

1 **HILL, FARRER & BURRILL LLP**
 James A. Bowles (Bar No. 089383)
 2 E-mail: jbowles@hillfarrer.com
 Casey L. Morris (Bar No. 238455)
 3 E-mail: cmorris@hillfarrer.com
 Erika A. Silverman (Bar No. 301864)
 4 E-mail: esilverman@hillfarrer.com
 One California Plaza, 37th Floor
 5 300 South Grand Avenue
 Los Angeles, CA 90071-3147
 6 Telephone: (213) 620-0460
 Fax: (213) 624-4840

E-FILED 12/5/17
 JS-6

7 Attorneys for Defendant
 8 Time Warner Cable, Inc.

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

11
 12 KEVIN MAYS,
 13 Plaintiff,
 14 vs.
 15 TIME WARNER CABLE,
 16 Defendant.

CASE NO. 2:16-CV-00120-PSG-JPR

~~[PROPOSED]~~ JUDGMENT

Trial: November 28, 2017
 Ct. room: 6A
 Judge: Hon. Philip S. Gutierrez

17
 18 On October 4, 2017, after full consideration of the papers submitted in
 19 support of and in opposition to Defendant Time Warner Cable, Inc.’s Motion for
 20 Summary Judgment, this Court granted summary judgment in favor of Defendant
 21 as to Plaintiff Kevin Mays’ first cause of action for disability discrimination,
 22 second cause of action for failure to accommodate a disability, third cause of action
 23 for failure to engage in the interactive process, fourth cause of action for racial
 24 discrimination, fifth cause of action for age discrimination, and sixth cause of
 25 action for failure to prevent discrimination. This Court also granted partial
 26 summary judgment as to Plaintiff’s seventh cause of action for unpaid overtime and
 27 wages, eighth and ninth causes of action for wage statement violations, and tenth
 28 cause of action for waiting time penalties as to meal and rest periods and vacation

HILL, FARRER & BURRILL LLP
 A LIMITED LIABILITY PARTNERSHIP
 ATTORNEYS AT LAW
 ONE CALIFORNIA PLAZA, 37TH FLOOR
 300 SOUTH GRAND AVENUE
 LOS ANGELES, CALIFORNIA 90071-3147

1 pay.

2 Plaintiff's remaining causes of action for unpaid off-the-clock overtime
3 wages, wage statement violations, and waiting time penalties came on regularly for
4 trial between November 28, 2017 and November 29, 2017 in Courtroom 6A of the
5 United States District Court, Central District of California, located at 350 W. 1st
6 Street, before the Honorable Philip S. Gutierrez, United States District Court Judge.
7 Plaintiff was represented by Sean M. Novak of The Novak Law Firm, P.C.
8 Defendant was represented by James A. Bowles and Erika A. Silverman of Hill,
9 Farrer & Burrill LLP.

10 A jury of eight (8) persons was regularly empaneled and sworn. Witnesses
11 were sworn and testified and documentary evidence was introduced and admitted
12 into evidence. After hearing the evidence and arguments of counsel, the jury was
13 duly instructed by the Court and the cause was submitted to the jury. The jury
14 deliberated and thereafter returned to the Court with their unanimous verdict as
15 follows:

16 **I. FAILURE TO PAY OVERTIME WAGES**

17 (1) Did Kevin Mays perform any overtime work while not clocked in
18 between April 21, 2012 and May 10, 2013?

19 Yes No

20
21
22 *If your answer to question number 1 is "yes," then answer question number*
23 *2. If your answer to question number 1 is "no," stop here, answer no further*
24 *questions, and have the presiding juror sign and date this form.*

25 (2) Did Time Warner Cable, Inc. know, or should it have reasonably
26 known, that Mays performed overtime work while not clocked in between April 21,
27 2012 and May 10, 2013?
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

___ Yes ✓ No

If your answer to question number 2 is “yes,” then answer question number 3. If your answer to question number 2 is “no,” stop here, answer no further questions, and have the presiding juror sign and date this form.

(3) Did Time Warner Cable, Inc. fail to pay Mays for his overtime work that he performed while not clocked in between April 21, 2012 and May 10, 2013?

___ Yes ___ No

If your answer to question number 3 is “yes,” then answer question number 4. If your answer to question number 3 is “no,” stop here, answer no further questions, and have the presiding juror sign and date this form.

(4) (a) Please state the number of overtime minutes Mays worked while not clocked in from April 21, 2012 through May 10, 2013:

_____ minutes

(b) What is the total amount of unpaid overtime wages defendant Time Warner Cable, Inc. owes to Mays for the period from April 21, 2012 through May 10, 2013?

\$ _____

Please go to question number 5.

II. WAITING TIME PENALTIES

Please answer the below questions only if you answered “yes” to question number 3. If you answered “no,” to question number 1, 2, or 3, answer no further

1 *questions, and have the presiding juror sign and date this form.*

2
3 (5) Did Time Warner Cable, Inc. fail to pay Mays all wages due to him on
4 the date that Mays' employment ended on May 10, 2013?

5 Yes No

6
7 *If your answer to question number 5 is "yes," then answer question number*
8 *6. If your answer to question number 5 is "no," go to question number 7.*

9
10 (6) Was Time Warner Cable, Inc.'s failure to pay Mays the wages owed to
11 him on May 10, 2013 willful?

12 Yes No

13
14 *Go to question number 7.*

15 **III. WAGE STATEMENT VIOLATIONS**

16
17 *Please answer the below questions only if you answered "yes" to question*
18 *number 3. If you answered "no" to question number 1, 2, or 3, answer no further*
19 *questions, and have the presiding juror sign and date this form.*

20 (7) Did Mays' wage statements violate the requirements of California
21 Labor Code § 226(a) by failing to accurately state at least one of the following
22 items: (a) the amount of wages owed to Mays; (b) the amount of hours worked by
23 Mays; (c) Mays' hourly rates; and/or (d) the amount of hours worked by Mays at
24 each hourly rate?

25 Yes No

26
27 *If your answer to question number 7 is "yes," then answer question number*
28

1 8. *If your answer to question number 7 is “no,” stop here, answer no further*
2 *questions, and have the presiding juror sign and date this form.*

3 (8) Were Time Warner Cable, Inc.’s wage statement violations knowing
4 and intentional?

5 _____ Yes _____ No
6
7

8 *If your answer to question number 8 is “yes,” then answer question number*
9 *9. If your answer to question number 8 is “no,” stop here, answer no further*
10 *questions, and have the presiding juror sign and date this form.*

11 (9) Was Mays injured from the inaccurate or incomplete wage statements?
12

13 _____ Yes _____ No
14

15 *If your answer to question number 9 is “yes,” then answer question number*
16 *10. If your answer to question number 9 is “no,” stop here, answer no further*
17 *questions, and have the presiding juror sign and date this form.*

18 (10) During how many pay periods between April 21, 2014 and April 21,
19 2015 did Time Warner Cable, Inc. knowingly and intentionally violate the wage
20 statement requirements set forth in California Labor Code § 226(a)?
21

22 _____ pay periods.
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Partial Summary judgment having been granted in favor of Defendant, and the jury having rendered a verdict in favor of Defendant on the remaining causes of action, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

1. That judgment be, and hereby is, entered in favor of the Defendant Time Warner Cable, Inc. and against Plaintiff Kevin Mays;
2. That Plaintiff Kevin Mays shall take nothing;
3. That Defendant Time Warner Cable, Inc. shall recover its costs.

DATED: 12/5/17



Philip S. Gutierrez
United States District Judge

HFB 1847331.1 A5431062