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Attorneys for Plaintiffs Juana Olivos Valdez,
Danillie Willie, and Patricia Theus, individually and
on behalf of all others similarly situated, and as
aggrieved employees under the Labor Code Private
Attorneys General Act of 2004

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

JUANA OLIVOS VALDEZ, an
individual; DANILLIE WILLIE, and
individual; and PATRICIA THEUS, an
individual, on behalf of themselves and
all others similarly situated, and as
aggrieved employees under the Labor
Code Private Attorneys General Act of
2004,

Plaintiffs,

v.

GENESIS HEALTHCARE LLC, a
Delaware Corporation; GENESIS
HEALTHCARE, INC., a Delaware
corporation; GENESIS
ADMINISTRATIVE SERVICES, LLC,
a Delaware limited liability company;
ALEXANDRIA CARE CENTER,
LLC, a Delaware limited liability
company; THE REHABILITATION
CENTRE OF BEVERLY HILLS, a
California corporation; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 2:19-CV-00976-DMG-JC

CLASS ACTION

FIRST AMENDED COMPLAINT:

- 1. Failure to Provide Required Meal Periods**
- 2. Failure to Provide Required Rest Periods**
- 3. Failure to Pay Overtime Wages**
- 4. Failure to Pay Minimum Wage**
- 5. Failure to Pay All Wages Due to Discharged and Quitting Employees**
- 6. Failure to Furnish Accurate Itemized Statements**
- 7. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties**
- 8. Unfair and Unlawful Business Practices**

REPRESENTATIVE ACTION

- 9. Penalties under the Labor Code Private Attorneys General Act, as representative action**

DEMAND FOR JURY TRIAL

1 PLAINTIFF JUANA OLIVOS VALDEZ, PLAINTIFF DANILLIE WILLIE,
 2 and PLAINTIFF PATRICIA THEUS (collectively, “PLAINTIFFS”), demanding a
 3 jury trial, on behalf of themselves and all other persons similarly situated, and as
 4 aggrieved employees under the Labor Code Private Attorneys General Act of 2004
 5 (“PAGA”), hereby allege as follows:

6 **JURISDICTION AND VENUE**

7 1. Plaintiffs Valdez and Willie originally filed this action in the Superior
 8 Court of the State of California because they are residents and citizens of the State
 9 of California, and Defendant GENESIS HEALTHCARE, LLC (“GENESIS LLC”)
 10 is qualified and authorized to do business in the State of California and regularly
 11 conducts business in the State of California. Plaintiffs Valdez and Willie alleged
 12 claims solely under California law. Defendant GENESIS LLC removed this action
 13 to the United States District Court for the Central District of California under 28
 14 U.S.C. § 1332(d).

15 2. Plaintiffs Valdez and Willie filed their original lawsuit in the County of
 16 Los Angeles, California because they, and other persons similarly situated,
 17 performed work for GENESIS LLC in the County of Los Angeles, GENESIS LLC
 18 maintains offices and facilities and transacts business in the County of Los Angeles,
 19 and GENESIS LLC’s employment policies and practices, which were the subject of
 20 the original action were applied, at least in part, to Plaintiffs Valdez and Willie, and
 21 other persons similarly situated, in the County of Los Angeles. Defendant GENESIS
 22 LLC removed this action to the United States District Court for the Central District
 23 of California under 28 U.S.C. § 1332(d).

24 **PLAINTIFF**

25 3. PLAINTIFF JUANA OLIVOS VALDEZ (“MS. VALDEZ”) is a
 26 female resident of the State of California and a former non-exempt employee of
 27 GENESIS LLC, GENESIS HEALTHCARE, INC. (“GENESIS INC.”), GENESIS
 28 ADMINISTRATIVE SERVICES, LLC (“GENESIS ADMINISTRATIVE”), and/or

1 ALEXANDRIA CARE CENTER, LLC (“ALEXANDRIA CARE”). MS. VALDEZ
 2 worked for DEFENDANT as a Certified Nursing Assistant from in or around
 3 October of 2016 until on or around June 27, 2017.

4 4. PLAINTIFF DANILLIE WILLIE (“MS. WILLIE”) is a female resident
 5 of the State of California and a former non-exempt employee of GENESIS LLC,
 6 GENESIS INC., and/or GENESIS ADMINISTRATIVE. MS. WILLIE worked for
 7 GENESIS LLC, GENESIS INC., and/or GENESIS ADMINISTRATIVE as a
 8 Certified Nursing Assistant from in around February of 2015 until in or around
 9 April of 2017. MS. WILLIE’s individual wage and hour claims were compelled to
 10 arbitration and, accordingly, she now asserts only a claim under the Labor Code
 11 Private Attorneys General Act of 2004 (“PAGA”).

12 5. PLAINTIFF PATRICIA THEUS (“MS. THEUS”) is a female resident
 13 of the State of California and a former non-exempt employee of GENESIS LLC,
 14 GENESIS INC., GENESIS ADMINISTRATIVE, and/or THE REHABILITATION
 15 CENTRE OF BEVERLY HILLS (“RHBC”). MS. THEUS worked for GENESIS
 16 LLC, GENESIS INC., GENESIS ADMINISTRATIVE, and/or RHBC as a Certified
 17 Nursing Assistant from in around July 2008 until on or about February 10, 2019.

18 6. PLAINTIFFS, on behalf of themselves and other similarly situated
 19 current and former non-exempt employees of GENESIS LLC, GENESIS INC.,
 20 GENESIS ADMINISTRATIVE, ALEXANDRIA CARE, and/or RHBC
 21 (collectively, “DEFENDANTS”) in the State of California at any time during the
 22 four (4) years preceding the filing of the original complaint in this action, and
 23 through the date of class certification, brings this class action to recover, among
 24 other things, wages and penalties from unpaid wages earned and due, including but
 25 not limited to unpaid minimum wages, unpaid and illegally calculated overtime
 26 compensation, meal and rest period premium payments, waiting time penalties,
 27 actual and/or statutory damages for failure to provide accurate itemized wage
 28 statements, unreimbursed business expenses, and interest, attorneys’ fees, costs, and

1 expenses.

2 7. PLAINTIFFS bring this action on behalf of themselves and the
3 following similarly situated class of individuals (“CLASS MEMBERS”): all current
4 and former non-exempt employees of DEFENDANTS in the State of California at
5 any time within the period beginning four (4) years prior to the filing of the original
6 complaint in this action, and ending at the time of class certification (the “CLASS
7 PERIOD”). PLAINTIFFS reserve the right to name additional class representatives
8 and to identify subclasses.

9 DEFENDANTS

10 8. PLAINTIFFS are informed and believe, and thereon allege, that
11 DEFENDANT GENESIS HEALTHCARE LLC is, and at all times relevant hereto
12 was, a limited liability company organized under the laws of the State of Delaware
13 and authorized to conduct business in the State of California, and which does
14 conduct business in the State of California. Specifically, upon information and
15 belief, GENESIS LLC maintains offices and facilities and conducts business in and
16 engages in illegal employment practices in the County of Los Angeles, State of
17 California.

18 9. PLAINTIFFS are informed and believe, and thereon allege, that
19 DEFENDANT GENESIS HEALTHCARE, INC. is, and at all times relevant hereto
20 was, a corporation organized under the laws of the State of Delaware, and which
21 conducts business in the State of California. Specifically, upon information and
22 belief, GENESIS INC. maintains offices and facilities and conducts business in and
23 engages in illegal employment practices in the County of Los Angeles, State of
24 California.

25 10. PLAINTIFFS are informed and believe, and thereon allege, that
26 DEFENDANT GENESIS ADMINISTRATIVE SERVICES, LLC is, and at all
27 times relevant hereto was, a limited liability company organized under the laws of
28 the State of Delaware and authorized to conduct business in the State of California,

1 and which does conduct business in the State of California. Specifically, upon
2 information and belief, GENESIS ADMINISTRATIVE maintains offices and
3 facilities and conducts business in and engages in illegal employment practices in
4 the County of Los Angeles, State of California.

5 11. PLAINTIFFS are informed and believe, and thereon allege, that
6 DEFENDANT ALEXANDRIA CARE CENTER, LLC is, and at all times relevant
7 hereto was, a limited liability company organized under the laws of the State of
8 Delaware and authorized to conduct business in the State of California, and which
9 does conduct business in the State of California. Specifically, upon information and
10 belief, ALEXANDRIA CARE maintains offices and facilities and conducts business
11 in and engages in illegal employment practices in the County of Los Angeles, State
12 of California.

13 12. PLAINTIFFS are informed and believe, and thereon allege, that
14 DEFENDANT THE REHABILITATION CENTRE OF BEVERLY HILLS is, and
15 at all times relevant hereto was, a corporation organized under the laws of the State
16 of California and authorized to conduct business in the State of California, and
17 which does conduct business in the State of California. Specifically, upon
18 information and belief, RHBC maintains offices and facilities and conducts business
19 in and engages in illegal employment practices in the County of Los Angeles, State
20 of California

21 13. The true names and capacities of DOES 1 through 100, inclusive, are
22 unknown to PLAINTIFFS at this time, and PLAINTIFFS therefore sue such DOE
23 Defendants under fictitious names. PLAINTIFFS are informed and believe, and
24 thereon allege, that each Defendant designated as a DOE is in some manner highly
25 responsible for the occurrences alleged herein, and that PLAINTIFFS and CLASS
26 MEMBERS' injuries and damages, as alleged herein, were proximately caused by
27 the conduct of such DOE Defendants. PLAINTIFFS will seek leave of the court to
28 amend this complaint to allege the true names and capacities of such DOE

1 Defendants when ascertained.

2 14. At all relevant times herein, DEFENDANTS GENESIS LLC,
3 GENESIS INC., GENESIS ADMINISTRATIVE, ALEXANDRIA CARE, RHBC,
4 and DOES 1 through 100, (collectively “DEFENDANTS”), and each of them, were
5 the joint employers of PLAINTIFFS and CLASS MEMBERS. One or more of the
6 DEFENDANTS maintained sufficient control over its subsidiaries, affiliates, and
7 business partners such that they could and/or did affect the wages, hours, and
8 working conditions of the CLASS MEMBERS.

9 15. PLAINTIFFS are informed and believe, and thereon allege, that at all
10 times material to this complaint DEFENDANTS were the alter egos, divisions,
11 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals,
12 related entities, co-conspirators, authorized agents, partners, joint venturers, and/or
13 guarantors, actual or ostensible, of each other. Each Defendant was completely
14 dominated by his, her or its co-Defendant, and each was the alter ego of the other.

15 16. At all relevant times herein, PLAINTIFFS and CLASS MEMBERS
16 were employed by DEFENDANTS under employment agreements that were partly
17 written, partly oral, and partly implied. In perpetrating the acts and omissions
18 alleged herein, DEFENDANTS, and each of them, acted pursuant to, and in
19 furtherance of, their policies and practices of not paying PLAINTIFFS and CLASS
20 MEMBERS all wages earned and due, through methods and schemes which include,
21 but are not limited to, failing to pay minimum wages and overtime wages; failing to
22 provide rest and meal periods; failing to properly maintain records; failing to
23 provide accurate itemized statements for each pay period; failing to properly
24 compensate PLAINTIFFS and CLASS MEMBERS for necessary business
25 expenditures; and requiring, permitting or suffering the employees to work off the
26 clock, in violation of the California Labor Code, the applicable IWC Wage Order
27 and the Private Attorneys General Act.

28 17. PLAINTIFFS are informed and believe, and thereon allege, that each

1 and every one of the acts and omissions alleged herein were performed by, and/or
2 attributable to, all DEFENDANTS, each acting as agents and/or employees, and/or
3 under the direction and control of, each of the other DEFENDANTS, and that said
4 acts and failures to act were within the course and scope of said agency,
5 employment and/or direction and control.

6 18. As a direct and proximate result of the unlawful actions of
7 DEFENDANTS, PLAINTIFFS and CLASS MEMBERS have suffered, and
8 continue to suffer, from loss of earnings in amounts as yet unascertained, but subject
9 to proof at trial, and within the jurisdiction of this Court.

10 **CLASS ACTION ALLEGATIONS**

11 19. This action is appropriately suited for a Class Action because:

12 a. The potential class is a significant number, and likely at least 300.
13 Joinder of all current and former non-exempt employees individually would be
14 impractical.

15 b. This action involves common questions of law and fact to the potential
16 class because the action focuses on the DEFENDANTS' systematic course of
17 illegal employment practices and policies, which was applied to all non-exempt
18 employees in violation of the, California Labor Code, IWC Wage Orders, and the
19 California Business and Professions Code which prohibits unfair business
20 practices arising from such violations.

21 c. The claims of PLAINTIFFS is typical of the class because
22 DEFENDANTS subjected all non-exempt employees to the same or sufficiently
23 similar conduct that resulted in violations of the California Labor Code, the
24 applicable IWC wage order, and the California Business and Professions Code.

25 d. PLAINTIFFS are able to fairly and adequately protect the interests of
26 all members of the class because it is in their best interests to prosecute the claims
27 alleged herein to obtain full compensation due to the class for all services rendered
28 and hours worked.

CLASS ACTION

FIRST CAUSE OF ACTION

**Failure to Provide Required Meal Periods
[Cal. Labor Code §§ 226.7 and 512]
(Against All DEFENDANTS)**

20. PLAINTIFFS incorporate the foregoing allegations by reference, as though fully set forth herein.

21. During the CLASS PERIOD, as part of DEFENDANTS' illegal employment policies and practices, DEFENDANTS have required, permitted or otherwise suffered PLAINTIFFS and CLASS MEMBERS to take less than the 30-minute meal period, or to work through them, and have failed to otherwise provide the required, duty-free meal periods to PLAINTIFFS and CLASS MEMBERS pursuant to California Labor Code § 226.7 and 512.

22. On information and belief, among other things DEFENDANTS failed to provide legally compliant meal periods because they failed to adequately staff their facilities such that employees could perform their job duties and take all required meal periods. As a result, PLAINTIFFS and CLASS MEMBERS were not provided a meal period at all, or were only afforded non-compliant meal periods that were less than 30 minutes long and/or occurred after the end of the fifth hour of work.

23. DEFENDANTS have further violated California Labor Code §§ 226.7 by failing to compensate PLAINTIFFS and CLASS MEMBERS who were not provided with a meal period, in accordance with the applicable wage order, one additional hour of compensation at each employee's regular rate of pay for each workday that a meal period was not provided.

24. As a proximate result of the aforementioned violations, PLAINTIFFS and CLASS MEMBERS have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, attorneys' fees, expenses, and costs of suit, including attorneys' fees under California Code of Civil

1 Procedure § 1021.5.

2 **SECOND CAUSE OF ACTION**
3 **Failure to Provide Required Rest Periods**
4 **[Cal. Labor Code §§ 226.7]**
5 **(Against All DEFENDANTS)**

6 25. PLAINTIFFS incorporate the foregoing allegations by reference, as
7 though fully set forth herein.

8 26. At all times relevant herein, as part of DEFENDANTS' illegal
9 employment policies and practices, DEFENDANTS failed to provide rest periods to
10 PLAINTIFFS and CLASS MEMBERS as required under California Labor Code §
11 226.7.

12 27. On information and belief, among other things DEFENDANTS failed
13 to provide legally compliant rest periods because they failed to adequately staff their
14 facilities such that employees could perform their job duties and take all required
15 duty-free rest periods. As a result, PLAINTIFFS and CLASS MEMBERS we not
16 provided rest periods at all, or were only afforded non-compliant rest periods that
17 were less than 10 minutes long.

18 28. DEFENDANTS also maintained facially illegal rest break policies that
19 stated the first rest period would be provided only when employees were scheduled
20 for a minimum of four hours of work, despite the requirements of California law
21 that a rest period be provided for shifts greater than 3.5 hours in length.

22 29. DEFENDANTS further violated California Labor Code § 226.7 by
23 failing to pay PLAINTIFFS and CLASS MEMBERS who were not provided with a
24 rest period, in accordance with the applicable wage order, one additional hour of
25 compensation at each employee's regular rate of pay for each workday that a rest
26 period was not provided.

27 30. As a proximate result of the aforementioned violations, PLAINTIFFS
28 and CLASS MEMBERS have been damaged in an amount according to proof at
trial, and seek all wages earned and due, interest, penalties, attorneys' fees,

1 expenses, and costs of suit, including attorneys' fees under California Code of Civil
2 Procedure § 1021.5.

3 **THIRD CAUSE OF ACTION**
4 **Failure to Pay Overtime Wages**
5 **[Cal. Labor Code §§ 510 and 1194]**
6 **(Against All DEFENDANTS)**

7 31. PLAINTIFFS incorporate the foregoing allegations by reference, as
8 though fully set forth herein.

9 32. Pursuant to California Labor Code §§ 510 and 1194, DEFENDANTS
10 are required to compensate PLAINTIFFS and CLASS MEMBERS for all overtime,
11 which is calculated at one and one-half (1 ½) times the regular rate of pay for all
12 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week,
13 and for the first eight (8) hours on the seventh consecutive workday, with double
14 time for all hours worked in excess of twelve (12) hours in any workday and for all
15 hours worked in excess of eight (8) hours on the seventh consecutive day of work in
16 any workweek.

17 33. PLAINTIFFS and CLASS MEMBERS are current and former non-
18 exempt employees entitled to the protections of California Labor Code §§ 510 and
19 1194. During the CLASS PERIOD, DEFENDANTS failed to compensate
20 PLAINTIFFS and CLASS MEMBERS for all overtime hours worked as required
21 under the foregoing provisions of the California Labor Code and IWC Wage Order
22 by, among other things: failing to pay overtime at one and one-half (1 ½) or double
23 the regular rate of pay as provided by California Labor Code §§ 510 and 1194;
24 requiring, permitting or suffering PLAINTIFFS and CLASS MEMBERS to work
25 off the clock; requiring, permitting or suffering PLAINTIFFS and CLASS
26 MEMBERS to work through meal periods while clocked out; illegally and
27 inaccurately recording time in which PLAINTIFFS and CLASS MEMBERS
28 worked; and other methods to be discovered.

34. In violation of California law, DEFENDANTS have knowingly and

1 willfully refused to perform its obligations to compensate PLAINTIFFS and CLASS
2 MEMBERS for all wages earned and all hours worked. As a proximate result,
3 PLAINTIFFS and CLASS MEMBERS have suffered, and continue to suffer,
4 substantial losses related to the use and enjoyment of such wages, lost interest on
5 such wages, and expenses and attorneys' fees in seeking to compel DEFENDANTS
6 to fully perform their obligations under state law, all to their respective damages in
7 amounts according to proof at time of trial, and within the jurisdiction of this Court.

8 35. On information and belief, among other things, DEFENDANTS
9 required that employees clock in at the exact start time of their shift, but not before.
10 However, DEFENDANTS suffered and permitted PLAINTIFFS and CLASS
11 MEMBERS to perform work while awaiting their scheduled shift time and before
12 clocking in to work. For example, PLAINTIFFS and CLASS MEMBERS
13 performed work-related tasks including preparing their work area, obtaining and
14 preparing various supplies needed to perform their work, and checking on residents.
15 This occurred on workdays when this off-the-clock time worked should have been
16 compensated at the overtime or double overtime rate.

17 36. On information and belief, on numerous occasions and as a result of
18 DEFENDANTS' failure to adequately staff its facility, DEFENDANTS also
19 required PLAINTIFFS and CLASS MEMBERS to perform work while clocked out
20 for meal periods. This occurred on workdays when this off-the-clock time worked
21 should have been compensated at the overtime or double overtime rate. On
22 information and belief, DEFENDANTS also suffered and permitted PLAINTIFFS
23 and CLASS MEMBERS to perform additional work tasks after clocking out at the
24 end of their shifts including, but not limited to, patient charting.

25 37. On information and belief, on numerous occasions DEFENDANTS
26 failed to pay PLAINTIFFS and CLASS MEMBERS double overtime when they
27 worked shifts over 12 hours long, or worked for more than 8 hours on a seventh
28 consecutive workday.

38. DEFENDANTS' conduct described herein violates California Labor Code §§ 510, and 1194. Therefore, pursuant to California Labor Code §§ 218.5, 218.6, 510, and 1194, and other applicable provisions under the Labor Code and IWC Wage Orders and California Code of Civil Procedure § 1021.5, PLAINTIFFS and CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

FOURTH CAUSE OF ACTION
Failure to Pay Minimum Wages
[Cal Labor Code § 1194]
(Against All DEFENDANTS)

39. PLAINTIFFS incorporate the foregoing allegations by reference, as though fully set forth herein.

40. Pursuant to California Labor Code § 1194, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

41. During the CLASS PERIOD, DEFENDANTS failed to pay PLAINTIFFS and CLASS MEMBERS minimum wages for all hours worked by, among other things: requiring, permitting or suffering PLAINTIFFS and CLASS MEMBERS to work off the clock; requiring, permitting or suffering PLAINTIFFS and CLASS MEMBERS to work through meal breaks while clocked out; illegally and inaccurately recording time in which PLAINTIFFS and CLASS MEMBERS worked; and other methods to be discovered.

42. Among other things, DEFENDANTS required that employees clock in at the exact start time of their shift, but not before. However, DEFENDANTS suffered and permitted PLAINTIFFS and CLASS MEMBERS to perform work while awaiting their scheduled shift time and before clocking in to work. For example, PLAINTIFFS and CLASS MEMBERS performed work-related tasks including preparing their work area, obtaining and preparing various supplies

1 needed to perform their work, and checking on residents.

2 43. On information and belief, on numerous occasions and as a result of
 3 DEFENDANTS' failure to adequately staff its facility, DEFENDANTS also
 4 required PLAINTIFFS and CLASS MEMBERS to perform work while clocked out
 5 for meal periods. On information and belief, DEFENDANTS also suffered and
 6 permitted PLAINTIFFS and CLASS MEMBERS to perform additional work tasks
 7 after clocking out at the end of their shifts including, but not limited to, patient
 8 charting.

9 44. DEFENDANTS' conduct described herein violates California Labor
 10 Code § 1194. As a proximate result of the aforementioned violations, PLAINTIFFS
 11 and CLASS MEMBERS have been damaged in an amount according to proof at
 12 trial. Therefore, pursuant to California Labor Code § 218.5, 218.6, 1194, and other
 13 applicable provisions under the Labor Code and IWC Wage Orders and California
 14 Code of Civil Procedure § 1021.5, PLAINTIFFS and CLASS MEMBERS are
 15 entitled to recover the unpaid balance of wages owed to them by DEFENDANTS,
 16 plus interest, penalties, attorneys' fees, expenses, and costs of suit.

17 **FIFTH CAUSE OF ACTION**

18 **Failure to Pay All Wages Due to Discharged and Quitting Employees** 19 **[Cal. Labor Code § 203]** **(Against All DEFENDANTS)**

20 45. PLAINTIFFS incorporate the foregoing allegations by reference, as
 21 though fully set forth herein.

22 46. Pursuant to California Labor Code § 201 mandates that if an employer
 23 discharges an employee, the employee's wages accrued and unpaid at the time of
 24 discharge are due and payable immediately. Furthermore, pursuant to California
 25 Labor Code § 202, DEFENDANTS are required to pay all accrued wages due to an
 26 employee no later than 72 hours after the employee quits his or her employment,
 27 unless the employee provided 72 hours previous notice of his or her intention to
 28 quit, in which case the employee is entitled to his or wages at the time of quitting.

1 47. California Labor Code § 203 provides that if an employer willfully fails
2 to pay, in accordance with California Labor Code §§ 201 and 202, any wages of an
3 employee who is discharged or who quits, the employer is liable for waiting time
4 penalties in the form of continued compensation to the employee at the same rate for
5 up to 30 workdays.

6 48. During the CLASS PERIOD, DEFENDANTS have willfully failed to
7 pay accrued wages and other compensation to PLAINTIFFS and CLASS
8 MEMBERS in accordance with California Labor Code §§ 201 and 202.
9 DEFENDANTS' failure to pay all accrued wages to PLAINTIFFS and CLASS
10 MEMBERS who were discharged or who quit, as described above, was willful
11 within the meaning of Labor Code § 203 in that DEFENDANTS failed or refused to
12 perform an act that was require to be done, i.e., paying PLAINTIFFS and CLASS
13 MEMBERS all wages due and owing at the time of separation from employment.
14 As a result, PLAINTIFFS and CLASS MEMBERS are entitled to all available
15 statutory penalties, including the waiting time penalties provided in Labor Code §
16 203, together with interest thereon, as well as other available remedies.

17 49. As a proximate result of DEFENDANTS' unlawful actions and
18 omissions, PLAINTIFFS and CLASS MEMBERS have been deprived of
19 compensation in an amount according to proof at the time of trial, but in excess of
20 the jurisdiction of this Court, and are entitled to recover such amounts, plus interest
21 thereon, and attorneys' fees and costs, under California Code of Civil Procedure §
22 1021.5 and California Civil Code §§ 3283 and 3288.

23 24 **SIXTH CAUSE OF ACTION**

25 **Failure to Furnish Accurate Itemized Wage Statements**

26 **[Cal. Labor Code § 226]**

27 **(Against All DEFENDANTS)**

28 50. PLAINTIFFS incorporate the foregoing allegations by reference, as
though fully set forth herein.

1 51. During the CLASS PERIOD, DEFENDANTS knowingly and
2 intentionally failed to provide PLAINTIFFS and CLASS MEMBERS with timely,
3 accurate, and itemized wage statements in writing showing each employee's gross
4 wages earned, total hours worked, all deductions made, net wages earned, all
5 applicable hourly rates in effect during each pay period and the corresponding
6 number of hours worked at each hourly rate, in violation of California Labor Code §
7 226.

8 52. Labor Code § 204(b)(2) provides further instructions to employers on
9 how to comply with Labor Code § 226(a) when they must pay overtime in later pay
10 periods. It provides: "An employer is in compliance with the requirements of
11 subdivision (a) of Section 226 relating to total hours worked by the employee, if
12 hours worked in excess of the normal work period during the current pay period are
13 itemized as corrections on the paystub for the next regular pay period. Any
14 corrections set out in a subsequently issued paystub shall state the inclusive dates of
15 the pay period for which the employer is correcting its initial report of hours
16 worked." However, when DEFENDANTS paid overtime attributable to prior pay
17 periods, they failed to comply with Labor Code §§ 204(b)(2) and 226(a) because
18 DEFENDANTS did not itemize the payments as corrections and did not state the
19 inclusive dates of the pay period to which the payments were attributed.

20 53. As a proximate result of DEFENDANTS' unlawful actions and
21 omissions, PLAINTIFFS and CLASS MEMBERS have been damaged in an amount
22 according to proof at trial, and seek all available statutory penalties, including but
23 not limited to civil penalties pursuant to California Labor Code § 226(e), and an
24 award of costs, expenses, and reasonable attorneys' fees, including but not limited to
25 those provided in California Labor Code § 226(e), California Code of Civil
26 Procedure § 1021.5, California Civil Code §§ 3283 and 3288, as well as other
27 available remedies.

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SEVENTH CAUSE OF ACTION
Failure to Indemnify Employees for Necessary Expenditures Incurred in
Discharge of Duties
[Cal. Labor Code § 2802]
(Against All DEFENDANTS)

54. PLAINTIFFS incorporate the foregoing allegations by reference, as though fully set forth herein.

55. California Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer.

56. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to indemnify PLAINTIFFS and CLASS MEMBERS for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of DEFENDANTS, including but not limited to expenses for uniforms, cell phones, and other employment-related expenses, in violation of California Labor Code § 2802.

57. As a proximate result of DEFENDANTS' unlawful actions and omissions, PLAINTIFFS and CLASS MEMBERS have been damaged in an amount according to proof at trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to California Labor Code § 2802(b). Additionally, PLAINTIFFS and CLASS MEMBERS are entitled to all available statutory penalties and an award of costs, expenses, and reasonable attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other available remedies.

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EIGHTH CAUSE OF ACTION
Unfair and Unlawful Business Practices
[Cal. Bus. & Prof. Code §§ 17200 et. seq.]
(Against All DEFENDANTS)

58. PLAINTIFFS incorporate the foregoing allegations by reference, as though fully set forth herein.

59. Each and every one of DEFENDANTS' acts and omissions in violation of the California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to DEFENDANTS' failure and refusal to provide required meal periods, DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum wages, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements; DEFENDANTS' failure and refusal to indemnify PLAINTIFFS and CLASS MEMBERS for necessary expenditures and/or losses incurring in discharging their duties, constitutes an unfair and unlawful business practice under California Business and Professions Code § 17200 et seq.

60. DEFENDANTS' violations of California wage and hour laws constitute a business practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over a significant period of time, and in a systematic manner, to the detriment of PLAINTIFFS and CLASS MEMBERS.

61. DEFENDANTS have avoided payment of wages, overtime wages, meal and rest period premiums, and other benefits as required by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage Order.

62. As a result of DEFENDANTS' unfair and unlawful business practices, DEFENDANTS have reaped unfair and illegal profits during the CLASS PERIOD at the expense of PLAINTIFFS, CLASS MEMBERS, and members of the public. DEFENDANTS should be made to restore their ill-gotten gains to PLAINTIFFS

1 and CLASS MEMBERS.

2 63. DEFENDANTS' unfair and unlawful business practices entitle
3 PLAINTIFFS and CLASS MEMBERS to seek orders that DEFENDANTS account
4 for and restore to PLAINTIFFS and CLASS MEMBERS the wages and other
5 compensation unlawfully withheld from them. PLAINTIFFS and CLASS
6 MEMBERS are entitled to restitution of all monies to from DEFENDANTS in an
7 amount according to proof at the time of trial, but in excess of the jurisdiction of this
8 Court.

9 **REPRESENTATIVE ACTION**

10 **NINTH CAUSE OF ACTION**

11 **For Civil Penalties Under the Labor Code Private Attorneys General Act of
2004**

12 **[Cal. Labor Code §§ 2698- 2699.5]**

13 **(By Plaintiffs Valdez and Theus Against All DEFENDANTS)**

14 64. PLAINTIFFS VALDEZ and THEUS incorporate the foregoing
15 allegations by reference as though fully set forth herein, with exception to the
16 allegations concerning class action designation in Paragraph 19 (a)-(d).

17 65. Under the California Private Attorneys General Act of 2004 ("PAGA"),
18 Labor Code §§ 2698-2699.5, private parties may recover civil penalties for
19 violations of the Labor Code. These penalties are in addition to any other relief
20 available under the Labor Code. As set forth above, DEFENDANTS have
21 committed numerous violations of the Labor Code against PLAINTIFFS and other
22 current and former non-exempt employees, including but not limited to:

- 23 a. Failing to properly compensate PLAINTIFFS and other current and
24 former non-exempt employees for missed meal periods in violation of
25 Labor Code §§ 226.7, 510, 512, 1194, 1197 and IWC Wage Order No.
26 5-2001;
- 27 b. Failing to properly compensate PLAINTIFFS and other current and
28 former non-exempt employees for all overtime hours worked in

1 violation of Labor Code §§ 226, 510, 1194, 1197, and IWC Wage
2 Order No. 5-2001;

3 c. Failing to compensate PLAINTIFFS and other current and former non-
4 exempt employees at a wage rate at least equal to the California
5 minimum wage for each hour worked in violation of Labor Code §§
6 226, 510, 1182.12, 1194, 1197, and 1174.5;

7 d. Failing to timely pay all wages during employment in violation of
8 California Labor Code § 204;

9 e. Failing to maintain records as required for PLAINTIFFS and other
10 current and former non-exempt employees in violation of Labor Code
11 §§ 226, 1174, 1174.5;

12 f. Failing to provide PLAINTIFFS and other current and former non-
13 exempt employees with accurate itemized wage statements in violation
14 of Labor Code § 226; and

15 g. Failing to properly compensate PLAINTIFFS and other current and
16 former non-exempt employees for all wages due in violation of Labor
17 Code § 203.

18 66. PLAINTIFFS are “aggrieved employees” within the meaning of
19 California Labor Code § 2699(c), and a proper representative to bring a civil action
20 on behalf of herself and other current and former employees of DEFENDANTS
21 pursuant to the procedures specified in California Labor Code § 2699.3, because
22 PLAINTIFFS were employed by DEFENDANTS and the alleged violations of the
23 California Labor Code were committed against PLAINTIFFS.

24 67. Pursuant to PAGA, PLAINTIFFS seeks to recover civil penalties,
25 including but not limited to penalties under Labor Code §§ 2699, 210, 225.5, 226.3,
26 558, 1174.5, 1197.1, and 1199 from DEFENDANTS in a representative action for
27 the violations set forth above, including but not limited to violations of Labor Code
28 §§ 203, 204, 206.5, 226(a), 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1198 and

1 2802. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs
 2 pursuant to Labor Code § 2699(g)(1).

3 68. Pursuant to California Labor Code § 2699.3, PLAINTIFF VALDEZ
 4 gave written notice on March 26, 2018 by online filing to the California Labor and
 5 Workforce Development Agency ("LWDA") and by certified mail to
 6 DEFENDANTS of the specific provisions of the California Labor Code and IWC
 7 Wage Orders alleged to have been violated, including the facts and theories to
 8 support the alleged violations. More than 65 days have passed since PLAINTIFFS
 9 provided written notice to the LWDA. The LWDA has not provided notice that it
 10 intends to investigate PLAINTIFF VALDEZ'S claims.

11 69. Pursuant to California Labor Code § 2699.3, PLAINTIFF THEUS gave
 12 written notice on July 8, 2019 by online filing to the California Labor and
 13 Workforce Development Agency ("LWDA") and by certified mail to
 14 DEFENDANTS of the specific provisions of the California Labor Code and IWC
 15 Wage Orders alleged to have been violated, including the facts and theories to
 16 support the alleged violations. More than 65 days have passed since PLAINTIFFS
 17 provided written notice to the LWDA. The LWDA has not provided notice that it
 18 intends to investigate PLAINTIFF THEUS'S claims.

19 70. Accordingly, PLAINTIFFS VALDEZ and THEUS have complied with
 20 all of the requirements set forth in California Labor Code § 2699.3 to commence a
 21 representative action under PAGA.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, PLAINTIFFS, individually and on behalf of all other
 24 persons similarly situated, respectfully pray for relief against DEFENDANTS, and
 25 each of them, as follows:

- 26 1. For compensatory damages in an amount to be ascertained at trial;
- 27 2. For restitution of all monies due to PLAINTIFFS and CLASS
- 28 MEMBERS, resulting from the unfair and unlawful business practices of

1 DEFENDANTS;

2 3. For meal and rest period compensation pursuant to California Labor
3 Code § 226.7;

4 4. For liquidated damages pursuant to California Labor Code §§ 1194.2
5 and 1197.1;

6 5. For waiting time penalties pursuant to California Labor Code § 203;

7 6. For statutory civil penalties according to proof, including but not
8 limited to all penalties authorized by California Labor Code §§ 210, 226, 226(e),
9 558, 1174.5, 1197.1, 199, and 2698-2699.5;

10 7. For interest on the unpaid wages at 10% per annum pursuant to
11 California Labor Code §§ 218.6, 1194, 2802, California Civil Code §§ 3283, 3288,
12 and/or any other applicable provision providing for pre-judgement interest;

13 8. For reasonable attorneys' fees and costs pursuant to California Labor
14 Code §§ 218.5, 226(e)(1), 1194, 2699(g)(1), 2802(c), California Code of Civil
15 Procedure § 1021.5, and any other applicable provisions that provide for recovering
16 attorneys' fees and costs;

17 9. For an order certifying the First, Second, Third, Fourth, Fifth, Sixth,
18 Seventh, and Eighth Causes of Action as a class action;

19 10. For an order appointing PLAINTIFFS VALDEZ and THEUS as class
20 representatives and PLAINTIFFS' counsel as class counsel; and

21 11. For such further relief that the Court may deem just and proper.

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1 DATED: December 16, 2019

Respectfully submitted,

2 MATERN LAW GROUP, PC

3
4 By: /s/ Andrew J. Sokolowski

5 Matthew J. Matern

6 Andrew J. Sokolowski

7 Attorneys for Plaintiffs Juana Olivos
8 Valdez, Danillie Willie, individually
9 and on behalf of all others similarly
situated, and as aggrieved employees
under the Labor Code Private
Attorneys General Act of 2004

DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand a jury trial with respect to all issues triable of right by jury.

DATED: December 16, 2019

Respectfully submitted,

MATERN LAW GROUP, PC

By:

/s/ Andrew J. Sokolowski

Matthew J. Matern

Andrew J. Sokolowski

Dalia Khalili

Shooka Dadashzadeh

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Valdez, Danillie Willie, and Patricia
Theus, individually and on behalf of all
others similarly situated, and as
aggrieved employees under the Labor
Code Private Attorneys General Act of
2004