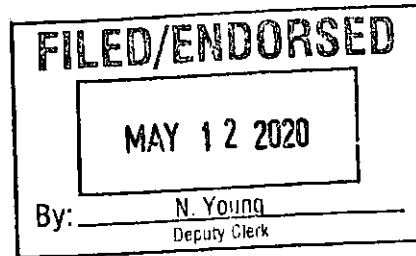


1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Brittany V. Berzin (Cal. State Bar No. 325121)
Renald Konini (Cal. State Bar No. 312080)
3 **Shimoda Law Corp.**
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733



5 Attorneys for Plaintiff TYRONDA WILLIAMS
6 on behalf of herself and similarly situated employees

7 **SUPERIOR COURT OF CALIFORNIA**
8 **FOR THE COUNTY OF SACRAMENTO**

9 **34-2020-00278445**

10 TYRONDA WILLIAMS, as an individual)
11 and on behalf of all others similarly situated,)

12 **Plaintiff,**)

13 **vs.**)

14 MED-DATA, INCORPORATED, a)
15 Washington Corporation; and DOES 1 to)
16 100, inclusive,)

17 **Defendants.**)

Case No.

CLASS ACTION

COMPLAINT FOR DAMAGES

1. **Failure to Pay Overtime Wages**
(Labor Code §§ 510, 1194)
2. **Failure to Pay Minimum Wages**
(Labor Code § 1194)
3. **Failure to Provide Meal Periods**
(Labor Code §§ 512, 226.7)
4. **Failure to Provide Rest Periods**
(Labor Code §§ 226.7)
5. **Failure to Provide Accurate**
Itemized Statements (Labor Code §
226)
6. **Waiting Time Penalties (Labor**
Code §§ 201-203)
7. **Violation of Labor Code § 558**
8. **Failure to Keep Accurate Time**
Records (Labor Code § 1174)
9. **Unfair Competition Law (Business**
& Professions Code § 17200 et seq.)
10. **Private Attorneys General Act**

JURY TRIAL DEMANDED

1 Plaintiff TYRONDA WILLIAMS ("Plaintiff"), on behalf of herself and all other similarly
2 situated employees, hereby files this Class Action Complaint against Defendant MED-DATA,
3 INCORPORATED, a Washington Corporation (hereinafter referred to as "Defendant") and DOES 1 to
4 100. Plaintiff is informed and believes and based thereon alleges as follows:

5 INTRODUCTION

6 1. This is a class action brought by Plaintiff seeking unpaid overtime and minimum wages,
7 unpaid meal and rest period premiums, and derivative penalties for inaccurate wage statements and
8 inaccurate time records. Plaintiff seeks these unpaid wages and penalties, plus interest and attorney's
9 fees, on behalf of herself and similarly situated employees.

10 2. During all relevant times, Plaintiff and similarly situated employees worked for
11 Defendant as hourly, non-exempt employees. Defendant had a uniform practice of failing to pay
12 Plaintiff and similarly situated employees overtime wages earned, and minimum wages for overtime
13 hours worked, and even had a practice of failing to keep track of all hours worked, in part, due to its
14 policy of failing to pay employees for time spent clocking in and out through third-party vendor ADP.
15 Defendant also did not provide all meal and rest periods to Plaintiff and similarly situated employees
16 and further failed to pay all applicable meal and rest period premiums to Plaintiff and similarly situated
17 employees for these missed meal and rest periods. As a result of these uniform practices, Defendant did
18 not properly itemize and identify Plaintiff and similarly situated employees' total hours worked,
19 applicable hourly rates, or the corresponding hours worked at each hourly rate on their wage statements
20 and did not pay Plaintiff and similarly situated employees all wages due to them at the time of their
21 separation or termination.

22 JURISDICTION AND VENUE

23 3. The Sacramento County Superior Court has jurisdiction in this matter due to alleged
24 violations of the California Labor Code, Business and Professions Code section 17200 *et seq.*, and
25 Industrial Welfare Commission Wage Order ("Wage Order") No. 4-2001.

26 4. Venue is proper pursuant to Civil Procedure Code sections 395(a) and 395.5, in that some
27 of the wrongful acts and violations of law asserted herein occurred within Sacramento County.
28 Additionally, Defendant's obligation to pay wages, including minimum wages, overtime wages, meal

1 period premiums and rest period premiums arose in Sacramento County pursuant to *Madera Police*
2 *Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414 (1984).

3 5. Plaintiff has sought permission pursuant to Labor Code section 2699 *et seq.* to pursue the
4 claims set forth in this Complaint against Defendant as a private attorney general on behalf of herself
5 and all other similarly situated employees. Pursuant to California Labor Code section 2699.3, Plaintiff
6 has submitted written notice to the Labor and Workforce Development Agency ("LWDA") of the
7 Private Attorney General Act ("PAGA") claims outlined in this Complaint via online submission.
8 Plaintiff also submitted the \$75.00 filing fee. The notice was also sent to Defendant via certified mail on
9 the same day it was submitted to the LWDA. More than the statutorily required time has passed without
10 the LWDA notifying Plaintiff that it intends to investigate the violations. As such, Plaintiff has
11 exhausted all administrative remedies under the PAGA and may bring this action on behalf of all
12 similarly situated employees as outlined in the notice to the LWDA. *See* Cal. Lab. Code §
13 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc. v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19
14 (2005).

15 PARTIES

16 6. Plaintiff TYRONDA WILLIAMS is an individual over the age of eighteen (18) and is
17 now and/or at all relevant times mentioned in this Complaint was a resident of the State of California.

18 7. Plaintiff is informed and believes, and thereupon alleges, that Defendant MED-DATA,
19 INCORPORATED, is now and/or at all times mentioned in this Complaint a Washington Corporation
20 and the owner and operator of an industry, business and/or facility licensed to do business and actually
21 doing business in the State of California.

22 8. DOES 1 through 100 are affiliates, subsidiaries and related entities and the alter egos of
23 MED-DATA, INCORPORATED, corporate or otherwise, who participated in and are liable for the
24 actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true names and
25 capacities of these DOE Defendants when they are ascertained. At all times mentioned herein, each
26 Defendant was the agent or employee of each of the other Defendants and was acting within the course
27 and scope of such agency or employment. As such, Defendants are jointly and severally liable to
28 Plaintiff.

9. Defendants, and each of them, are now and/or at all times mentioned in this Class Action Complaint, were members of and/or engaged in a joint employment, joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership, and common enterprise.

10. Defendants, and each of them, are now and/or at all times mentioned in this Class Action Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Class Action Complaint.

11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries, and/or damages alleged in this Class Action Complaint.

CLASS ALLEGATIONS

12. Plaintiff brings this action, on behalf of herself and all others similarly situated, as a class action pursuant to California Code of Civil Procedure section 382. The class that Plaintiff seeks to represent is composed of and defined as follows:

All hourly non-exempt employees who have or continue to work for Defendant MED-DATA, INCORPORATED in California at any time four (4) years prior to the filing of this Action and up to the date this matter is certified as a class action.

13. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) **Numerosity**: The Plaintiff Class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, Plaintiff is informed and believes that Defendant has employed as many as five-hundred (500) individuals falling within the above stated class definition throughout the State of California during the applicable statute of limitations, who were subjected to the practices outlined in this Complaint. As such, joinder of all members of the Plaintiff Class is not practicable.

(b) Common Questions Predominate: Common questions of law and fact exist as to all members of the Plaintiff Class and predominate over questions that affect only individual

1 members of the class. These common questions of law and fact include, without
2 limitation, the following:

- 3 (1) Whether Defendant kept an accurate record of all hours worked by Plaintiff and
4 members of the Plaintiff's Class;
- 5 (2) Whether Defendant paid Plaintiff and members of the Plaintiff's Class for all
6 hours worked;
- 7 (3) Whether Defendant paid Plaintiff and members of the Plaintiff's Class at least
8 minimum wage for all hours worked;
- 9 (4) Whether Defendant properly paid Plaintiff and members of the Plaintiff's Class
10 for all overtime hours worked;
- 11 (5) Whether Plaintiff and members of the Plaintiff's Class worked over eight (8)
12 hours in a day;
- 13 (6) Whether Plaintiff and members of the Plaintiff's Class worked over forty (40)
14 hours in a week;
- 15 (7) Whether Defendant had a policy and/or practice of failing to pay Plaintiff and
16 members of the Plaintiff's Class for all hours worked;
- 17 (8) Whether Defendant had a policy and/or practice of failing to pay Plaintiff and
18 members of the Plaintiff's Class for all overtime hours worked;
- 19 (9) Whether Defendant had a policy and/or practice allowing for or providing
20 Plaintiff and members of the Plaintiff's Class meal periods as required by law;
- 21 (10) Whether Defendant had a policy and/or practice allowing for or providing
22 Plaintiff and members of the Plaintiff's Class rest periods as required by law;
- 23 (11) Whether Defendant accurately stated all required information on paystubs issued
24 to Plaintiff and members of the Plaintiff's Class;
- 25 (12) Whether Defendant provided Plaintiff and members of the Plaintiff's Class their
26 final wages in compliance with Labor Code sections 201 to 203.

27 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the Plaintiff
28 Class. Plaintiff, and similarly situated members of Plaintiff's Class, all sustained

1 damages arising out of Defendant's common course of conduct in violation of the law as
2 complained of herein. Plaintiff and all members of the putative class were non-exempt
3 employees who were not paid for all hours worked and were not provided all legally
4 mandated meal and rest periods, because of Defendant's policies and practices resulting
5 in a failure to pay all overtime wages, minimum wages and meal and rest period
6 premiums. Further, Defendant issued Plaintiff and all members of the putative class wage
7 statements that did not comply with Labor Code section 226. As a result, each putative
8 class member will have the same basis for unpaid wage claims as does Plaintiff.

9 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
10 putative class. For all relevant times, Plaintiff resided in California, worked for
11 Defendant in California, and is an adequate representative of the putative class as he or
12 she has no interests that are adverse to those of absent class members. Additionally,
13 Plaintiff has retained counsel who has substantial experience in complex civil litigation
14 and wage and hour matters.

15 (e) Superiority: A class action is superior to other available means for the fair and efficient
16 adjudication of the controversy since individual joinder of all members of the class is
17 impracticable. Class action treatment will permit a larger number of similarly situated
18 persons to prosecute their common claims in a single forum simultaneously, efficiently,
19 and without the unnecessary duplication of effort and expense that numerous individual
20 actions would engender. Further, as damages suffered by each individual member of the
21 class may be relatively small, the expenses and burden of the individual litigation would
22 make it difficult or impossible for individual members of the class to redress the wrongs
23 done to them, and an important public interest will be served by addressing the matter as
24 a class action. The cost to the court system of adjudication of such individualized
25 litigation would be substantial. Individualized litigation would also present the potential
26 for inconsistent or contradictory judgments.

27 14. Plaintiff is unaware of any difficulties that are likely to be encountered in the
28 management of this action that would preclude its maintenance as a class action.

GENERAL ALLEGATIONS

15. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 14 as though fully set forth herein.

16. Plaintiff worked for Defendant MED-DATA INCORPORATED from February 2019 to November 2019 as a patient advocate at the Sacramento Sutter Health location. MED-DATA INCORPORATED is a national provider of technology-enabled healthcare that provides services to different healthcare providers in the areas of billing, coding, patient balances, eligibility, and enrollment. To provide hands-on assistance, Defendant's employees, including Plaintiff, worked in the same location as the healthcare provider they serviced.

17. As a patient advocate, Plaintiff worked about nine (9) hours per day and over forty (40) hours per week in the Sacramento Sutter Health Emergency Department. As a result, Plaintiff had to share the same desk and computer with Sutter Health employees of the Emergency Department.

18. On the days she worked, Plaintiff clocked in and out through an on-line, third-party vendor called ADP. As such, Plaintiff needed access to a computer with the internet to clock in and out of work. On average, Plaintiff spent three (3) minutes to log into a computer, use the internet, log into the ADP website, and then clock in. Some of the time, however, Plaintiff did not have a computer readily available to clock in. In these cases, the clock in process took much longer. For example, if a doctor or another healthcare provider was logged in to the computer, Plaintiff would have to restart the computer and then log in through ADP and finally clock in. This process could take as long as fifteen (15) minutes to clock in through the system. Plaintiff is informed and believes that, like herself, other similarly situated employees had to wait to clock in and out of the ADP system on a regular basis. Consequently, Defendant did not pay Plaintiff and similarly situated employees for the time they spent waiting while attempting to clock in through the ADP website, as employees were unable to log this time as hours worked. This policy resulted in minimum wages and overtime being forfeited by Plaintiff and similarly situated employees.

19. Further, Plaintiff and similarly situated employees worked schedules that made it impossible for them to take their uninterrupted thirty (30) minute meal periods. This was due, in part, to Defendant's scheduling practice, as Defendant often did not schedule enough employees to handle the

1 workload, making it impossible for employees to be relieved from work for meal periods and rest
2 breaks.

3 20. For example, if Plaintiff's workflow required her service or interview a certain number of
4 patients within a certain proscribed time period, Plaintiff would be unable to take her rest or meal period
5 until after all patients were cleared from her list. This caused Plaintiff to take her meal and rest breaks
6 late or not at all. Moreover, hospital social workers, who also had to interview patients for discharge
7 and referral, left at 2:00 p.m. This meant that after 2:00 p.m., Plaintiff and similarly situated employees
8 had no one to relieve them from their duties. Again, this made it impossible for Plaintiff and similarly
9 situated employees to take their meal periods after their fifth hour of work. Thus, Defendant's policies
10 discouraged Plaintiff and similarly situated employees from taking their uninterrupted thirty (30) minute
11 meal periods. Similarly, when Plaintiff and similarly situated employees worked beyond ten (10) hours,
12 Defendant failed to provide a second meal period.

13 21. Likewise, Plaintiff and similarly situated employees were not able to take their rest
14 breaks because of Defendant's practice of not scheduling enough employees. Indeed, Plaintiff missed
15 all of her ten (10) minute rest breaks during her employment with Defendant. Defendant's workload and
16 employee evaluation policies, which based performance ratings on the amount of cases an employee
17 handled, discouraged Plaintiff and similarly situated employees from taking their breaks. Defendant
18 also did not have any policy or practice to authorize and permit Plaintiff and similarly situated
19 employees to take a second meal period or third rest period when Plaintiff and others worked more than
20 ten (10) hours in a shift. Defendant further did not pay Plaintiff and similarly situated employees any
21 meal or rest period premiums for their missed rest and meal periods.

22 22. Due to the violations above, Plaintiff and similarly situated employees received pay stubs
23 that did not include the correct minimum wages, overtime wages, meal period premiums and rest period
24 premiums, and sick leave. Further, this resulted in final wages not being paid to Plaintiff and similarly
25 situated employees.

26 23. As a result of Defendant's failure to pay minimum wages, failure to pay overtime wages,
27 and failure to pay meal and rest period premiums, Defendant failed to provide all final wages owed to
28 Plaintiff and similarly situated employees within twenty-four (24) hours of their termination or seventy-

1 two (72) hours of their resignation. In addition, Defendant failed to provide Plaintiff and similarly
2 situated employees with accurate wage statements. The wage statements Defendant provided to Plaintiff
3 and similarly situated employees did not accurately state their total regular hours worked, overtime
4 hours worked, gross wages and net wages, and all deductions made. Consequently, the wage statements
5 were defective.

6 **CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**
8 **FAILURE TO PAY OVERTIME WAGES**
9 **(As to all Defendants)**

10 24. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 23 as though fully
11 set forth herein.

12 25. During the period Plaintiff was employed by Defendant, Defendant was required to
13 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
14 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
15 hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order No. 4, section (3)(A);*
16 *Cal. Labor Code §§ 510, 1194.*

17 26. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day and
18 forty (40) hours per week while employed by Defendant. Defendant failed to compensate Plaintiff and
19 similarly situated employees for all overtime work, which is calculated at one and one-half (1½) times
20 the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per
21 week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day.
22 *See, e.g., IWC Wage Order No. 4, section (3)(A); Cal. Labor Code §§ 510 and 1194.*

23 27. Plaintiff and similarly situated employees were non-exempt employees under the
24 administrative, executive, or professional exemptions found in IWC Wage Order No. 4, section 1 and
25 California Labor Code section 510.

26 28. Defendant's conduct described herein violates California Labor Code sections 510 and
27 1194, and IWC Wage Order No. 4. As a proximate result of Defendant's conduct, Plaintiff has been
28 damaged and deprived of overtime wages for three (3) years from the filing of this Complaint. Plaintiff

1 now seeks these wages, as well as attorney's fees and costs, and interest pursuant to California Labor
2 Code section 1194.

3 **SECOND CAUSE OF ACTION**
4 **FAILURE TO PAY MINIMUM WAGES**
5 **(As to all Defendants)**

6 29. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 28 as though fully
7 set forth herein.

8 30. For the period preceding the filing of this Complaint, Defendant was required to
9 compensate California's minimum wage of \$8.00 per hour (beginning January 1, 2008), \$9.00 per hour
10 (beginning July 1, 2014), \$10.00 per hour (beginning January 1, 2016), \$10.50 per hour (beginning
11 January 1, 2017, for employers with twenty-six (26) or more employees) or \$10.00 per hour (beginning
12 January 1, 2017, for employers with twenty-five (25) or less employees), \$11.00 per hour (beginning
13 January 1, 2018, for employers with twenty-six (26) or more employees) or \$10.50 per hour (beginning
14 January 1, 2018, for employers with twenty-five (25) or less employees), \$12.00 per hour (beginning
15 January 1, 2019, for employers with twenty-six (26) or more employees) or \$11.00 per hour (beginning
16 January 1, 2019, for employers with twenty-five (25) or less employees), and \$13.00 per hour
17 (beginning January 1, 2020, for employers with twenty-six (26) or more employees) or \$12.00 per hour
18 (beginning January 1, 2020, for employers with twenty-five (25) or less employees). *See, e.g., IWC*
19 *Wage Order, No. 4, section 4(A); Cal. Labor Code § 1194.*

20 31. Plaintiff was not exempt to the State's Minimum Wage Orders. Defendant was aware of
21 its obligation to pay the minimum wage for each hour worked but failed to do so.

22 32. As a proximate result of Defendant's conduct, Plaintiff has been damaged as stated in the
23 section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
24 here in full.

25 **THIRD CAUSE OF ACTION**
26 **FAILURE TO PROVIDE MEAL PERIODS**
27 **(As to all Defendants)**

28 33. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 32 as though fully
set forth herein.

34. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and Labor Code sections 226.7 and 512.

35. Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

36. Labor Code section 512 and Wage Order No. 4 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period.

37. Plaintiff alleges that Defendant employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

38. Defendant further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

39. As a proximate cause of Defendant's failure to permit meal periods as legally required, Plaintiff is entitled to one (1) hour of pay at the employee's regular rate of compensation for each meal period not provided, as a wage, from three (3) years of the filing of this action. Cal. Labor Code § 226.7 and IWC Wage Order No. 4, § 11(D).

FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS
(As to all Defendants)

40. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 39 as though fully set forth herein.

41. An employer must provide an employee a rest period in accordance with the applicable Wage Order and Labor Code section 226.7.

42. Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

43. Plaintiff alleges that Defendant failed to authorize and permit Plaintiff and similarly situated employees to take rest periods of at least ten (10) minutes for each work period that he worked more than four (4) hours or a major fraction thereof.

44. As a proximate cause of Defendant's failure to "authorize and permit" rest periods, Plaintiff is entitled to one (1) hour of pay at the employee's regular rate of compensation for each rest period not provided, as a wage, from three (3) years of the filing of this action. Cal. Labor Code § 226.7 and IWC Wage Order No. 4, § 12(B).

FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS
(As to all Defendants)

45. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 44 as though fully set forth herein.

46. Pursuant to Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

1 47. Plaintiff alleges that Defendant intentionally and knowingly failed to provide an itemized
2 statement or failed to provide an accurate and complete itemized statement showing the requirements set
3 forth in Labor Code section 226(a). Due to Defendant's compensation policies during Plaintiff's
4 employment that resulted in failing to pay accurately for all hours worked, Defendant did not properly
5 itemize all hours worked.

6 48. Additionally, Plaintiff alleges she suffered injury as a result of the Defendant's failure to
7 provide any wage statement or by failing to provide accurate and complete information as required by
8 any one or more of items (1) to (9), inclusive, of Labor Code section 226, subdivision (a). Plaintiff and
9 similarly situated employees cannot promptly and easily determine, or, in other words, a reasonable
10 person would not be able to readily ascertain the information without reference to other documents or
11 information from the wage statement alone, one or more of the following:

- 12 (i) The amount of the gross wages or net wages paid to the employee
13 during the pay period or any of the other information required to be
14 provided on the itemized wage statement pursuant to items (2) to (4),
15 inclusive, (6), and (9) of section 226, subdivision (a); or
16 (ii) Which deductions the employer made from gross wages to determine
17 the net wages paid to the employee during the pay period; or
18 (iii) The name and address of the employer and, if the employer is a farm
19 labor contractor, as defined in subdivision (b) of Labor Code section 1682,
20 the name and address of the legal entity that secured the services of the
21 employer during the pay period.
22 (iv) The name of the employee and only the last four digits of his or her
23 social security number or an employee identification number other than a
24 social security number.

25 49. As a proximate cause of Defendant's failure to provide accurate statements, Plaintiff was
26 damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent
27 pertinent as if set forth here in full.

28
SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to all Defendants)

1 50. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 49 as though fully
2 set forth herein.

3 51. An employer must pay an employee who is terminated all unpaid wages immediately
4 upon termination. See Cal. Labor Code § 201.

1 52. An employer must pay an employee who resigns all unpaid wages within seventy-two
2 (72) hours of their resignation. *See* Cal. Labor Code § 202.

3 53. Plaintiff and similarly situated employees did not receive all wages, including minimum
4 wages, overtime compensation, and meal and rest period premiums), at their termination or within the
5 required time after their separation from employment.

6 54. An employer who willfully fails to pay an employee wages in accordance with Labor
7 Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days.
8 *See* Cal. Labor Code § 203.

9 55. Defendant knew of their obligation to pay Plaintiff and similarly situated employees for
10 all hours worked when employment ended either through separation or termination. Indeed, Defendant
11 knew that Plaintiff and similarly situated employees worked off-the-clock hours, were not able to take
12 their full thirty (30) minute meal breaks, when Plaintiff worked for periods lasted for more than five (5)
13 hours and more than ten (10) hours took late lunches, missed rest periods after four (4) hours, or major
14 fraction thereof of work time, and worked more hours than were reflected on their time stubs.

15 56. Such conduct shows Defendant's knowledge of its obligation to pay minimum wages,
16 overtime compensation, and meal and rest period premiums upon termination and their willful refusal.

17 57. As a proximate result of the Defendant's conduct, Plaintiff has been damaged and
18 deprived of his/her wages and thereby seeks his/her daily rate of pay multiplied by thirty (30) days for
19 Defendant's failure to pay all wages due.

20 **SEVENTH CAUSE OF ACTION**
21 **VIOLATION OF LABOR CODE § 558**
22 **(As to all Defendants)**

23 58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 57 as though fully
24 set forth herein.

25 59. California Labor Code section 558 provides that "[a]ny employer or other person acting
26 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
27 provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be
28 subject to a civil penalty as follows: . . . For any initial violation, fifty dollars (\$50) for each underpaid
employee for each pay period for which the employee was underpaid in addition to an amount sufficient

1 to recover underpaid wages. . . . For each subsequent violation, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee was underpaid in addition to an amount
3 sufficient to recover underpaid wages. . . . Wages recovered pursuant to this section shall be paid to the
4 affected employee.”

5 60. California Labor Code sections 510 (governing overtime), 512 (governing meal periods),
6 516, and 517 (providing the Industrial Welfare Commission authority to set additional regulations
7 through the wage orders) are within the same chapter as section 558.

8 61. As a direct and proximate result of Defendant’s conduct, California Labor Code sections
9 510, 512, 516, and 517 have been violated throughout the applicable duration of Plaintiff’s employment.
10 Plaintiff is, therefore, entitled to, and seeks, penalties and wages pursuant to California Labor Code
11 section 558.

12 **EIGHTH CAUSE OF ACTION**
13 **FAILURE TO KEEP ACCURATE TIME RECORDS**
14 **(As to Defendants)**

15 62. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 61 as though fully
16 set forth herein.

17 63. California Labor Code section 1174(d) provides that employers must keep “payroll
18 records showing the hours worked daily by and the wages paid to . . . employees . . . These records shall
19 be kept in accordance with rules established for this purpose by the commission, but in any case shall be
20 kept on file for not less than three years.”

21 64. California Industrial Wage Order No. 5, section (7)(A) further requires employers to
22 “keep accurate information with respect to each employee including the following:

- 23 (3) Time records showing when the employee begins and ends each work
24 period. Meal periods, split shift intervals . . . shall also be recorded.
25 (5) Total hours worked in the payroll period and applicable rates of pay.

26 65. Throughout Plaintiff and similarly situated employees’ employment with Defendant,
27 Defendant did not keep accurate information regarding all hours worked or meal periods taken. As
28 elaborated above, Defendant had a practice of not keeping track of all hours that Plaintiff and similarly
situated employees worked.

1 66. As a direct and proximate result of Defendant's conduct, California Labor Code section
2 1174 has been violated throughout the duration of Plaintiff's employment. Plaintiff is, therefore,
3 entitled to, and seeks, penalties pursuant to California Labor Code section 1174.5.

4
5 **NINTH CAUSE OF ACTION**
6 **UNFAIR COMPETITION**
7 **(As to all Defendants)**

8 67. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 66 as though fully
9 set forth herein.

10 68. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
11 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
12 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
13 California Business and Professions ("B&P") Code § 17200.

14 69. Plaintiff and similarly situated employees were not provided legally compliant paystubs
15 and were not paid all wages earned, including minimum and overtime wages and meal and rest period
16 premiums.

17 70. Plaintiff is also informed and believes and thereon alleges that such actions and/or
18 conduct constitute a violation of the California Unfair Competition Law ("UCL") (Business and
19 Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th
20 163 (2000).

21 71. As a direct and legal result of the Defendant's conduct, as alleged herein, pursuant to the
22 UCL (including B&P Code §17203), Plaintiff is entitled to restitution as a result of the Defendant's
23 unfair business practices, including, but not limited to, interest and penalties pursuant to B&P §§ 17203,
24 17208, violations of Labor Code sections 210, 202, 203, 225.5, 226, 226.3, 226.7, 246, 246.5, 256, 510,
25 512, 558, 1194, 1197.1, all in an amount as yet unascertained but subject to proof at trial, for four (4)
26 years from the filing of this Action.

27 //

28 //

//

TENTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

72. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 71 as though fully set forth herein.

73. Plaintiff herself has alleged to the Labor Commissioner that Defendant violated the following provisions of the Labor Code in its dealings with Plaintiff and other similarly situated current and former employees:

- Violation of Labor Code sections 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages);
- Violation of Labor Code sections 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages);
- Violation of Labor Code sections 226, 226.3 (Failure to Provide Accurate Wage Statements);
- Violation of Labor Code sections 201-203, 256 (Failure to Pay Final Wages);
- Violation of Labor Code sections 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code section 226.3, 1174 (Failure to Maintain Accurate Records);
- Violation of Labor Code sections 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof);
- Violation of Labor Code section 226.7 and Wage Order No. 4, section 12(A) and 12(B) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof); and
- Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or, if no civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

74. Plaintiff has received authorization, based on the LWDA's failure to send notice of its intent to pursue Plaintiff's claims, to act on behalf of the Labor Commissioner to assess civil penalties against Defendant pursuant to Labor Code sections 2699(a) and 2699.3.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action – Failure to Pay Overtime
 - a. Wages in the amount of \$1,000,000.00;
 - b. Interest for the wages due pursuant to Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 1194;
 - d. Liquidated damages pursuant to Labor Code section 1194.2;
3. As to the Second Cause of Action – Failure to Pay Minimum Wages:
 - a. \$1,000,000.00;
 - b. Interest for the wages due pursuant to Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 1194;
4. As to the Third Cause of Action – Failure to Provide Meal Periods:
 - a. \$1,000,000.00;
 - b. Attorney's fees and costs and interest pursuant to Labor Code sections 218.5 and 218.6;
5. As to the Fourth Cause of Action – Failure to Provide Rest Periods
 - a. \$1,000,000.00;
 - b. Attorney's fees and costs interest pursuant to Labor Code sections 218.5 and 218.6;
6. As to the Fifth Cause of Action – Failure to Provide Accurate Itemized Statements:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);
 - a. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

1 7. As to the Seventh Cause of Action – Violation of Labor Code § 558

- 2 a. Fifty dollars (\$50.00) per pay period for the initial violation and one hundred
3 dollars (\$100.00) per pay period for each subsequent violation where Yes were
4 underpaid in addition to an amount sufficient to recover underpaid wages;

5 8. As to the Eighth Cause of Action – Failure to Keep Accurate Time Records

- 6 a. Penalties as provided for in Labor Code section 1174.5;

7 9. As to the Tenth Cause of Action -PAGA:

- 8 b. Penalties according to the following schedule: For any initial violation, one
9 hundred dollars (\$100) for each aggrieved employee per pay period; For any
10 subsequent violation, two hundred dollars (\$200) for each aggrieved employee
11 per pay period; or otherwise enumerated for specific Labor Code sections;

- 12 c. Reasonable attorney's fees and costs pursuant to the Labor Code section 2699;

13 10. For such other and further relief as this Court may deem just and proper,
14 including, but not limited to:

- 15 a. Wages as proved at trial;
16 b. Injunctive and Declaratory relief;
17 c. Attorney's fees and costs; and
18 d. Interest.

19
20 Dated: May 8, 2020

Shimoda Law Corp.

21
22 By: _____


Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Renald Konini
Attorneys for Plaintiff