

1 Shaun Setareh (SBN 204514)
shaun@setarehlaw.com
2 William M. Pao (SBN 219846)
william@setarehlaw.com
3 SETAREH LAW GROUP
315 S. Beverly Dr., Suite 315
4 Beverly Hills, California 90212
Telephone (310) 888-7771
5 Facsimile (310) 888-0109

6 Attorneys for Plaintiff
YOLANDA CHAMPION
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ALAMEDA
10 UNLIMITED JURISDICTION
11

12 YOLANDA CHAMPION, on behalf of
herself, all others similarly situated, and the
13 general public,

14 *Plaintiff,*

15 vs.

16 MEDSPEED, LLC, a Delaware Limited
Liability Company; and DOES 1 through 50,
17 inclusive,

18 *Defendants.*
19
20
21
22
23
24
25
26
27
28

Case No. HG20053113

Amended As a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION**

COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Pay Vacation Wages (Lab. Code § 227.3);
5. Failure to Indemnify (Lab. Code § 2802);
6. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
7. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
8. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);
9. Civil Penalties (Lab. Code §§ 2698 *et seq.*);

JURY TRIAL DEMANDED

COMES NOW, Plaintiff YOLANDA CHAMPION ("Plaintiff"), on behalf of herself, all others similarly situated, and the general public, complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this class action against Defendant MEDSPEED, LLC a Delaware limited liability company; and DOES 1 through 50, inclusive (collectively referred to as "Defendants") for alleged violations of the Labor Code and Business and Professions Code. As set forth below, Plaintiff alleges that Defendants have

- (1) failed to provide her and all other aggrieved employees with meal periods;
- (2) failed to provide them with rest periods;
- (3) failed to pay them premium wages for missed meal and/or rest periods;
- (4) failed to pay them premium wages for missed meal and/or rest periods at the regular rate of pay;
- (5) failed to pay them at least minimum wage for all hours worked;
- (6) failed to pay them overtime wages at the correct rate;
- (7) failed to pay them double time wages at the correct rate;
- (8) failed to pay them overtime and/or double time wages by failing to include all applicable remuneration in calculating the regular rate of pay;
- (9) failed to pay them for all vested vacation pay;
- (10) failed to reimburse them for all necessary business expenses;
- (11) failed to provide them with accurate written wage statements; and
- (12) failed to pay them all of their final wages following separation of employment.

Based on these alleged Labor Code violations, Plaintiff now brings this class and representative action to recover unpaid wages, restitution and related relief on behalf of herself, all others similarly situated, and the general public.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction to hear this case because the monetary damages and restitution sought by Plaintiff from Defendants conduct exceeds the minimal

jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of Alameda pursuant to Code of Civil Procedure sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

PARTIES

4. Plaintiff YOLANDA CHAMPION is, and at all relevant times mentioned herein, an individual residing in the State of California.

5. Plaintiff is informed and believes, and thereupon alleges that Defendant MEDSPEED, LLC is, and at all relevant times mentioned herein, a Delaware limited liability company doing business in the State of California.

6. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

7. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, principals or co-participants of some or all of the other defendants, and in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent and ratification by such other defendants.

8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and conspired with one another, and aided and abetted one another to accomplish the occurrences, acts and omissions alleged herein.

CLASS ALLEGATIONS

9. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

10. **Relevant Time Period:** The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

Hourly Employee Class: All persons employed by Defendants and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California during the **Relevant Time Period**.

Meal Period Sub-Class: All **Hourly Employee Class** members who worked in a shift in excess of five hours during the **Relevant Time Period**.

Rest Period Sub-Class: All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours during the **Relevant Time Period**.

Wage Statement Penalties Sub-Class: All **Hourly Employee Class** members employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.

Waiting Time Penalties Sub-Class: All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.

UCL Class: All **Hourly Employee Class** members employed by Defendants in California during the **Relevant Time Period**.

Expense Reimbursement Class: All persons employed by Defendants in California who incurred business expenses during the **Relevant Time Period**.

Vacation Pay Class: All persons employed by Defendants in California who earned paid vacation days, including but not limited to, "Floating Holidays," without receiving compensation for each vested paid vacation day during the **Relevant Time Period**.

11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definitions with greater specificity, by further division into sub-classes and/or by limitation to particular issues.

12. **Numerosity:** The class members are so numerous that the individual joinder of each individual class member is impractical. While Plaintiff does not currently know the exact number of class members, Plaintiff is informed and believes, and thereupon alleges that the actual number

1 exceeds the minimum required for numerosity under California law.

2 13. **Commonality and Predominance:** Common questions of law and fact exist as to
3 all class members and predominate over any questions which affect only individual class members.

4 These common questions include, but are not limited to:

- 5 A. Whether Defendants maintained a policy or practice of failing to provide
6 employees with their meal periods;
- 7 B. Whether Defendants maintained a policy or practice of failing to provide
8 employees with their rest periods;
- 9 C. Whether Defendants failed to pay premium wages to class members when
10 they have not been provided with required meal and/or rest periods;
- 11 D. Whether Defendants failed to pay minimum and/or overtime wages to class
12 members as a result of policies that fail to provide meal periods in accordance
13 with California law;
- 14 E. Whether Defendants failed to pay minimum and/or overtime wages to class
15 members for all time worked;
- 16 F. Whether Defendants used payroll formulas that systematically fail to account
17 for non-discretionary bonuses and/or other applicable remuneration when
18 calculating regular rates of pay for class members;
- 19 G. Whether Defendants failed to pay overtime wages to class members as a
20 result of incorrectly calculating their regular rates of pay;
- 21 H. Whether Defendants failed to pay premium wages to class members based on
22 their respective “regular rates of compensation” by not including
23 commissions and/or other applicable remuneration in calculating the rates at
24 which those wages are paid;
- 25 I. Whether Defendants failed to provide proportionate accruals for vested
26 vacation time for class members as required by California law;
- 27 J. Whether Defendants subjected the vacation time and/or floating holidays they
28 offer to class members to forfeiture;

- 1 K. Whether Defendants failed to reimburse class members for all necessary
2 business expenses incurred during the discharge of their duties;
- 3 L. Whether Defendants failed to provide class members with accurate written
4 wage statements as a result of providing them with written wage statements
5 with inaccurate entries for, among other things, amounts of gross and net
6 wages, and total hours worked;
- 7 M. Whether Defendants applied policies or practices that result in late and/or
8 incomplete final wage payments;
- 9 N. Whether Defendants are liable to class members for waiting time penalties
10 under Labor Code section 203;
- 11 O. Whether class members are entitled to restitution of money or property that
12 Defendants may have acquired from them through unfair competition;

13 14. **Typicality:** Plaintiff's claims are typical of the other class members' claims.

14 Plaintiff is informed and believes and thereupon alleges that Defendants have a policy or practice of
15 failing to comply with the Labor Code and Business and Professions Code as alleged in this
16 Complaint.

17 15. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in
18 that he has no interests that are adverse to, or otherwise conflict with, the interests of absent class
19 members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly
20 and adequately represent and protect the interests of the other class members.

21 16. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
22 they have no known conflicts of interest with Plaintiff or absent class members, are experienced in
23 wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on
24 behalf of Plaintiff and absent class members.

25 17. **Superiority:** A class action is vastly superior to other available means for fair and
26 efficient adjudication of the class members' claims and would be beneficial to the parties and the
27 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
28 and efficiently prosecute their common claims in a single forum without the unnecessary

1 duplication of effort and expense that numerous individual actions would entail. In addition, the
2 monetary amounts due to many individual class members are likely to be relatively small and would
3 thus make it difficult, if not impossible, for individual class members to both seek and obtain relief.
4 Moreover, a class action will serve an important public interest by permitting class members to
5 effectively pursue the recovery of monies owed to them. Further, a class action will prevent the
6 potential for inconsistent or contradictory judgments inherent in individual litigation.

7 **GENERAL ALLEGATIONS**

8 18. Plaintiff worked for Defendants as a non-exempt, hourly employee from
9 approximately October 2017 through March 2019.

10 **Meal Periods**

11 19. Plaintiff and the aggrieved employees were not provided with meal periods of at
12 least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not
13 scheduling each meal period as part of each work shift; (2) requiring employees to drive on a
14 predetermined route to various hospitals to pick up medical specimens; (3) ensuring that each stop
15 in employees routes were made within tight time frames; (4) placing intense pressure on employees
16 to arrive at each hospital on their route within the time frames as set by Defendants; and (5)
17 Defendants scheduling the routes employees were to take as such that even if employees wanted to
18 take a meal period that it would be impossible to do so if they were to perform their job in a
19 manner satisfactory to Defendants.

20 20. As a result of Defendants' policy, Plaintiff and the aggrieved employees were
21 regularly not provided with uninterrupted meal periods of at least thirty (30) minutes for each five
22 (5) hours worked due to complying with Defendants' requirements that employees work
23 throughout the entirety of their shift so as to pick up medical specimens at the various hospitals on
24 their routes in a timely manner.

25 **Missed Meal Periods and Auto-Deduct**

26 21. During their employment with Defendants, Plaintiffs regularly worked shifts of
27 eight to twelve hours per day, without being afforded a meal break during the first five hours,
28 and/or a second meal break after ten hours, as required by California law. Defendants had a policy

1 of automatically deducting thirty minutes from Plaintiffs' paycheck, regardless of whether
2 Plaintiffs took a lunch break or not. Considering that the schedules assigned to Plaintiff and the
3 aggrieved employees did not factor in time for employees to take meal periods whilst also
4 complying with the time demands required of them, Defendant's either knew or should have
5 known that Plaintiff and the aggrieved employees were working during their meal periods.

6 **Missed Rest Periods**

7 22. Plaintiff and the aggrieved employees were not provided with rest periods of at least
8 ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
9 Defendants' policy of not scheduling each rest period as part of each work shift; (2) requiring
10 employees to drive on a predetermined route to various hospitals to pick up medical specimens; (3)
11 ensuring that each stop in employees routes were made within tight time frames; (4) placing
12 intense pressure on employees to arrive at each hospital on their route within the time frames as set
13 by Defendants; and (5) Defendants scheduling the routes employees were to take as such that even
14 if employees wanted to take a rest period that it would be impossible to do so if they were to
15 perform their job in a manner satisfactory to Defendants.

16 23. As a result of Defendants' policy, Plaintiff and the aggrieved employees were
17 regularly not provided with uninterrupted rest periods of at least ten (10) minutes for each four (4)
18 hours worked due to complying with Defendants' productivity requirements that required Plaintiff
19 and the aggrieved employees to work through their rest periods in order to complete their
20 assignments on time.

21 **Vacation Pay**

22 24. Plaintiff and the aggrieved employees accrued vacation wages during their
23 employment with Defendants.

24 25. Under California law, vacation wages are considered a form of wages under Labor
25 Code section 200. Vested vacation pay and other similar forms of paid time off earned based on
26 labor performed are considered wages that cannot be subject to forfeiture without compensation for
27 forfeited days at the applicable rates required by law.

28 26. At all relevant times, Defendants maintained policies that provide for the unlawful

1 forfeiture of vested vacation pay in violation of Labor Code section 227.3 and *Suastez v. Plastic*
2 *Dress-Up Co.*, (1982) 31 Cal. 3d 774.

3 27. Plaintiff and the aggrieved employees are entitled to vacation accrued during their
4 employment with Defendants. Upon termination, Plaintiff and the aggrieved employees were not
5 paid out all accrued vacation pay.

6 **Regular Rate of Pay**

7 28. The regular rate of pay under California law includes all remuneration for
8 employment paid to, on behalf of, the employee. This requirement includes, but is not limited, to,
9 commissions and non-discretionary bonuses.

10 29. During the applicable limitations period, Defendants violated the rights of Plaintiff
11 and the aggrieved employees under the above-referenced Labor Code sections by failing to pay
12 them overtime wages for all overtime hours worked in violation of Labor Code §§ 510, 1194, and
13 1198 as a result of not correctly calculating their regular rate of pay to include all applicable
14 remuneration, including, but not limited to, non-discretionary bonuses, meal/rest break premiums,
15 and/or shift differential pay.

16 **Expense Reimbursement**

17 30. Plaintiff and the aggrieved employees were not reimbursed for business expenses
18 incurred in maintaining their uniforms. Specifically, Plaintiff and the aggrieved employees were
19 provided “MEDSPEED” shirts and pants to wear while working. Due to the nature of the work,
20 picking up medical specimens from various hospitals and delivering them to the Stanford Medical
21 Lab, Plaintiff and the aggrieved employees would constantly have to wash their uniforms at their
22 own expense and on their own time. Considering that Plaintiff and the aggrieved employees were
23 in and out of hospitals handling possibly hazardous medical specimens, it was imperative that they
24 wash their uniforms at a minimum three times per week. Plaintiff and the aggrieved employees
25 were at no point ever reimbursed for the expenses associated with the maintenance of their
26 uniforms.

27 31. Defendants failed to reimburse Plaintiff and the aggrieved employees for such
28 necessary business expenses incurred by them.

1
2 **Wage Statements**

3 32. Plaintiff and the aggrieved employees were not provided with accurate wage
4 statements as mandated by law pursuant to Labor Code section 226.

5 33. Defendants failed to comply with Labor Code section 226(a)(1) as “gross wages
6 earned” were not accurately reflected in that: all hours worked, including overtime and meal/rest
7 break premiums, were not included.

8 34. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours
9 worked by the employee” were not accurately reflected in that: all hours worked, including
10 overtime and meal/rest break premiums, were not included.

11 35. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages
12 earned” were not accurately reflected in that: all hours worked, including overtime and meal/rest
13 break premiums, were not included.

14 36. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable
15 hourly rates in effect during the pay period and the corresponding number of hours worked at each
16 hourly rate by the employee” were not accurately reflected in that: all hours worked, including
17 overtime and meal/rest break premiums, were not included.

18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PROVIDE MEAL PERIODS**

20 **(Lab. Code §§ 004, 223, 226.7, 512 and 1198)**

21 **(Plaintiff and Meal Period Sub-Class)**

22 37. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
23 fully alleged herein.

24 38. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been
25 non-exempt employees of Defendant entitled to the full meal period protections of both the Labor
26 Code and the applicable Industrial Welfare Commission Wage Order.

27 39. Labor Code section 512 and Section 11 of the applicable Industrial Welfare
28 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt

1 employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period
2 of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty
3 minutes for each work period of ten hours.

4 40. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare
5 Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to
6 work during required meal periods and require employers to pay non-exempt employees an hour of
7 premium wages on each workday that the employee is not provided with the required meal period.

8 41. Compensation for missed meal periods constitutes wages within the meaning of
9 Labor Code section 200.

10 42. Labor Code section 1198 makes it unlawful to employ a person under conditions that
11 violate the applicable Wage Order.

12 43. Section 11 of the applicable Wage Order states:

13 “No employer shall employ any person for a work period of more than five (5) hours
14 without a meal period of not less than 30 minutes, except that when a work period of
15 not more than six (6) hours will complete the day’s work the meal period may be
16 waived by mutual consent of the employer and employee. Unless the employee is
17 relieved of all duty during a 30 minute meal period, the meal period shall be
18 considered an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal
19 period shall be permitted only when the nature of the work prevents an employee
20 from being relieved of all duty and when by written agreement between the parties
21 an on-the-job paid meal period is agreed to. The written agreement shall state that
22 the employee may, in writing, revoke the agreement at any time.”

18 44. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
19 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
20 members were not subject to valid on-duty meal period agreements with Defendants.

21 45. Plaintiff alleges that, at all relevant times during the applicable limitations period,
22 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
23 **Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for
24 each five (5) hour work period, as required by Labor Code section 512 ad the applicable Wage
25 Order.

26 46. Plaintiff alleges that, at all relevant times during the applicable limitations period,
27 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
28

1 **Class** members when they worked five (5) hours without clocking out for any meal period.

2 47. Plaintiff alleges that, at all relevant times during the applicable limitations period,
3 Defendants maintained a policy or practice of automatically deducting one-half hour for a meal
4 period from the paychecks of **Meal Period Sub-Class** members on each day they worked,
5 regardless of whether or not they were able to take an uninterrupted, duty-free meal period.

6 48. Plaintiff alleges that, at all relevant times during the applicable limitations period,
7 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
8 **Period Sub-Class** with a second meal period when they worked shifts of ten or more hours and
9 failed to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

10 49. Moreover, Defendants written policies do not provide that employees must take their
11 first meal period before the end of the fifth hour of work, that they are entitled to a second meal
12 period if they work a shift of over ten hours, or that the second meal period must commence before
13 the end of the tenth hour of work, unless waived.

14 50. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
15 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
16 regular rates of pay when required meal periods were not provided.

17 51. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of herself
18 and the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon,
19 and costs of suit.

20 52. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
21 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the
22 **Meal Period Sub-Class** members, seek to recover reasonable attorneys' fees.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS
(Lab. Code §§ 204, 223, 226.7 and 1198)
(Plaintiff and Rest Period Sub-Class)

53. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

54. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been non-exempt employees of Defendants entitled to the full rest period protections of both the Labor Code and the applicable Wage Order.

55. Section 12 of the applicable Wage Order imposes an affirmative obligation on employers to permit and authorize employees to take required rest periods at a rate of no less than ten minutes of net rest time for each four hour work period, or major fraction thereof, that must be in the middle of each work period insofar as practicable.

56. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit employers from requiring employees to work during required rest periods and require employers to pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each workday that the employee is not provided with the required rest period(s).

57. Compensation for missed rest periods constitutes wages within the meaning of Labor Code section 200.

58. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the Wage Order.

59. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class** with net rest period of at least ten minutes for each four hour work period, or major fraction thereof, as required by the applicable Wage Order.

60. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class** members additional premium wages when required rest periods were not provided.

61. Specifically, Defendants written policies do not provide that employees may take a

1 rest period for each four hours worked, or major fraction thereof, and that rest periods should be
2 taken in the middle of each work period insofar as practicable. Plaintiff and the aggrieved
3 employees were made to stop at hospitals on a predetermined route to pick up medical specimens
4 on behalf of the Defendants in tight time windows that did not allow for rest breaks to be taken.

5 62. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of herself
6 and **Rest Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and
7 costs of suit.

8 63. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
9 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and
10 **Rest Period Sub-Class** members, seek to recover reasonable attorneys' fees.

11 THIRD CAUSE OF ACTION

12 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

13 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

14 **(Plaintiff and Hourly Employee Class)**

15 64. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
16 herein.

17 65. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have
18 been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
19 applicable Wage Order.

20 66. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
21 which an employee is subject to the control of the employer, and includes all the time the employee
22 is suffered or permitted to work, whether or not required to do so."

23 67. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
24 employees at least the minimum wage set forth therein for all hours worked, which consist of all
25 hours that an employer has actual or constructive knowledge that employees are working.

26 68. Labor Code section 1194 invalidates any agreement between an employer and an
27 employee to work for less than the minimum or overtime wage required under the applicable Wage
28 Order.

1 69. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
2 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in
3 addition to the underlying unpaid minimum wages and interest thereon.

4 70. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
5 than the minimum wage required under the applicable Wage Order for all hours worked during a
6 payroll period.

7 71. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
8 person acting either individually or as an officer, agent or employee of another person, to pay an
9 employee, or cause an employee to be paid, less than the applicable minimum wage.

10 72. Labor Code section 1198 makes it unlawful for employers to employ employees
11 under conditions that violate the applicable Wage Order.

12 73. Labor Code section 204 requires employers to pay non-exempt employees their
13 earned wages for the normal work period at least twice during each calendar month on days the
14 employer designates in advance and to pay non-exempt employees their earned wages for labor
15 performed in excess of the normal work period by no later than the next regular payday.

16 74. Labor Code section 223 makes it unlawful for employers to pay their employees
17 lower wages than required by contract or statute while purporting to pay them legal wages.

18 75. Labor Code section 510 and Section 3 of the applicable Wage Order require
19 employees to pay non-exempt employees overtime wages of no less than one and one-half times
20 their respective regular rates of pay for all hours worked in excess of eight hours in one workday, all
21 hours worked in excess of forty hours in one workweek, and/or for the first eight hours worked on
22 the seventh consecutive day of one workweek.

23 76. Labor Code section 510 and Section 3 of the applicable Wage Order also require
24 employers to pay non-exempt employees overtime wages of no less than two times their respective
25 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
26 worked in excess of eight hours on a seventh consecutive workday during the workweek.

27 77. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
28 centrally devised policies and practices to her and **Hourly Employee Class** members with respect

1 to working conditions and compensation arrangements.

2 78. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
3 **Employee Class** members for all time worked, including but not limited to, overtime hours at
4 statutory and/or agreed rates.

5 79. At all relevant times during the applicable limitations period, Defendants maintained
6 a policy or practice of automatically deducting one-half hour from Plaintiff's timecard on every
7 workday for a meal period, regardless of whether or not Plaintiff was provided with a meal period.

8 80. Plaintiff is informed and believes that, at all relevant times during the applicable
9 limitations period, Defendants maintained a policy or practice of automatically deducting one-half
10 hour from **Hourly Employee Class** members' timecard on every workday for a meal period,
11 regardless of whether or not **Hourly Employee Class** members were provided with a meal period.

12 81. As a result of Defendants' policy or practice of automatically deducting one-half
13 hour from employees' timecards for every workday for a meal period, Plaintiff and **Hourly**
14 **Employee Class** members were required to perform off-the-clock work that Defendants either
15 knew or should have known they were working.

16 82. At all relevant times, Defendants failed to pay hourly wages to Plaintiff for all time
17 worked, including but not limited to, overtime wages at statutory and/or agreed rates by suffering or
18 permitting her to work during unpaid meal periods and/or failing to properly pay Plaintiff for all
19 overtime hours worked.

20 83. Plaintiff is informed and believes that, at all relevant times during the applicable
21 limitations period, Defendants maintained a policy or practice of not paying hourly wages to
22 **Hourly Employee Class** members for all time worked, including but not limited to, overtime hours
23 at statutory and/or agreed rates by suffering or permitting them to work during unpaid meal periods.

24 84. Section 9 of the applicable Wage Order states:

25 "When uniforms are required by the employer to be worn by the employee as a
26 condition of employment, such uniforms shall be provided and maintained by the
27 employer. The term 'uniform' includes wearing apparel and accessories of
distinctive design or color."

28 85. If the employer does not choose to maintain employees' uniforms itself where it is

1 required to do so, the Division of Labor Standards Enforcement (“DLSE”) takes the position that
2 the employer may pay each affected employee a weekly maintenance allowance of an hour’s pay at
3 the state minimum wage rate in lieu of maintaining the uniforms, assuming that an hour is a realistic
4 estimate of the time involved in maintaining the uniform.

5 86. At all relevant times during the applicable limitations period, and in violation of the
6 above-referenced sections of the Labor Code and the applicable Wage Order, Defendants failed to
7 compensate Plaintiff with minimum and/or overtime wages for all hours she worked as a result of
8 its failure to maintain employee uniforms and/or pay her a weekly maintenance allowance.

9 87. Plaintiff is informed and believes that, at all relevant times, and in violation of the
10 above-referenced sections of the Labor Code and the applicable Wage Order, Defendants failed to
11 compensate **Hourly Employee Class** members with minimum and/or overtime wages for all hours
12 they worked as a result of its failures to maintain employee uniforms and/or pay them a weekly
13 maintenance allowance.

14 88. As a result of Defendants’ unlawful conduct, Plaintiff and **Hourly Employee Class**
15 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
16 full amount of wages earned during each pay period during the applicable limitations period,
17 including overtime wages.

18 89. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
19 behalf of herself and **Hourly Employee Class** members, seek to recover unpaid straight time and
20 overtime wages, interest thereon and costs of suit.

21 90. The regular rate of pay under California law includes all remuneration for
22 employment paid to, on behalf of, the employee. This requirement includes but is not limited to,
23 meal and rest break premiums.

24 91. During the applicable limitations period, Defendants violated the rights of Plaintiff
25 and **Hourly Employee Class** members under the above-referenced Labor Code sections by failing
26 to pay them overtime wages for all overtime hours worked in violation of Labor Code sections 510,
27 1194 and 1198 by not correctly calculating their regular rate of pay to include all applicable
28 remuneration, including but not limited to, meal and rest break premiums.

1 92. California law uses the terms “compensation” and “pay” interchangeably and
2 requires that all applicable remuneration, including but not limited to, meal and rest break
3 premiums, be included when calculating an employee’s regular rate of pay.

4 93. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
5 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and
6 **Hourly Employee Class** members, seek to recover reasonable attorneys’ fees.

7 **FOURTH CAUSE OF ACTION**

8 **FAILURE TO PAY VACATION WAGES**

9 **(Lab. Code § 227.3)**

10 **(Plaintiff and Vacation Pay Class)**

11 94. Plaintiffs incorporates the preceding paragraphs of the Complaint as if fully alleged
12 herein.

13 95. California Labor Code section 227.3 provides:

14 Unless otherwise provided by a collective-bargaining agreement,
15 whenever a contract of employment or employer policy provides for
16 paid vacations, and an employee is terminated without having taken
17 off his vested vacation time, all vested vacation shall be paid to him
18 as wages at his final rate in accordance with such contract of
19 employment or employer policy respecting eligibility or time served;
20 provided, however, that an employment contract or employer policy
21 shall not provide for forfeiture of vested vacation time upon
22 termination. The Labor Commissioner or a designated representative,
23 in the resolution of any dispute with regard to vested vacation time,
24 shall apply the principles of equity and fairness.

25 96. At all relevant times during the applicable limitations period, Plaintiffs and
26 members of the **Vacation Pay Class** accrued vacation time during their employment with
27 Defendants.

28 97. As a result of their reimbursement policies and practices, Plaintiff and the aggrieved
employees is informed and believes and thereon alleges that Defendants failed to reimburse her
and **Vacation Pay Class** members for all accrued vacation wages.

 98. By reason of the above, Plaintiffs and the members of the **Vacation Pay Class** are
entitled to restitution for all unpaid amounts due and owing to within four years (4) of the date of
the filing of the Complaint until the date of entry of judgment.

1 99. Plaintiffs, on behalf of themselves and the members of the **Vacation Pay Class**,
2 seeks interest thereon pursuant to California Labor Code section 218.6, costs pursuant to California
3 Labor Code section 218.6, and reasonable attorneys' fees pursuant to California Code of Civil
4 Procedure section 1021.5.

5 **FIFTH CAUSE OF ACTION**

6 **FAILURE TO INDEMNIFY**

7 **(Lab. Code § 2802)**

8 **(Plaintiff and Expense Reimbursement Class)**

9 100. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
10 herein.

11 101. Labor Code section 2802(a) states:

12 “An employer shall indemnify his or her employee for all necessary expenditures or
13 losses incurred by the employee in direct consequence of the discharge of his or her
14 duties, or of his or her obedience to the directions of the employer, even though
unlawful, unless the employee, at the time of obeying the directions, believed them
to be unlawful.”

15 102. At all relevant times during the applicable limitations period, Plaintiff and the
16 **Expense Reimbursement Class** members incurred necessary business related expenses and costs,
17 including but not limited to, costs associated with the maintenance of their uniforms.

18 103. Plaintiff is informed and believes, and thereupon alleges that the reimbursement paid
19 by Defendants was insufficient to indemnify Plaintiff and **Expense Reimbursement Class**
20 members for all necessary expenses incurred in the discharge of their duties.

21 104. Plaintiff is informed and believes and thereupon alleges that the reimbursement paid
22 by Defendants was insufficient to indemnify **Expense Reimbursement Class** members for all
23 necessary business expenses incurred in the discharge of their duties.

24 105. Pursuant to Labor Code section 452, an employer is authorized to prescribe the
25 weight, color, quality, texture, style, form and make of uniforms required to be worn by their
26 employees.

27 106. Section 9 of the applicable Wage Order states:

28 “When uniforms are required by the employer to be worn by the employee as a

condition of employment, such uniforms shall be provided and maintained by the employer. The term 'uniform' includes wearing apparel and accessories of distinctive design or color."

107. At all relevant times during the applicable limitations period, Defendants required Plaintiff and the **Expense Reimbursement Class** members to pay for expenses and/or losses caused by Defendants' want of ordinary care. Defendants failed to indemnify Plaintiff and **Expense Reimbursement Class** members for all such expenditures.

108. At all relevant times during the applicable limitations period, Defendants required Plaintiff and **Expense Reimbursement Class** members to maintain uniforms and apparel unique to Defendants at their expense. Defendants failed to indemnify Plaintiff and **Expense Reimbursement Class** members for all such expenditures.

109. Plaintiff is informed and believes that, during the applicable limitations period, Defendants maintained a policy or practice of not reimbursing Plaintiff and **Expense Reimbursement Class** members for all necessary business expenses.

110. Accordingly, Plaintiff and **Expense Reimbursement Class** members are entitled to restitution for all unpaid amounts due and owing to within four years of the date of the filing of the Complaint and until the date of entry of judgment.

111. Plaintiff, on behalf of herself, and **Expense Reimbursement Class** members, seek interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5.

SIXTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS

(Lab. Code § 226)

(Plaintiff and Wage Statement Penalties Sub-Class)

112. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

113. Labor Code section 226(a) states:

"An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying

1 the employee's wages, or separately if wages are paid by personal check or cash, an
2 accurate itemized statement in writing showing (1) gross wages earned, (2) total
3 hours worked by the employee, except as provided in subdivision (j), (3) the number
4 of piece-rate units earned and any applicable piece rate if the employee is paid on a
5 piece-rate basis, (4) all deductions, provided that all deductions made on written
6 orders of the employee may be aggregated and shown as one item, (5) net wages
7 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
8 name of the employee and only the last four digits of his or her social security
9 number or an employee identification number other than a social security number,
10 (8) the name and address of the legal entity that is the employer and, if the employer
11 is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name
12 and address of the legal entity that secured the services of the employer, and (9) all
13 applicable hourly rates in effect during the pay period and the corresponding number
14 of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if
15 the employer is a temporary services employer as defined in Section 201.3, the rate
16 of pay and the total hours worked for each temporary services assignment. The
17 deductions made from payment of wages shall be recorded in ink or other indelible
18 form, properly dated, showing the month, day, and year, and a copy of the statement
19 and the record of the deductions shall be kept on file by the employer for at least
20 three years at the place of employment or at a central location within the State of
21 California. For purposes of this subdivision, 'copy' includes a duplicate of the
22 itemized statement provided to an employee or a computer-generated record that
23 accurately shows all of the information required by this subdivision."

13 114. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize
14 the "detachable part of the check" provision and the "accurate itemized statement in writing"
15 provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each
16 employee retains the right to elect to receive a written paper stub or record and that those who are
17 provided with electronic wage statements retain the ability to easily access the information and
18 convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion
19 Letter July 6, 2006).

20 115. Plaintiff is informed and believes that, at all relevant times during the applicable
21 limitations period, Defendants have failed to provide **Wage Statement Penalties Sub-Class**
22 members with written wage statements as described above.

23 116. Plaintiff is informed and believes that Defendants' failure to provide her and **Wage**
24 **Statement Penalties Sub-Class** members with accurate written wage statements were intentional in
25 that Defendants have the ability to provide them with accurate wage statements but have
26 intentionally provided them with written wage statements that Defendants have known do not
27 comply with Labor Code section 226(a).

28 117. Plaintiff and **Wage Statement Penalties Sub-Class** members have suffered injuries,

1 in that Defendants have violated their legal rights to receive accurate wage statements and have
2 misled them about their actual rates of pay and wages earned. In addition, inaccurate information
3 on their wage statements have prevented immediate challenges to Defendants' unlawful pay
4 practices, has required discovery and mathematical computations to determine the amount of wages
5 owed, has caused difficulty and expense in attempting to reconstruct time and pay records, and/or
6 has led to the submission of inaccurate information about wages and deductions to federal and state
7 government agencies.

8 118. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of herself and **Wage**
9 **Statement Penalties Sub-Class** members, seek the greater of actual damages or \$50.00 for the
10 initial pay period in which a violation of Labor Code section 226(a) occurred, and \$100.00 for each
11 subsequent pay period in which a violation of Labor Code section 226(a) occurred, not to exceed an
12 aggregate penalty of \$4000.00 per class member, as well as awards of reasonable attorneys' fees
13 and costs.

14 SEVENTH CAUSE OF ACTION

15 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

16 **(Lab. Code §§ 201-203)**

17 **(Plaintiff and Waiting Time Penalties Sub-Class)**

18 119. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
19 herein.

20 120. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members
21 have been entitled, upon the end of their employment with Defendants, to timely payment of all
22 wages earned and unpaid before termination or resignation.

23 121. At all relevant times, pursuant to Labor Code section 201, employees who have been
24 discharged have been entitled to payment of all final wages immediately upon termination.

25 122. At all relevant times, pursuant to Labor Code section 202, employees who have
26 resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to
27 payment of all final wages at the time of resignation.

28 123. At all relevant times, pursuant to Labor Code section 202, employees who have

1 resigned after giving less than seventy-two (72) hours notice of resignation have been entitled to
2 payment of all final wages within seventy-two (72) hours of giving notice of resignation.

3 124. During the applicable limitations period, Defendants failed to pay Plaintiff all of her
4 final wages in accordance with the Labor Code by failing to timely pay her all of her final wages.

5 125. Plaintiff is informed and believes that, at all relevant time during the applicable
6 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
7 members all of their final wages in accordance with the Labor Code.

8 126. Plaintiff is informed and believes that, at all relevant times during the applicable
9 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
10 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
11 sections 201 or 202 by failing to timely pay them all final wages.

12 127. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to
13 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been
14 willful in that Defendants have the ability to pay final wages in accordance with Labor Code
15 sections 201 and/or 202 but have intentionally adopted policies or practices that are incompatible
16 with those requirements.

17 128. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of herself and
18 **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that their
19 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

20 129. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
21 and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-**
22 **Class** members, seek awards of reasonable attorneys' fees and costs.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

4 **(Plaintiff and UCL Class)**

5 130. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
6 herein.

7 131. Business and Professions Code section 17200 defines “unfair competition” to
8 include any unlawful business practice.

9 132. Business and Professions Code section 17203-17204 allow a person who has lost
10 money or property as a result of unfair competition to bring a class action in accordance with Code
11 of Civil Procedure section 382 to recover money or property that may have been acquired from
12 similarly situated persons by means of unfair competition.

13 133. California law requires employers to pay hourly, non-exempt employees for all hours
14 they are permitted or suffered to work, including hours that the employer knows or reasonable
15 should know that employees have worked.

16 134. Plaintiff and the **UCL Class** members re-alleges and incorporates the FIRST,
17 SECOND, THIRD, FOURTH and FIFTH causes of action herein.

18 135. Plaintiff lost money or property as a result of the aforementioned unfair competition.

19 136. Defendants have or may have acquired money by means of unfair competition.

20 137. Plaintiff is informed and believes and thereupon alleges that by committing the
21 Labor Code violations described in this Complaint, Defendants violated Labor Code sections 215,
22 216, 225, 226.6, 354, 408, 553, 1175, 1199 and 2802, which make it a misdemeanor to commit the
23 Labor Code violations alleged herein.

24 138. Defendants have committed criminal conduct through their policies and practices of,
25 *inter alia*, failing to comport with their affirmative obligations as an employer to provide non-
26 exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each
27 work period of five or more hours, by failing to pay non-exempt employees for all hours worked,
28 and by failing to reimburse them for all expenses.

1 139. At all relevant times, Plaintiff and **UCL Class** members have been non-exempt
2 employees and entitled to the full protections of both the Labor Code and the applicable Wage
3 Order.

4 140. Defendants' unlawful conduct as alleged in this Complaint amounts to and
5 constitutes unfair competition within the meaning of Business and Professions Code section 17200
6 *et seq.* Business and Professions Code sections 17200 *et seq.* protects against unfair competition
7 and allows a person who has suffered an injury-in-fact and has lost money or property as a result of
8 an unfair, unlawful or fraudulent business practice to seek restitution on her own behalf and on
9 behalf of similarly situated persons in a class action proceeding.

10 141. As a result of Defendants' violations of the Labor Code during the applicable
11 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
12 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants'
13 conduct.

14 142. Plaintiff is informed and believes that other similarly situated persons have been
15 subject to the same unlawful policies or practices of Defendants.

16 143. Due to the unfair and unlawful business practices in violation of the Labor Code,
17 Defendants have gained a competitive advantage over other comparable companies doing business
18 in the State of California that comply with their legal obligations.

19 144. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
20 for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act
21 violates or is considered unlawful under any other state or federal law.

22 145. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs
23 request the issuance of temporary, preliminary and permanent injunctive relief enjoining
24 Defendants, and each of them, and their agents and employees, from further violations of the Labor
25 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek
26 an order permanently enjoining Defendants, and each of them, and their respective agents and
27 employees, from further violations of the Labor Code and applicable Industrial Welfare
28 Commission Wage Orders.

1 146. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
2 herself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
3 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
4 and unfair business practices.

5 147. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
6 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
7 reasonable attorneys' fees in connection with their unfair competition claims.

8 148. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
9 herself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
10 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
11 and unfair business practices.

12 149. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
13 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
14 reasonable attorneys' fees in connection with their unfair competition claims.

15 **NINETH CAUSE OF ACTION**

16 **CIVIL PENALTIES**

17 **(Lab. Code §§ 2698 *et seq.*)**

18 150. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
19 herein.

20 151. During the applicable limitations period, Defendants have violated Labor Code
21 sections 201, 202, 203, 204, 223, 226(a), 226.7, 227.3, 510, 512, 1194, 1197, 1198 and 2802.

22 152. Labor Code sections 2699(a) and (g) authorize an aggrieved employee, on behalf of
23 herself and other current and former employees, to bring a representative civil action to recover
24 civil penalties pursuant to the procedures set forth in Labor Code section 2699.3 that may, but need
25 not, be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

26 153. Plaintiff, a former employee against who Defendants committed one or more of the
27 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
28 within the meaning of Labor Code section 2699(c).

1 154. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
2 section 2699.3.

3 155. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
4 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7,
5 227.3, 510, 512, 1194, 1197, 1198 and 2802:

- 6 A. For violations of Labor Code sections 201, 202, 203, 212, 226.7, 227.3, 1194,
7 1198 and 2802, \$100 for each employee per pay period for each initial
8 violation and \$200 for each employee per pay period for each subsequent
9 violation (penalties set by Labor Code section 2699(f)(2));
- 10 B. For violations of Labor Code section 203, a penalty in an amount not
11 exceeding thirty days pay as waiting time (penalties set by Labor Code
12 section 256);
- 13 C. For violations of Labor Code section 204, \$100 for each employee for each
14 initial violation that was neither willful nor intentional, \$200 for each
15 employee, plus 25% of the amount unlawfully withheld from each employee,
16 for each initial violation that was either willful or intentional, and \$200 for
17 each employee, plus 25% of the amount unlawfully withheld from each
18 employee, for each subsequent violation, regardless of whether the
19 subsequent violation was either willful or intentional (penalties set by Labor
20 Code section 210);
- 21 D. For violations of Labor Code section 223, \$100 for each employee for each
22 initial violation that was neither willful nor intentional, \$200 for each
23 employee, plus 25% of the amount unlawfully withheld from each employee,
24 for each initial violation that was either willful or intentional, and \$200 for
25 each employee, plus 25% of the amount unlawfully withheld from each
26 employee, for each subsequent violation, regardless of whether the
27 subsequent violation was either willful or intentional (penalties set by Labor
28 Code section 225.5);

- 1 E. For violations of Labor Code section 226(a), if this action is deemed to be an
2 initial citation, \$250 for each employee for each violation. Alternatively, if
3 an initial citation or its equivalent occurred before the filing of this action,
4 \$1,000 for each employee for each violation (penalties set by Labor Code
5 section 226.3);
- 6 F. For violation of Labor Code sections 510 and 512, \$50 for each employee for
7 each initial pay period for which the employee was underpaid, and \$100 for
8 each employee for each subsequent pay period for which the employee was
9 underpaid (penalties set by Labor Code section 558);
- 10 G. For violations of Labor Code section 1197, \$100 for each aggrieved
11 employee for each initial violation of Labor Code section 1197 that was
12 intentional, and \$250 for each aggrieved employee per pay period for each
13 subsequent violation of Labor Code section 1197, regardless of whether the
14 initial violation was intentional (penalties set by Labor Code section 1197.1);
- 15 H. Pursuant to Labor Code section 2699(g), Plaintiff seeks award of reasonable
16 attorneys' fees and costs in connection with her claims for civil penalties.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general
19 public, prays for relief and judgment against Defendants as follows:

- 20 (1) An order that the action be certified as a class action;
21 (2) An order that Plaintiff be appointed class representative;
22 (3) An order that counsel for Plaintiff be appointed class counsel;
23 (4) Unpaid wages;
24 (5) Actual damages;
25 (6) Liquidated damages;
26 (7) Restitution;
27 (8) Declaratory relief;
28 (9) Pre-judgment interest;

- 1 (10) Statutory penalties;
2 (11) Costs of suit;
3 (12) Reasonable attorneys' fees; and
4 (13) Such other relief as the Court deems just and proper.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff, on behalf of herself, all other similarly situated, and the general public, hereby
7 demands a jury trial on all issues so triable.
8
9

10 Dated: April 6, 2020

SETAREH LAW GROUP

11
12 
13

14 SHAUN SETAREH
15 WILLIAM PAO
16 Attorneys for Plaintiff
17 YOLANDA CHAMPION
18
19
20
21
22
23
24
25
26
27
28

1 **PROOF OF SERVICE**

2 I am a citizen of the United States and am employed in the County of Los Angeles, State
3 of California. I am over the age of 18 and not a party to the within action. My business address
4 is 315 S. Beverly Drive, Suite 315 Beverly Hills, CA 90212.

5 On May 4, 2020 I served the foregoing documents described as:

6 **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION**

7 in this action by transmitting a true copy thereof enclosed in a sealed envelope addressed as
8 follows:

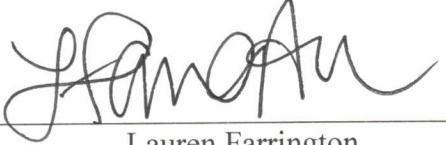
9 MEDSPEED, LLC
10 251 Little Falls Drive
11 Wilmington, DE 19808

12 **[X] BY MAIL**

13 I am readily familiar with the practice of Setareh Law Group for the collection and
14 processing of correspondence for mailing with the United States Postal Service. It is the
15 practice that correspondence is deposited with United States Postal Service the same day it is
16 submitted for mailing with postage thereon fully prepaid at Beverly Hills, California. 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 date of deposit for mailing in affidavit.

17 **[X] STATE** I declare under penalty of perjury under the laws of the State of California that
18 the above is true and correct.

19
20 Executed on May 4, 2020 at Beverly Hills, California.

21 
22
23

Lauren Farrington