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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

SHERRYANNE PRICE, TINA BRIA,
MONIQUE RODRIGUEZ, and KRISTEENA
TINNIN, on behalf of themselves and all others
similarly situated

Plaintiff,

vs.

SUTTER VALLEY MEDICAL
FOUNDATION, a California corporation, and
DOES 1 through 50, inclusive,

Defendants.

Case No. CV-19-001331
ASSIGNED FOR ALL PURPOSES TO:
JUDGE: Hon. John R. Mayne
DEPT: 21

**SECOND AMENDED CLASS ACTION
AND PAGA REPRESENTATIVE
COMPLAINT**

- 1) Failure to pay Lawful Wages**
- 2) Failure to Provide Lawful Meal
Periods or Compensation in Lieu
Thereof**
- 3) Failure to Provide Lawful Rest
Periods or Compensation in Lieu
Thereof**
- 4) Failure to Timely Pay Wages**
- 5) Failure to Reimburse Employee
Expenses**
- 6) Knowing and Intentional Failure to
Comply With Itemized Employee
Wage Statement Provisions**
- 7) Violations of the Unfair Competition
Law**
- 8) Violation of the Private Attorneys
General Act of 2004 ("PAGA")**
- 9) Violation of the Fair Labor Standards
Act: Failure to Pay Overtime Wages**

JURY TRIAL DEMANDED

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2 Plaintiff SHERRYANNE PRICE, TINA BRIA, MONIQUE RODRIGUEZ, and
3 KRISTEENA TINNIN on behalf of themselves and all others similarly situated assert claims
4 against Defendant SUTTER VALLEY MEDICAL FOUNDATION, SUTTER GOULD
5 MEDICAL FOUNDATION, and DOES 1 through 50, inclusive (hereinafter collectively referred
6 to as "Defendants") as follows:

7 **I.**

8 **INTRODUCTION**

9 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, brought
10 against Defendants SUTTER VALLEY MEDICAL FOUNDATION and SUTTER GOULD
11 MEDICAL FOUNDATION and any subsidiaries and affiliated companies (hereinafter
12 collectively referred to as "SUTTER VALLEY " or "Defendants") on behalf of Plaintiffs
13 SHERRYANNE PRICE, TINA BRIA, MONIQUE RODRIGUEZ and KRISTEENA TINNIN
14 (hereinafter "Plaintiffs") and all employees not classified as "Exempt" or primarily employed in
15 executive, professional, or administrative capacities, employed by, or formerly employed by
16 SUTTER VALLEY in California (hereinafter referred to as "Non-Exempt Employees" and/or
17 "Class Members"). This matter is also filed as a representative action, pursuant to the Private
18 Attorneys General Act of 2004, Labor Code section 2698, *et seq.* ("PAGA") and a collective
19 action, pursuant to the federal Fair Labor Standards Act.

20 2. During the liability period, defined as the applicable statute of limitations for each
21 and every cause of action contained herein, Defendants enforced shift schedules, employment
22 policies and practices, and workload requirements wherein Plaintiffs and all other Non Exempt
23 Employees: (1) were not paid proper wages they earned for all hours they worked including
24 minimum wage and/or proper overtime compensation; (2) were not permitted to take their full
25 statutorily authorized rest and meal periods, or had their rest and meal periods shortened and/or
26 provided to them late due to the scheduling and work load and time requirements placed upon
27 them by Defendants. Defendants failed to pay such employees one (1) hour of pay at the
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1 employees regular rate of compensation for each workday that the meal period and/or rest period
2 that was not properly provided; (3) were not properly reimbursed for out-of-pocket expenses.

3 3. During the liability period, Defendants have failed to reimburse Class Members
4 for business expenses incurred in the performance of their job duties.

5 4. During the liability period, Defendants have also failed to maintain accurate
6 itemized records reflecting total hours worked and have failed to provide Non Exempt
7 Employees with accurate, itemized wage statements reflecting total hours worked and
8 appropriate rates of pay for those hours worked.

9 5. During the liability period, Defendants have also failed to pay all wages owed to
10 discharged or resigned Class Members in a timely manner.

11 6. Plaintiffs, on behalf of themselves and all Class Members, bring this action
12 pursuant to Labor Code sections 201, 202, 203, 204, 221, 225, 226, 226.7, 510, 512, 1194, 1199,
13 2802 California Code of Regulations, Title 8, section 11050 *et seq.* and any other applicable
14 Industrial Welfare Commission (“IWC”) Wage Orders, seeking unpaid lawful wages, unpaid rest
15 and meal period compensation, penalties and other equitable relief, and reasonable attorneys’
16 fees and costs.

17 7. Plaintiffs, on behalf of themselves and others similarly situated, pursuant to
18 Business and Professions Code sections 17200-17208, also seeks restitution from Defendants for
19 their failure to pay all overtime wages and rest and meal period premiums to each of their Non-
20 Exempt Employees.

21 **II.**

22 **VENUE**

23 8. Venue as to each Defendant is proper in this judicial district pursuant to Code of
24 Civil Procedure section 395. Defendant conducts substantial and continuous commercial
25 activities in Stanislaus County, California and each Defendant is within the jurisdiction of this
26 Court for service of process purposes. Defendants employ numerous Class Members in
27 Stanislaus County, California.

28 **III.**

PARTIES

9. Plaintiffs are, and at all times mentioned in this complaint were residents of Stanislaus County, California.

10. On information and belief, Defendant SUTTER VALLEY is a California corporation which is headquartered in Sacramento, California and engaged in providing health care services throughout California.

11. The true names and capacities of Defendants, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiffs, who therefore sue Defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiffs are informed and believe, and based thereon allege that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

12. Plaintiffs are informed and believe, and based thereon allege, that Defendants acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

IV.

FACTUAL BACKGROUND

13. Plaintiff Price was employed by SUTTER VALLEY as a receptionist in or about May 2013 and assisted in a medical receptionist capacity for Defendants' company. Plaintiff occupied said non- exempt, hourly position until the last day of her employment on or about July 05, 2017.

14. Plaintiff Bria was employed by SUTTER VALLEY as a medical records clerk on about August 31, 2015 and occupied said non exempt hourly position until the last day of her employment on or about August 7, 2018.

1 15. Due to the time constraints and work load requirements implemented by
2 Defendants, Plaintiffs and Class Members were occasionally required to complete certain job
3 duties “off the clock” and therefore not paid all lawful wages earned including proper overtime
4 compensation and minimum wage.

5 16. As Non Exempt Employees, Plaintiffs and Class Members were frequently
6 required to work in excess of five (5) hours without being provided an uninterrupted thirty (30)
7 minute meal period by the end of the fifth hour and/or in excess of ten (10) hours without a
8 second 30 minute meal period by the end of the tenth hour and not being compensated one (1)
9 hour of pay at their regular rate of compensation for each workday that a meal period was not
10 provided, in violation of California labor laws, regulations and IWC Wage Order;

11 17. As Non Exempt Employees, Plaintiffs and Class Members were typically
12 required to work without being permitted or authorized a minimum ten (10) minute rest period
13 for every four hours or major fraction thereof worked and not compensated one (1) hour of pay
14 at their regular rate of compensation for each workday that a rest period was not provided, in
15 violation of California labor laws, regulations, and IWC Wage Orders.

16 18. As Non Exempt Employees, Plaintiff Bria and similarly situated Class Members
17 were required to remain on the premises during their rest breaks and thus not authorized or
18 permitted a duty free ten (10) minute rest period for every four hours or major fraction thereof
19 worked and not compensated one (1) hour of pay at their regular rate of compensation for each
20 workday that a rest period was not provided, in violation of California labor laws, regulations,
21 and IWC Wage Orders

22 19. As Non Exempt Employees, Plaintiffs and Class Members were frequently
23 required to use their personal phones and/or personal automobiles in performance of their job
24 duties for which they did not receive reimbursement from Defendant.

25 20. On information and belief, SUTTER VALLEY willfully failed to pay all earned
26 wages in a timely manner to Non Exempt Employees; nor has Defendant paid to Non Exempt
27 Employees, upon or after termination of their employment with Defendant, all compensation
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1 due, including but not limited to all wages owed and compensation for having failed to properly
2 provide rest periods and meal periods.

3 21. Defendants have also failed to maintain accurate itemized records reflecting total
4 hours worked and have failed to provide Non Exempt Employees with accurate, itemized wage
5 statements reflecting total hours worked and appropriate rates of pay for those hours worked

6 22. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 currently employ and during the relevant period have employed over one hundred (100)
8 employees in the State of California in non-exempt hourly positions.

9 23. Non-Exempt Employees employed by SUTTER VALLEY, at all times pertinent
10 hereto, have been non-exempt employees within the meaning of the California Labor Code, and
11 the implementing rules and regulations of the IWC California Wage Orders.

12 **V.**

13 **CLASS ACTION ALLEGATIONS**

14 24. Plaintiffs seek to represent a Class comprised of and defined as: All persons
15 who are or were employed by SUTTER VALLEY in the state of California as hourly non
16 exempt employees within four (4) years prior to the date this lawsuit is filed until resolution of
17 this lawsuit (collectively referred to as the “Class” and/or Class Members”).

18 25. Plaintiffs also seek to represent Subclasses which are composed of persons
19 satisfying the following definitions:

20 a. All persons who are or were employed by SUTTER VALLEY in the
21 state of California as hourly non exempt employees, within the statutory liability period, and
22 were not accurately and fully paid all lawful wages owed to them including minimum wages
23 and/or proper overtime compensation for all their hours worked.

24 b. All persons who are or were employed by SUTTER VALLEY in the state
25 of California as hourly non exempt employees, within the statutory liability period, who have
26 not been provided an uninterrupted 30 minute meal period when they worked over five hours in a
27 work shift by the end of the fifth hour and/ or a second 30 minute meal period when they worked
28 over 10 hours in a shift by the end of the tenth hour and were not provided compensation in lieu

1 thereof;

2 c. All persons who are or were employed by SUTTER VALLEY in the state
3 of California as hourly non exempt employees, within the statutory liability period, and have not
4 been provided lawful minimum ten (10) minute rest period for every four (4) hours or major
5 fraction thereof worked per day and were not provided compensation in lieu thereof;

6 d. All persons who are or were employed by SUTTER VALLEY in the state
7 of California as hourly non exempt employees, within the statutory liability period, and who
8 purchased and/or provided tools which were required in the performance of their job duties
9 without receiving reimbursement from Defendants;

10 e. All persons who are or were employed by SUTTER VALLEY in the state
11 of California as hourly non exempt employees, within the statutory liability period, and were not
12 timely paid all wages due and owed to them upon the termination of their employment with
13 Defendants; and

14 f. All persons who are or were employed by SUTTER VALLEY in the state
15 of California as hourly non exempt employees, within the statutory liability period, and were not
16 provided with accurate and complete itemized wage statements.

17 26. Plaintiffs reserve the right under Rule 3.765, California Rules of Court, to amend
18 or modify the class description with greater specificity or further division into subclasses or
19 limitation to particular issues.

20 27. This action has been brought and may properly be maintained as a class action
21 under the provisions of section 382 of the Code of Civil Procedure because there is a well-
22 defined community of interest in the litigation and the proposed Class is easily ascertainable.

23 **A. Numerosity**

24 28. The potential members of the Class as defined are so numerous that joinder of all
25 the members of the Class is impracticable. While the precise number of Class Members has not
26 been determined at this time, Plaintiffs are informed and believe that Defendants currently
27 employ, and/or during the relevant time period employed, approximately over 100 Non-Exempt
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Employees in California who are or have been affected by Defendants' unlawful practices as alleged herein.

B. Commonality

29. There are questions of law and fact common to the Class predominating over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- i. Whether Defendants violated Labor Code §§ 510, 1194 and applicable IWC Wage Orders by failing to pay all earned wages including overtime compensation to Non-Exempt Employees who worked in excess of eight (8) hours in a work day and/or more than forty (40) hours in a workweek;
- ii. Whether Defendants also violated Labor Codes sections 200, 1194, and 1197 for failing to pay minimum wages for time spent working "off the clock" without pay. Labor Code §1197 provides that employees are to be paid minimum wage for each hour worked, and cannot be averaged the minimum and the payment of a lesser wage than the established is unlawful
- iii. Whether Defendants violated Labor Code §§ 226.7, 512 and applicable IWC Wage Order by failing to provide statutorily compliant 30 minute meal periods to Non-Exempt Employees on days in which they worked in excess of 5 hours and/or 10 hours and failing to compensate said employees one hour wages in lieu of meal periods;
- iv. Whether Defendants violated Labor Code sections 226.7 and applicable IWC Wage Orders by failing to authorize and permit minimum 10 minute rest periods to Non-Exempt Employees for every four hours or major fraction thereof worked and failing to compensate said employees one hours wages in lieu of rest periods;
- v. Whether Defendants violated Labor Code §2802 and applicable IWC Wage Orders for failing to indemnify employees for the expenditures incurred in the performance of their job duties (i.e., requiring that Class Members use their personal phones and/or automobiles in the performance of their job duties without indemnification);

- 1 vi. Whether Defendants violated sections 201-203 of the Labor Code by failing to
2 pay all earned wages and/or premium wages due and owing at the time that any Class
3 Members' employment with Defendants terminated;
- 4 vii. Whether Defendants violated sections 226 of the Labor Code and applicable IWC
5 Wage Orders by failing to, among other violations, maintain accurate records of Non-
6 Exempt Employees' earned wages, work periods, meal periods and deductions;
- 7 viii. Whether Defendants violated section 17200 *et seq.* of the Business and
8 Professions Code by failing to pay proper minimum and/or overtime wages to Non-
9 Exempt Employees; failing to provide proper rest and/or meal periods and failing to pay
10 compensation in lieu thereof; failing to reimburse employee expenses; failing to pay
11 wages due and owing at the time the employee's employment with Defendants terminated
12 failing to keep accurate records all in violation of Labor Code §§ 201, 202, 203, 204,
13 226, 226.7, 510, 512, 1194, 1199, 2802 and applicable IWC Wage Orders.
- 14 ix. Whether Defendants violated section 17200 *et seq.* of the Business and
15 Professions Code and Labor Code sections §§ 201, 202, 203, 204, 221., 225, 226, 226.7,
16 510, 512, 1194, 1199, 2802 and applicable IWC Wage Orders which violation
17 constitutes a violation of fundamental public policy;

18 **C. Typicality**

19 30. The claims of the named Plaintiffs are typical of the claims of the Class. Plaintiffs
20 and all members of the Class sustained injuries and damages arising out of and caused by
21 Defendants' common course of conduct in violation of California laws, regulations, and statutes
22 as alleged herein.

23 **D. Adequacy of Representation**

24 31. Plaintiffs will fairly and adequately represent and protect the interests of the
25 members of the Class. Counsel who represents Plaintiffs is competent and experienced in
26 litigating large employment class actions.

27 **E. Superiority of Class Action**

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32. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants' unlawful policy and/or practice herein complained of.

33. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VI. CAUSES OF ACTION

First Cause of Action

Failure to Pay Lawful Wages Including Overtime Wages and Minimum Wage
(Lab. Code §§ 510, 1194, 1199)
(Against All Defendants)

34. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

35. During the liability Defendants’ policies, practices and work shift requirements resulted in Plaintiffs and Non-Exempt Employees working “off the clock” and not receiving compensation for all earned wages including overtime and/or minimum wage in violation of California state wage and hour laws.

36. During the liability Defendants' policies and/or practices resulted in Plaintiffs and Non Exempt Employees working off the clock and in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without receiving the proper compensation at the rate of time and one-half (1 1/2) of such employee's regular rate of pay.

37. During the liability period, Defendants' policies and/or practices resulted in Plaintiffs and Non Exempt Employees not receiving minimum wages for time spent working off the clock while subject to the control of Defendant all without pay. Labor Code §1197 provides

1 that employees are to be paid minimum wage for each hour worked, and cannot be averaged the
2 minimum and the payment of a lesser wage than the established is unlawful.

3 38. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as
4 described herein and below.

5 **Second Cause of Action**

6 Failure to Provide Lawful Meal Periods

7 Or Compensation in Lieu Thereof

8 (Lab. Code §§226.7, 512, IWC Wage Orders)

9 (Against All Defendants)

10 39. Plaintiffs repeat and incorporate herein by reference each and every allegation set
11 forth above, as though fully set forth herein.

12 40. By their failure to provide 30 minute uninterrupted meal periods by the end of the
13 fifth hour for days on which Non-Exempt employees work(ed) work periods in excess of 5 hours
14 and/or failing to provide a second 30 minute uninterrupted meal period by the end of the tenth
15 hour for days in which the Non Exempt Employees worked shifts in excess of 10 hours and
16 failing to provide compensation for such statutorily non-compliant meal periods, Defendants
17 violated the provisions of Labor Code §512 and applicable IWC Wage Orders.

18 41. By failing to record and maintain adequate and accurate time records according
19 to sections 226 and 1174 (d) of the Labor Code, Defendants have injured Plaintiffs and Class
20 Members and made it difficult to calculate the unpaid meal period compensation due Plaintiffs
21 and Class Members.

22 42. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek
23 to represent have been deprived of premium wages in amounts to be determined at trial, and are
24 entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code
25 §226.7.

26 43. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as
27 described herein and below.

28 **Third Cause of Action**

Failure to Provide Rest Periods

Or Compensation in Lieu Thereof

(Lab. Code §§226.7, IWC Wage Orders)

(Against All Defendants)

44. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

45. By their failure to provide a minimum ten (10) minute rest period for every four hours or major fraction thereof worked per day by Non Exempt Employees, and failing to provide compensation for such non-provided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and IWC applicable Wage Orders.

46. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

47. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Fourth Cause of Action

Failure to Reimburse Employee Expenses

(Lab. Code § 2802)

(Against All Defendants)

48. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

49. By their policy of unlawfully requiring that Non Exempt Employees use their personal cellular phones in the performance of their job and/or automobiles without reimbursement, Defendant willfully violated the provisions of Lab. Code § 2802.

50. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent are entitled to recovery of full amount of expenses incurred plus interest, attorneys' fees, and costs, under Labor Code § 2802.

51. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Fifth Cause of Action

Failure to Timely Pay Wages Due At Termination

(Lab. Code §§ 201-203)

(Against All Defendants)

1 52. Plaintiffs repeat and incorporate herein by reference each and every allegation set
2 forth above, as though fully set forth herein.

3 53. Sections 201 and 202 of the California Labor Code require Defendants to pay its
4 employees all wages due within 72 hours of termination of employment. Section 203 of the
5 Labor Code provides that if an employer willfully fails to timely pay such wages the employer
6 must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in
7 full or an action is commenced. The penalty cannot exceed 30 days of wages.

8 54. Affected class members are entitled to compensation for all forms of wages
9 earned, including overtime compensation and compensation for non provided rest and meal
10 periods but to date have not received such compensation therefore entitling them Labor Code
11 section 203 penalties.

12 55. More than 30 days have passed since Plaintiffs and affected Class Members have
13 left Defendants' employ, and on information and belief, have not received payment pursuant to
14 Labor Code §203. As a consequence of Defendants' willful conduct in not paying all earned
15 wages, certain Class Members are entitled to 30 days' wages as a penalty under Labor Code
16 section 203 for failure to pay legal wages.

17 56. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as
18 described herein and below.

19 **Sixth Cause of Action**

20 Knowing and Intentional Failure to Comply With Itemized Employee
21 Wage Statement Provisions
22 (Lab. Code § 226(b))
23 (Against All Defendants)

24 57. Plaintiffs repeat and incorporate herein by reference each and every allegation set
25 forth above, as though fully set forth herein

26 58. Section 226(a) of the California Labor Code requires Defendants to itemize in
27 wage statements all deductions from payment of wages and to accurately report total hours
28 worked by Plaintiffs and the members of the proposed class. IWC Wage Orders require
Defendants to maintain time records showing, among others, when the employee begins and

ends each work period, meal periods, split shift intervals and total daily hours worked in an itemized wage statement, and must show all deductions and reimbursements from payment of wages, and accurately report total hours worked by Plaintiffs and the members of the proposed class. On information and belief, Defendants have failed to record all or some of the items delineated in Industrial Wage Orders and Labor Code §226

59. Plaintiffs and Class Members have been injured by Defendants' actions by rendering them unaware of the full compensation to which they were entitled under applicable provisions of the California Labor Code and applicable IWC Wage Orders.

60. Pursuant Labor Code §226, Plaintiffs and Class Members are entitled up to a maximum of \$4,000.00 each for record-keeping violations.

61. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Seventh Cause of Action
Violation of Unfair Competition Law
(Bus. & Prof. Code, §§ 17200-17208)
(Against All Defendants)

62. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

63. Business & Professions Code Section 17200 provides:

As used in this chapter, unfair competition shall mean and include any **unlawful, unfair** or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

64. Defendants' violations of the Labor Code and Wage Order provisions set forth above constitute unlawful and/or unfair business acts or practices.

65. The actions of Defendants, as alleged within this Complaint, constitute false, fraudulent, unlawful, unfair, fraudulent and deceptive business practices, within the meaning of Business and Professions Code section 17200, *et seq.*

1 66. Plaintiffs and Class Members have been personally aggrieved by Defendants’
2 unlawful and unfair business acts and practices alleged herein.

3 67. As a direct and proximate result of the unfair business practices of Defendants,
4 and each of them, Plaintiffs, individually and on behalf of all employees similarly situated, is
5 entitled to restitution of all wages which have been unlawfully withheld from Plaintiffs and
6 members of the Plaintiffs Class as a result of the business acts and practices described herein.

7 68. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as
8 described herein and below.

9
10 **Eighth Cause of Action**
11 Violation of Private Attorneys General Act of 2004
12 (Lab. Code, §§ 2698, *et seq.*)
 (Against All Defendants)

13 69. Plaintiffs repeat and incorporate herein by reference each and every allegation set
14 forth above, as though fully set forth herein.

15 70. Plaintiffs Tina Bria, Monique Rodriguez, and Kristeena Tinnin gave timely
16 written notice by certified mail to Defendants of the violations of various provisions of the
17 California Labor Code as alleged in this complaint and filed notice of the violations online with
18 the Labor and Workforce Development Agency (“LWDA”).

19 71. The LWDA did not provide notice of its intention to investigate Defendants’
20 violations after expiration of the 65-day waiting time period, or at any time. Defendants also
21 failed to cure within the time allotted by PAGA and Labor Code section 2810.3. Consequently,
22 Plaintiff’s right to file the instant lawsuit then duly accrued.

23 72. Plaintiffs are each an “Aggrieved Employee” under PAGA, as they were
24 employed by Defendants during the applicable statutory limitations period and suffered one or
25 more of the Labor Code violations set forth herein. Accordingly, Plaintiffs seek to recover on
26 behalf of themselves and all other current and former Aggrieved Employees, the civil penalties
27 provided by PAGA, plus reasonable attorney's fees and costs.
28

73. Plaintiffs seek to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

74. Therefore, under the provisions of PAGA and Labor Code sections 201-202, 203, 204, 210, 221-223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2699, and all applicable Wage Orders as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, Defendants are liable for the following penalties:

- (i) All statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute; and
- (ii) Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code section 2699(f).

75. The proper measure of penalties under PAGA is the number of violations, whether those violations were committed as against Plaintiffs or any Aggrieved Employee, whether a party to this action or not.

76. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws, Plaintiff is entitled to recover civil penalties, costs, and attorney's fees.

Ninth Cause of Action

Violation of the Fair Labor Standards Act: Failure to Pay Overtime Wages
(FLSA, 29 U.S.C. § 201, *et seq.*)
(Against All Defendants)

77. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

78. On information and belief and at all relevant times, Defendants have been, and

1 continue to be, “employers” engaged in interstate “commerce” and/or in production of “goods”
2 for “commerce” within the meaning of the FLSA, 29 U.S.C §203. At all relevant times,
3 Defendants employed, and continue to employ employees, including Plaintiff.

4 79. The FLSA requires each covered employer, including Defendants, to compensate
5 all nonexempt employees at a rate of not less than one and one-half times the regular rate of pay
6 for work performed in excess of forty hours in a workweek.

7 80. Plaintiffs and the class are entitled to overtime compensation for all overtime
8 hours worked.

9 81. At all relevant times, Defendant, pursuant to its policies and practices, failed and
10 refused to pay overtime premiums to Plaintiffs and the class for hours worked in excess of forty
11 hours per week.

12 82. On an average given work week, Plaintiff Tinnin was scheduled to work from
13 about 8 AM to 5:30 PM. However, Plaintiff Tinnin was required to arrive at work 30-minutes
14 early because she would be marked late otherwise. Plaintiff Tinnin would wait at the workplace
15 before clocking in five (5) minutes before her shift. Similarly, on an average given work week,
16 Plaintiff Tinnin was also required to work during break periods without compensation. This time
17 worked in an average work week exceeded the forty hours of work she was scheduled for and
18 resulted in overtime hours worked. Plaintiff Tinnin was never compensated for these overtime
19 hours worked while in the employ of Defendant.

20 83. By failing to compensate Plaintiffs at a rate not less than one and one-half times
21 the regular rate of pay for work performed in excess of forty hours in a workweek, Defendant has
22 violated, and continues to violate, the FLSA, 29 U.S.C. §§201 et seq., including 29 U.S.C.
23 §207(a)(1).

24 84. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA
25 within the meaning of 29 U.S.C. §255(a).

26 85. Plaintiffs, on behalf of themselves and the class they seeks to represent, seek
27 recovery of attorneys’ fees and costs of action to be paid by Defendant, as provided by the
28 FLSA, 29 U.S.C. §216(b).

86. Plaintiffs, on behalf of themselves and the class they seeks to represent, seek damages in the amount of unpaid overtime compensation, liquidated damages as provided by 29 U.S.C. §216 (b), interest, and such other legal and equitable relief as the Court deems just and proper.

87. WHEREFORE, Plaintiffs and the Class request relief as described herein and below on behalf of themselves.

VII.

PRAYER

WHEREFORE, Plaintiffs pray for judgment as follows:

1. That the Court determine that this action may be maintained as a class action;
2. For compensatory damages in an amount according to proof with interest thereon;
3. For economic and/or special damages in an amount according to proof with interest thereon;
4. For premium wages pursuant to Labor Code §§ 226.7 and 512;
5. For Restitution of unpaid wages including premium wages
6. For premium pay and penalties pursuant to Labor Code §203;
7. For civil penalties pursuant to §2699 for all predicate violations of the labor code including those contained within §2699.5 and 2699(f);
8. For attorneys' fees, interests and costs of suit under Labor Code §§ 218.5, 218.6, 1194, 2699, and 2802, and the Code of Civil Procedure §1021.5.
9. For such other and further relief as the Court deems just and proper.

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

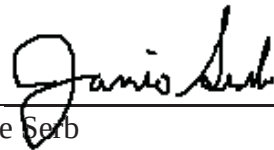
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5 DATED: August 30, 2023

JAMES HAWKINS, APLC

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7  —
8 James R. Hawkins, Esq.
9 Isandra Y. Fernandez, Esq.
10 Lance Dacre, Esq.
11 Attorneys for Plaintiffs
12 Sherryanne Price and Tina Bria

13 DATED: August 28, 2023

CROSNER LEGAL, PC

14 
15 Jamie Serb
16 Attorneys for Plaintiffs
17 Monique Rodriguez

18 DATED: September 7, 2023

MALLISON & MARTINEZ

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20 Stan Mallison
21 Attorneys for Plaintiff
22 Kristeena Tinnin
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