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

PINA AFOA, on behalf of herself and
similarly situated employees

Plaintiff,
vs.

MILESTONE RETIREMENT
COMMUNITIES, LLC., a Delaware Limited
Liability Corporation; MILESTONE
RETIREMENT COMMUNITIES OF
WASHINGTON, LLC., a Washington
Limited Liability Corporation; MILESTONE
MANAGEMENT (CA) – MEADOWS,
LLC., a California Limited Liability
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2020-00282555

**FIRST AMENDED CLASS ACTION
AND PAGA COMPLAINT**

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 Reimbursement
Expenses (Labor Code § 2802)
6. Wage Statement Violations (Labor
Code § 226)
7. Waiting Time Penalties (Labor
Code §§ 201-203)
8. Unfair Competition Law (Business
& Professions Code § 17200 *et seq.*)
9. Private Attorneys General Act
(Labor Code §§ 2699, *et seq.*)

JURY TRIAL REQUESTED

1 PINA AFOA ("Plaintiff") hereby file this Class Action and Private Attorney General Act
2 ("PAGA") Complaint against Defendants MILESTONE RETIREMENT COMMUNITIES, LLC., a
3 Delaware Limited Liability Corporation, MILESTONE RETIREMENT COMMUNITIES OF
4 WASHINGTON, LLC., a Washington State Limited Liability Corporation; MILESTONE
5 MANAGEMENT (CA) – MEADOWS, LLC., a California Limited Liability Corporation; and DOES 1
6 to 100 (hereinafter collectively referred to as "Defendants"). Plaintiff is informed and believes and
7 based on this information and belief alleges as follows:

8 INTRODUCTION

9 1. Plaintiff files the instant class action against Defendant MILESTONE MANAGEMENT
10 (CA) – MEADOWS, LLC, only, as her employer of record, alleging failure to pay minimum wages,
11 failure to pay overtime wages, meal period violations, rest period violations, wage statement violations,
12 failure to timely pay final wages, failure to reimburse expenses, and unfair competition. Plaintiff also
13 files a derivative PAGA action for civil penalties against MILESTONE MANAGEMENT (CA) –
14 MEADOWS, LLC. and associated entities, MILESTONE RETIREMENT COMMUNITIES, LLC., and
15 MILESTONE RETIREMENT COMMUNITIES OF WASHINGTON, LLC.

16 PARTIES

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

19 3. Plaintiff is informed and believes, and thereupon alleges, that Defendant MILESTONE
20 RETIREMENT COMMUNITIES, LLC., is now and/or at all times mentioned in this Complaint, was a
21 Delaware Limited Liability Corporation and the owner and operator of an industry, business and/or
22 facility licensed to do business and actually doing business in the State of California.

23 4. Plaintiff is informed and believes, and thereupon alleges, that Defendant MILESTONE
24 RETIREMENT COMMUNITIES OF WASHINGTON, LLC., is now and/or at all times mentioned in
25 this Complaint, was a Washington State Limited Liability Corporation and the owner and operator of an
26 industry, business and/or facility licensed to do business and actually doing business in the State of
27 California.
28

1 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant MILESTONE
2 MANAGEMENT (CA) – MEADOWS, LLC., (“MEADOWS”) is now and/or at all times mentioned in
3 this Complaint, was a California Limited Liability Corporation and the owner and operator of an
4 industry, business and/or facility licensed to do business and actually doing business in the State of
5 California.

6 **JURISDICTION AND VENUE**

7 6. The Sacramento County Superior Court has jurisdiction in this matter due to alleged
8 violations of the California Labor Code, Business and Professions Code sections 17200 *et seq.*, and
9 Industrial Welfare Commission Wage Order (“Wage Order”) No. 5-2001.

10 7. Venue is proper pursuant to Civil Procedure Code sections 395(a) and 395.5, in that some
11 of the wrongful acts and violations of law asserted herein occurred within Sacramento County.
12 Additionally, Defendants’ obligation to pay wages, including minimum wages, overtime wages, meal
13 period premiums, reimbursement expenses, and rest period premiums, arose in Sacramento County
14 pursuant to *Madera Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414 (1984).

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

26 **CLASS ALLEGATIONS**
27 **(Against MILESTONE MANAGEMENT (CA) – MEADOWS, LLC only)**

28 9. Plaintiff brings this class action, on behalf of herself and all others similarly

1 situated, as a class action pursuant to California Code of Civil Procedure section 382. The class that
2 Plaintiff seeks to represent is composed of and defined as follows:

3 Plaintiff and similarly situated hourly, non-exempt employees who have or
4 continue to work for the MEADOWS in California from July 31, 2016 to the
5 present.¹

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

9 (a) Numerosity: The Plaintiff Class is so numerous that the individual joinder of all members
10 is impracticable under the circumstances of this case. While the exact number of class
11 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that the
12 MEADOWS has employed as many as one hundred (100) individuals falling within the
13 above stated class definition throughout the State of California during the applicable
14 statute of limitations, who were subjected to the practices outlined in this Complaint. As
15 such, joinder of all members of the Plaintiff Class is not practicable.

16 (b) Common Questions Predominate: Common questions of law and fact exist as to all
17 members of the Plaintiff Class and predominate over questions that affect only individual
18 members of the class. These common questions of law and fact include, without
19 limitation, the following:

- 20 i. Whether the MEADOWS paid Plaintiff and members of the Plaintiff's Class for
21 all hours worked;
22 ii. Whether the MEADOWS paid Plaintiff and members of the Plaintiff's Class at
23 least minimum wage for all hours worked;
24 iii. Whether the MEADOWS properly paid Plaintiff and members of the Plaintiff's
25 Class for all overtime hours worked;

26 ¹ Per Emergency Rule 9 (tolling statute of limitations for civil causes of action) of the Judicial Council's
27 Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed
28 180 days are tolled from April 6, 2020 until October 1, 2020. Accordingly, Plaintiff's claims were
tolled during that time period.

- iv. Whether Plaintiff and members of the Plaintiff's Class worked over eight (8) hours in a day;
- v. Whether Plaintiff and members of the Plaintiff's Class worked over forty (40) hours in a week;
- vi. Whether the MEADOWS had a policy and/or practice of failing to pay Plaintiff and members of the Plaintiff's Class for all hours worked;
- vii. Whether the MEADOWS had a policy and/or practice of failing to pay Plaintiff and members of the Plaintiff's Class for all overtime hours worked;
- viii. Whether the MEADOWS had a policy and/or practice allowing for or providing Plaintiff and members of the Plaintiff's Class meal periods as required by law;
- ix. Whether the MEADOWS had a policy and/or practice allowing for or providing Plaintiff and members of the Plaintiff's Class rest periods as required by law;
- x. Whether the MEADOWS had a policy and/or practice that provided reimbursement of business expenses owed to Plaintiff and members of the Plaintiff's Class;
- xi. Whether Defendant provided Plaintiff and putative class members with wage statements that complied with California Labor Code section 226; and
- xii. Whether the MEADOWS provided Plaintiff and members of the Plaintiff's Class their final wages in compliance with Labor Code sections 201 to 203.

- (c) Typicality: Plaintiff's claims are typical of the claims of the members of the Plaintiff Class. They also sustained damages arising out of the MEADOWS' common course of conduct in violation of the law as complained of herein. Because of the MEADOWS' policies and practices, Plaintiff and all members of the putative class were not paid for all hours worked, were not paid all overtime hours worked, were not provided all legally mandated meal and rest periods, or paid premiums in lieu thereof. As a result, each putative class member will have the same basis for unpaid wage claims as does Plaintiff.
- (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the putative class. For all relevant times, Plaintiff resided in California, worked for the

1 MEADOWS in California, and is an adequate representative of the putative class, as she
2 has no interests that are adverse to those of absent class members. Additionally, Plaintiff
3 has retained counsel who has substantial experience in complex civil litigation and wage
4 and hour matters.

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

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

19 **GENERAL ALLEGATIONS**

20 12. Plaintiff incorporates by reference and re-allege paragraphs 1 through 11 as though fully
21 set forth herein.

22 13. Plaintiff began working for Defendant MEADOWS on June 16, 2018. When Plaintiff
23 began working at the MEADOWS, she was a Care Provider/Medication Technician, making
24 approximately \$14.50 an hour. Soon thereafter, Defendant MEADOWS promoted her to Resident Care
25 Coordinator, where, among other job duties, she was responsible for staffing shifts when employees
26 called in to work sick. At the time of her employment separation on May 29, 2019, Plaintiff was making
27 \$18.00 per hour.

28 //

1 14. While Plaintiff worked for Defendant MEADOWS, Defendant failed to pay Plaintiff and
2 similarly situated employees for all hours worked. For instance, while Plaintiff was working at the
3 MEADOWS, the facility used a fingerprint device to allow employees to clock in and out. Often this
4 device was not functional and caused errors in the time keeping process. Defendant MEADOWS was
5 aware of this problem and knew Plaintiff and other similarly situated employees had errors in time
6 keeping. These errors resulted in forfeiture in pay and loss of time in the form of wages.

7 15. Outside of time lost due to clock in and out errors, there were other instances where
8 Defendant MEADOWS failed to pay Plaintiff and similarly situated employees for all hours worked.
9 This occurred weekly for many employees and was brought to management's attention.

10 16. Defendant MEADOWS would also consistently contact Plaintiff after work hours and
11 when she was off the clock. Plaintiff received calls and texts about work and questions relating to
12 operations. Defendant MEADOWS did not record this time and did not pay for this time as hours
13 worked.

14 17. The amount of time Plaintiff spent working after hours was significant. In fact, Plaintiff
15 estimates she spent approximately eight (8) to ten (10) hours per week doing work related business on
16 her personal cell phone and company computer while not at work. This included, among other things,
17 answering operational questions and making arrangements to cover shifts when employees called off
18 work. Management was aware of this but, nonetheless, failed to pay Plaintiff for the work she was
19 doing after working hours when she was not at work.

20 18. Additionally, Defendant MEADOWS did not have a practice and policy that informed
21 Plaintiff and similarly situated employees of their right to take a second meal break after working ten
22 (10) hours. Moreover, Plaintiff and similarly situated employees did not voluntarily agree to, or
23 otherwise waive, their right to a second meal break. While Defendant MEADOWS sometimes paid
24 meal break premiums to employees who missed their first meal breaks, no such policy was instituted for
25 a second meal break.

26 19. In addition to this, there were many instances when Plaintiff and others similarly situated
27 employees were not able to take a full thirty (30) minute, uninterrupted meal break, because of staff
28 shortages and Defendant MEADOWS' policies.

1 20. Similarly, when Plaintiff worked up to twelve (12) or more hours a day or major fraction
2 thereof, Defendant MEADOWS failed to provide a third and fourth rest break. Plaintiff and other
3 similarly situated employees were unaware of any such policy allowing for a third or fourth rest period.
4 Also, like the meal breaks, staffing shortages and Defendant MEADOWS' policies regularly made it
5 difficult for Plaintiff and similarly situated to take their rest breaks.

6 21. Additionally, during the time that Plaintiff worked for Defendant MEADOWS, she and
7 similarly situated employees received wage statements from the Defendant MEADOWS, which
8 incorrectly identified the legal entity that was their employer. Specifically, Plaintiff and similarly
9 situated employees received wage statements from Defendant MEADOWS, which listed the employer
10 name as "Meadows". This was not the legal name of Plaintiff and similarly situated employees'
11 employer while they worked for Defendant MEADOWS. It was only after Plaintiff's employment at
12 Defendant MEADOWS ended, when she learned that the correct legal name of her employer is
13 Milestone Management (CA) – Meadows, LLC. As a result, Plaintiff and similarly situated employees
14 suffered confusion and injury because they did not know the legal entity responsible for recording their
15 hours worked and providing them wages due.

16 22. As a result of Defendant MEADOWS' failure to pay Plaintiff and similarly situated
17 employees for all time worked, failure to pay reimbursement expenses, and failure to pay meal and rest
18 period premiums, Defendant failed to provide all final wages owed to Plaintiff and similarly situated
19 employees within twenty-four (24) hours of their termination or seventy-two (72) hours of their
20 resignation.

CAUSES OF ACTION

FIRST CAUSE OF ACTION **FAILURE TO PAY OVERTIME WAGES** **(As Against the MEADOWS)**

21
22
23
24 23. Plaintiff incorporates by reference and re-allege paragraphs 1 through 22 as though fully
25 set forth herein.

26 24. During the period Plaintiff was employed by the MEADOWS, the MEADOWS
27 was required to compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours
28 worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the

1 regular rate of pay for hours worked in excess of twelve (12) hours per day. *See, e.g., IWC Wage Order*
2 *No. 5, section (3)(A); Cal. Labor Code §§ 510, 1194.*

3 25. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
4 and forty (40) hours per week while employed by the MEADOWS. The MEADOWS failed to
5 compensate Plaintiff and similarly situated employees for all overtime work, which is calculated at one
6 and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day
7 and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of
8 twelve (12) hours per day. *See, e.g., IWC Wage Order No. 5, section (3)(A); Cal. Labor Code §§ 510*
9 *and 1194.*

10 26. Plaintiff and similarly situated employees were non-exempt employees under the
11 administrative, executive, or professional exemptions found in IWC Wage Order No. 5, section 1 and
12 Cal. Labor Code section 510.

13 27. As a proximate result of Defendant's conduct, Plaintiff and similarly situated
14 employees have been damaged as stated in the section below entitled "DAMAGES," which is
15 incorporated here to the extent pertinent as if set forth here in full.

16
17 **SECOND CAUSE OF ACTION**
FAILURE TO PAY MINIMUM WAGES
18 **(As Against the MEADOWS)**

19 28. Plaintiff incorporates by reference and re-allege paragraphs 1 through 27 as though fully
20 set forth herein.

21 29. For the period preceding the filing of this Complaint, the MEADOWS was required to
22 compensate California's minimum wage of \$8.00 per hour (beginning January 1, 2008), \$9.00 per hour
23 (beginning July 1, 2014), \$10.00 per hour (beginning January 1, 2016), \$10.50 per hour (beginning
24 January 1, 2017, for employers with twenty-six (26) or more employees) or \$10.00 per hour (beginning
25 January 1, 2017, for employers with twenty-five (25) or less employees), \$11.00 per hour (beginning
26 January 1, 2018, for employers with twenty-six (26) or more employees) or \$10.50 per hour (beginning
27 January 1, 2018, for employers with twenty-five (25) or less employees), \$12.00 per hour (beginning
28 January 1, 2019, for employers with twenty-six (26) or more employees) or \$11.00 per hour (beginning
January 1, 2019, for employers with twenty-five (25) or less employees), and \$13.00 per hour

1 (beginning January 1, 2020, for employers with twenty-six (26) or more employees) or \$12.00 per hour
2 (beginning January 1, 2020, for employers with twenty-five (25) or less employees). *See, e.g., IWC*
3 *Wage Order, No. 5, section 4(A); Labor Code § 1194.*

4 28. Plaintiff was not exempt to the State's Minimum Wage Orders. The MEADOWS was
5 aware of its obligation to pay the minimum wage for each hour worked but failed to do so.

6 29. As a proximate result of the MEADOWS' conduct, Plaintiff and similarly situated
7 employees have been damaged as stated in the section below entitled "DAMAGES," which is
8 incorporated here to the extent pertinent as if set forth here in full.

9
10 **THIRD CAUSE OF ACTION**
FAILURE TO PROVIDE MEAL PERIODS
11 **(As Against the MEADOWS)**

12 30. Plaintiff incorporates by reference and re-allege paragraphs 1 through 29 as though
13 fully set forth herein.

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

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

19 33. Labor Code section 512 and Wage Order No. 5 section 11(B) further provide that
20 employers may not employ employees for a work period for more than ten (10) hours per day
21 without providing the employee with a second meal period of at least thirty (30) minutes. However,
22 if the total hours worked is no more than twelve (12) hours, the second meal period may be waived
23 so long as there was no waiver as to the first meal period.

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

1 35. The MEADOWS further failed to pay Plaintiff and similarly situated employees the
2 applicable meal period premiums for any such missed meal breaks.

3 36. As a proximate result of the MEADOWS' conduct, Plaintiff and similarly situated
4 employees have been damaged as stated in the section below entitled "DAMAGES," which is
5 incorporated here to the extent pertinent as if set forth here in full.

6 **FOURTH CAUSE OF ACTION**
7 **FAILURE TO PROVIDE REST PERIODS**
8 **(As Against the MEADOWS)**

9 37. Plaintiff incorporates by reference and re-allege paragraphs 1 through 36 as though
10 fully set forth herein.

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

13 39. Labor Code section 226.7 and Wage Order No. 5, section 12(A) require an employer
14 to provide a rest period of not less than ten (10) minutes for each work period of more than four (4)
15 hours or a major fraction thereof.

16 40. Plaintiff alleges that the MEADOWS failed to authorize and permit Plaintiff and
17 similarly situated employees to take rest periods of at least ten (10) minutes for each work period that
18 she worked more than four (4) hours or a major fraction thereof.

19 41. As a proximate result of the MEADOWS' conduct, Plaintiff and similarly situated
20 employees have been damaged as stated in the section below entitled "DAMAGES," which is
21 incorporated here to the extent pertinent as if set forth here in full.

22 **FIFTH CAUSE OF ACTION**
23 **FAILURE TO REIMBURSE EXPENSES**
24 **(As Against the MEADOWS)**

25 42. Plaintiff incorporates by reference and re-allege paragraphs 1 through 41 as though fully
26 set forth herein.

27 43. Labor Code section 2802(a) states that "An employer shall indemnify his or her
28 employee for all necessary expenditures or losses incurred by the employee in direct consequence of the
discharge of his or her duties, or of his or her obedience to the directions of the employer, even though
unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

1 44. The MEADOWS failed to reimburse Plaintiff and similarly situated employees for their
2 required use of personal cell phones for work purposes. Plaintiff and similarly situated employees often
3 had to use their cell phones while at work or at home to perform their duties. They received work calls
4 and texts regularly, sometimes daily, from managers and other employees.

5 45. The MEADOWS' conduct described herein violated California Labor Code section 2802.
6 As a proximate result of the MEADOWS' conduct, Plaintiff and similarly situated employees have been
7 damaged as stated in the section below titled "DAMAGES."

8
9 **SIXTH CAUSE OF ACTION**
10 **WAGE STATEMENT VIOLATIONS**
 (As Against the MEADOWS)

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

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

15 *(1) gross wages earned, (2) total hours worked by the employee, except for*
16 *any employee whose compensation is solely based on a salary and who is*
17 *exempt from payment of overtime under subdivision (a) of Section 515 or*
18 *any applicable order of the Industrial Welfare Commission, (3) the*
19 *number of piece-rate units earned and any applicable piece rate if the*
20 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
21 *all deductions made on written orders of the employee may be aggregated*
22 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
23 *period for which the employee is paid, (7) the name of the employee and*
24 *the last four digits of his or her social security number or an employee*
25 *identification number other than a social security number, (8) the name*
26 *and address of the legal entity that is the employer and, if the employer is*
27 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
28 *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.

48. Plaintiff alleges that Defendant MEADOWS intentionally and knowingly failed to
provide an itemized statement or failed to provide an accurate and complete itemized statement showing

1 the requirements set forth in California Labor Code section 226(a). Specifically, Defendant did not
2 accurately state the legal entity that was the employer. As such, Plaintiff and similarly situated
3 employees were not able to promptly and easily determine who their employer was from their paystubs
4 alone. This, in turn, led Plaintiff and similarly situated employees to suffer confusion over what legal
5 entity was responsible for providing them the information on their wage statements.

6 49. As a proximate result of Defendant's conduct, Plaintiff and similarly situated
7 employees have been damaged as stated in the section below entitled "DAMAGES," which is
8 incorporated here to the extent pertinent as if set forth here in full.

9 **SEVENTH CAUSE OF ACTION**
10 **WAITING TIME PENALTIES**
(As Against the MEADOWS)

11 50. Plaintiff incorporates by reference and re-allege paragraphs 1 through 49 as though fully
12 set forth herein.

13 51. An employer must pay an employee who is terminated all unpaid wages immediately
14 upon termination. *See* Labor Code § 201.

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

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

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

23 55. The MEADOWS knew of its obligation to pay Plaintiff and similarly situated employees
24 overtime wages and meal and rest period premiums when employment terminated. Indeed, the
25 MEADOWS had knowledge that Plaintiff and similarly situated employees worked over eight (8) hours
26 a day and/or forty (40) hours a week, worked through thirty (30) minute meal periods when Plaintiff
27 worked for periods lasted for more than five (5) hours and more than ten (10) hours, or worked more
28 hours than reflected in their paystubs when employment terminated. Moreover, the MEADOWS knew

1 that other employees had made complaints regarding unpaid wages in the past. Such conduct shows the
2 MEADOWS' knowledge of its obligation to pay Plaintiff and similarly situated employees for all hours
3 worked, including minimum wages and overtime, and meal and rest period premiums upon termination
4 and their willful refusal.

5 56. As a proximate result of the MEADOWS' conduct, Plaintiff and similarly situated
6 employees have been damaged and deprived of their wages and thereby seek their daily rate of pay
7 multiplied by thirty (30) days for the MEADOWS' failure to pay all wages due.

8 **EIGHTH CAUSE OF ACTION**
9 **UNFAIR COMPETITION**
10 **(As Against the MEADOWS)**

11 57. Plaintiff incorporates by reference and re-allege paragraphs 1 through 56 as though
12 fully set forth herein.

13 58. Unfair competition shall mean and include any unlawful, unfair, or fraudulent business
14 act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter
15 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See
16 California Business and Professions ("B&P") Code § 17200.

17 59. Plaintiff and similarly situated employees were not provided legally compliant paystubs
18 and were not paid all wages earned, including minimum and overtime wages and meal and rest period
19 premiums, at their termination or separation of employment when applicable.

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

24 61. As a direct and legal result of the Defendant MEADOWS' conduct, as alleged herein,
25 pursuant to the UCL (including B&P Code §17203), Plaintiff is entitled to restitution as a result of the
26 Defendant's unfair business practices, including, but not limited to, interest and penalties pursuant to
27 B&P sections 17203, 17208, violations of Labor Code sections 226, 226.7, 510, 512, and 1194, all in an
28 amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

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NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As Against all Defendants)

62. Plaintiff incorporates by reference and re-allege paragraphs 1 through 61 as though fully set forth herein.

63. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiff and other current and former Aggrieved Employees:

- Violation of Labor Code sections 1194, 1197.1 and Wage Order No. 5, section 4 (Failure to Pay Minimum Wages);
- Violation of Labor Code sections 510, 1194, and Wage Order No. 5, section 3 (Failure to Pay Overtime Wages);
- Violation of Labor Code section 2802 (Failure to Pay Reimbursement for Expenses);
- Violation of Labor Code sections 201-203, 225.5, 256 (Failure to Pay Final Wages);
- Violation of Labor Code section 558 (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 §§ 226, 226.3 (Failure to Provide Accurate Wage Statements);
- Violation of Labor Code sections 226.7, 512 and Wage Order No. 5, sections 11(A) and 11(D) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof); and
- Violation of Labor Code section 226.7 and Wage Order No. 5, sections 12(A) and 11(B) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof).

64. 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).

65. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

66. 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 Defendants.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action (Plaintiff and Defendant MEADOWS only):
 - a. Wages in an amount to be proven at trial;
 - 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 (Plaintiff and Defendant MEADOWS only):
 - a. Wages in an amount to be proven at trial;
 - 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 (Plaintiff and Defendant MEADOWS only):
 - a. Wages in an amount to be proven at trial;
 - 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 (Plaintiff and Defendant MEADOWS only):
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees and costs and interest pursuant to Labor Code sections 218.5 and 218.6;
6. As to the Fifth Cause of Action (Plaintiff and Defendant MEADOWS only):
 - a. Expenses in the amount to be proven at trial;
 - b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
7. As to the Sixth Cause of Action – (Plaintiff and Defendant MEADOWS only):
 - 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);

b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

8. As to the Ninth Cause of Action – Violation of the PAGA:

a. For civil penalties as provided for in the Labor Code for each enumerated violation;

b. For those Labor Code sections, the violation of which there is no civil penalty provided, the default penalty provided in Labor Code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;

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

d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

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

a. Wages as proved at trial;

b. Injunctive and Declaratory relief;

c. Attorney's fees and costs; and

d. Interest.

Dated: March 15, 2020

Shimoda Law Corp.

By: 

Galen T. Shimoda

Justin P. Rodriguez

Brittany V. Berzin

Jessica L. Hart

Attorneys for Plaintiff

3 **PROOF OF SERVICE — CCP §§ 1010.6, 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Melissa A. Phillips, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party
7 to the within above-entitled action.

8 On March 15, 2021, I served the following documents on the party below:

- 9 • First Amended Class Action and PAGA Complaint

10 Josh Cliffe (SBN 215390)
11 Sophia Behnia (SBN 289318)
12 Carina L. Novell (SBN 329560)
13 Littler Mendelson, P.C.,
14 333 Bush St, Floor 34
15 San Francisco, California 94104
16 Phone: (415) 677-3122
17 Email: jcliffe@littler.com
18 sbehnia@littler.com
19 cnovell@littler.com

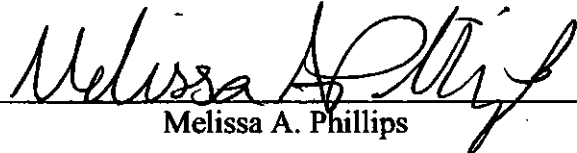
20 [XXX] [By Mail] I am familiar with my employer's practice for the collection and
21 processing of correspondence for mailing with the United States Postal
22 Service and that each day's mail is deposited with the United States Postal
23 Service that same day in the ordinary course of business. On the date set forth
24 above, I served the aforementioned document(s) on the parties in said action
25 by placing a true copy thereof enclosed in a sealed envelope with postage
26 thereon fully prepaid, for collection and mailing on this date, following
27 ordinary business practices, at Elk Grove, California, addressed as set forth
28 above.

29 [] [By Personal Service] By personally delivering a true copy thereof to the
30 office of the addressee above.

31 [] [By Electronic Mail] I e-mailed the documents(s) to the person(s)
32 shown above. No error was reported by the e-mail service that I used.

33 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
34 personally delivered via the following overnight courier service: _____.

35 I declare under penalty of perjury under the laws of the State of California that the
36 foregoing is true and correct, and that this declaration was executed on March 15, 2021, at Elk
37 Grove, California.

38 
Melissa A. Phillips

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MAIN LOBBY DROP BOX

2021 MAR 16 PM 1:16

GDSSC COURTHOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY