and capacities of Defendants sued
16 herein as DOES 1 through 10, inclusive, and therefore sues these Defendants by such
17 fictitious names. Plaintiff will amend this Complaint to allege the true names and
18 capacities of said Defendants when the same has been ascertained. Each of the fictitiously
19 named Defendants is responsible in some manner for the acts complained of herein.
20 Unless otherwise stated, all references to named Defendants shall include DOE
21 Defendants as well.

22 **II.**

23 **JURISDICTION AND VENUE**

24 6. Federal diversity jurisdiction exists pursuant to 28 U.S.C. section 1332
25 because Plaintiff is a citizen of a different state than the Defendants and because the value
26 of the matter in controversy exceeds \$75,000.

1 7. Venue in this district is proper pursuant to 28 U.S.C. section 1391 because a
2 substantial part of the events or omissions on which the claim is based occurred in the
3 Eastern District of California.

4 **III.**

5 **FACTUAL ALLEGATIONS**

6 8. In or around July 2010, the Company hired Plaintiff as a welder in the
7 mobility division of the urban transport unit of its plant in Sacramento, California.

8 9. In or around 2018, Plaintiff was promoted to Weld Specialist in the Quality
9 Department. Shortly after this promotion, the Company's Quality Department was placed
10 under the direction of its Production Department.

11 10. For a decade, Plaintiff worked well, and had no issues with co-workers or
12 supervisors.

13 11. Then, in or around August 2020, the Company sent Plaintiff to a Depot
14 location. This was a temporary, 3-day assignment in the normal course of Plaintiff's job
15 duties.

16 12. After the 3-day assignment concluded, Plaintiff's supervisor, Simon Gems,
17 asked Plaintiff to return to the Depot again. Plaintiff declined based on his concerns about
18 unsafe working conditions at the Depot which he described to Mr. Gems. Nevertheless,
19 Mr. Gems sent Plaintiff home on a 3-day unpaid suspension.

20 13. During this suspension, Plaintiff reached out to Stacey Hill in the Company's
21 Human Resources ("HR") department to discuss his concerns about the Depot. He
22 informed HR that employees at the Depot location were forced to work in excessive heat,
23 without any air circulation, and that there were other workplace safety issues. When
24 Plaintiff had raised these issues to his Depot supervisor, James Fanning, and asked that
25 the central air system be turned on in a workplace over 110 degrees Fahrenheit,
26 Mr. Fanning told him that Mark Bennett had determined it was too expensive to turn the
27 air on.

1 14. Ms. Hill told Plaintiff that he had to report back to the Depot, regardless of
2 these concerns, and that he would report back to Mr. Fanning, a supervisor at the Depot,
3 after his return from suspension.

4 15. On or around August 18, 2020, immediately upon his return from
5 suspension, and immediately after his complaints to HR about unsafe working conditions,
6 Plaintiff returned to the Depot and was written up for insubordination.

7 16. In September 2020, Mr. Fanning forced Plaintiff to wear a specific heavy
8 jacket that was at no time actually required for Plaintiff's work, but in fact made Plaintiff
9 uncomfortable and limited his ability to do his work. Plaintiff ultimately refused to wear
10 the jacket, and was sent home on or around September 15, 2021, for a 1-day unpaid
11 suspension. Plaintiff had never before been required to wear this jacket.

12 17. Again, immediately upon his return to work, on or around September 17,
13 2020, Plaintiff was written up for insubordination by Dennis Bryant, Mr. Fanning's boss.

14 18. On or around October 19, 2020, Plaintiff made formal complaints to HR
15 about unsafe working conditions under Mr. Fanning's supervision.

16 19. From approximately October 26 through November 22, 2020, Plaintiff took
17 a medical leave.

18 20. While on leave, Plaintiff reached out to HR in person to discuss, *inter alia*,
19 his concerns regarding unsafe working conditions and the retaliation that he was
20 experiencing at the Depot. HR scheduled a meeting with Plaintiff and Mr. Fanning.

21 21. Also while on leave, Plaintiff received quality reports from inspectors, which
22 made clear that there were code violations resulting from work done at the Depot under
23 Mr. Fanning's supervision. The violations of the code, created by the American Welding
24 Society, created risks for the consumer, and waste for the Company, as the time and
25 money spent on a product that was ultimately not in compliance with the applicable
26 code(s) had to be reworked or entirely scrapped.

1 22. On or around November 10, 2020, at the meeting with HR Representatives
2 Christine Laster and Jesse Welter, and Mr. Fanning, Plaintiff disclosed that there were
3 code violations at the Depot in which he believed were created at Mr. Fanning’s direction
4 and under his supervision. Specifically, AWS code 7.25.3, which provides that base metal
5 repair due to discontinuity or design deficiencies shall have prior engineering approval.
6 Carshell 70A, at that time, had an indefinite engineering hold on a red tag, meaning it
7 could not be reworked until after engineering approval. Plaintiff had reason to believe
8 that Mr. Fanning directed a worker to cut and stretch the opening(s) of inspected, tested
9 and signed off structure components of the complete car shell and fill in those opening(s)
10 with excessive amounts of weld filler wire, resulting in an unapproved repair to resolve a
11 serious dimensional defect during assembly; moreover, Plaintiff had reason to believe that
12 these attempts were done secretly to sneak them past quality inspectors.

13 23. At the time he made the complaints about the code violations, Plaintiff had
14 reasonable cause to believe that the information disclosed a violation of state or federal
15 statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

16 24. Weld inspectors who reviewed the issues resulting from the products made
17 under Mr. Fanning’s supervision indicated that Mr. Fanning was “willfully deceptive”
18 when asked questions about his production.

19 25. On or around November 22, 2020, Plaintiff emailed Ms. Welter and
20 Ms. Laster, expressing his concern that, “given the severity of the accusations” he had
21 made about Mr. Fanning’s breach of consumer and workplace safety regulations, he was
22 concerned that returning him to the Depot would result in an “extremely hostile and
23 retaliatory” work environment.

24 26. Plaintiff returned to work November 23-24, 2020, and then was off for
25 Thanksgiving. While Plaintiff was away from work for the Thanksgiving holiday, HR
26 emailed Plaintiff to tell him he had to report back to work at the Depot, reporting to Mr.
27 Fanning, upon his return to work on November 30, 2020. Ms. Welter acknowledged

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