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12 similarly situated members of the general public

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF LOS ANGELES**

15 FLORENCIO LEGASPI, on behalf of
16 similarly situated members of the general
17 public,

18 Plaintiff,

19 vs.

20 CUCUMBER HOLDINGS, LLC;
21 CALIFORNIA OPCO, LLC; PLUM
22 HEALTHCARE GROUP, LLC; and DOES
23 1 through 20, inclusive,

24 Defendants.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUN 29 2020

Sherri R. Carter, Executive Officer/Clerk of Court

By: Kristina Vargas, Deputy

Case No.

20STCV24775

**COMPLAINT FOR VIOLATION OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
(CAL. LABOR CODE §§ 2698, ET SEQ.)**

1 Plaintiff Florencio Legaspi, individually and on behalf of other aggrieved employees,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Florencio Legaspi (“Plaintiff”) brings this representative action against
5 defendants Cucumber Holdings, LLC; California OPCO, LLC; Plum Healthcare Group, LLC,
6 and DOES 1 through 20, inclusive (collectively, “Defendants”), on behalf of himself
7 individually and all other aggrieved employees employed by Defendants throughout California.

8 2. Defendants are in the business of providing healthcare facilities and services.

9 3. Through this action, Plaintiff alleges that Defendants have engaged in a
10 systematic pattern of wage and hour violations under the California Labor Code and Industrial
11 Welfare Commission (“IWC”) Wage Orders.

12 4. Plaintiff is informed and believes, and thereon alleges, that during the relevant
13 time period, Defendants had a consistent policy of violating state wage and hour laws by,
14 among other things:

15 (a) Failing to pay all wages (including minimum wages and overtime
16 wages);

17 (b) Failing to provide lawful meal periods or compensation in lieu thereof;

18 (c) Failing to authorize or permit lawful rest breaks or provide compensation
19 in lieu thereof;

20 (d) Failing to provide accurate itemized wage statements; and

21 (e) Failing to pay all wages due upon separation of employment.

22 5. Plaintiff brings this representative action against Defendants on behalf of
23 himself and other aggrieved employees to recover, among other things, civil penalties,
24 attorney’s fees, costs and expenses pursuant to the Private Attorneys General Act of 2004,
25 Labor Code §§ 2698, *et seq.* (“PAGA”).

26 **JURISDICTION AND VENUE**

27 6. This is a representative action, pursuant to PAGA. The monetary relief sought
28 by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be

1 established according to proof at trial.

2 7. This Court has jurisdiction over this action pursuant to the California
3 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
4 causes, except those given by statutes to other courts. The statutes under which this action is
5 brought do not specify any other basis for jurisdiction.

6 8. This Court has jurisdiction over all Defendants because, upon information and
7 belief, they are citizens of California, have sufficient minimum contacts in California, or
8 otherwise intentionally avail themselves of the California market so as to render the exercise of
9 jurisdiction over them by the California courts consistent with traditional notions of fair play
10 and substantial justice.

11 9. Venue is proper in this Court because, upon information and belief, Defendants
12 reside, transact business, or have offices in this county, or the acts and omissions alleged herein
13 took place in this county.

14 **THE PARTIES**

15 10. Plaintiff is a resident of California and worked for Defendants in California
16 during the relevant time periods as alleged herein.

17 11. Plaintiff is informed and believes, and thereon alleges that at all times
18 hereinafter mentioned, Defendants were and are subject to the Labor Code and IWC Wage
19 Orders as employers, whose employees were and are engaged throughout this county and the
20 State of California.

21 12. Plaintiff is unaware of the true names or capacities of the defendants sued herein
22 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
23 Complaint and serve such fictitiously named defendants once their names and capacities
24 become known.

25 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20
26 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants
27 at all relevant times.

14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the employer and/or joint employer of Plaintiff and other aggrieved employees.

15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

16. At all relevant times, Defendants, and each of them, acted within the scope of such agency or employment, or ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

17. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

18. At all relevant times mentioned herein, Defendants employed Plaintiff and other persons as non-exempt employees at Defendants' California business location(s).

19. Defendant employed Plaintiff as a non-exempt employee at Defendants' California business location.

20. Defendants continue to employ non-exempt employees within California.

21. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who were knowledgeable about California's wage and hour laws, employment and personnel practices, and the requirements of California law.

1 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and aggrieved employees were entitled to receive wages for
3 all time worked (including minimum wages and overtime wages) and that they were not
4 receiving all wages earned for work that was required to be performed. In violation of the
5 Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees were not paid all wages
6 (including minimum wages and overtime wages) for all hours worked at the correct rate of pay.

7 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and aggrieved employees were entitled to receive all required
9 meal periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
10 employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.
11 In violation of the Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees did
12 not receive all meal periods or payment of one (1) additional hour of pay at Plaintiff's and
13 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted
14 meal period.

15 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and aggrieved employees were entitled to receive all rest
17 breaks or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees'
18 regular rate of pay when a rest break was missed. In violation of the Labor Code and IWC
19 Wage Orders, Plaintiff and aggrieved employees did not receive all rest breaks or payment of
20 one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay when
21 a rest break was missed.

22 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and aggrieved employees were entitled to receive itemized
24 wage statements that accurately showed the following information pursuant to the Labor Code:
25 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate
26 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
27 deductions, provided that all deductions made on written orders of the employee may be
28 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period

1 for which the employee is paid; (7) the name of the employee and only the last four digits of his
2 or her social security number or an employee identification number other than a social security
3 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
4 hourly rates in effect during the pay period and the corresponding number of hours worked at
5 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and aggrieved
6 employees were not provided with accurate itemized wage statements.

7 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and aggrieved employees were entitled to timely payment of
9 wages during their employment. In violation of the California Labor Code, Plaintiff and
10 aggrieved employees did not receive payment of all wages within permissible time periods.

11 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and aggrieved employees were entitled to timely payment of
13 wages due upon separation of employment. In violation of the Labor Code, Plaintiff and
14 aggrieved employees did not receive payment of all wages within permissible time periods.

15 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known they had a duty to compensate Plaintiff and aggrieved employees, and
17 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
18 intentionally failed to do so in order to increase Defendants' profits.

19 **FIRST CAUSE OF ACTION**

20 **VIOLATION OF THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**

21 (California Labor Code §§ 2698, *et seq.*)

22 29. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
23 though fully set forth herein.

24 30. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that
25 provides for a civil penalty to be assessed and collected by the Labor and Workforce
26 Development Agency ("LWDA") or any of its departments, divisions, commissions, boards,
27 agencies or employees for violation of the code may, as an alternative, be recovered through a
28

1 civil action brought by an aggrieved employee on behalf of himself or herself and other current
2 or former employees pursuant to the procedures specified in Labor Code § 2699.3.

3 31. For all provisions of the Labor Code except those for which a civil penalty is
4 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one
5 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation
6 and two hundred dollars (\$200.000) for each aggrieved employee per pay period for each
7 subsequent pay period in which Defendants violated these provisions of the Labor Code.

8 32. Defendants' conduct with respect to Plaintiff and other aggrieved employees
9 violates numerous Labor Code sections including, but not limited to, the following:

- 10 a. Violation of Labor Code §§ 201-203, 204, 210, 510, 558, 1194, 1194.2,
11 1197, 1197.1, and 1198 for failure to timely pay all earned wages (including
12 minimum and overtime wages) owed to Plaintiff and other aggrieved
13 employees during employment and upon separation of employment as herein
14 alleged;
- 15 b. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal
16 periods to Plaintiff and other aggrieved employees and failure to pay
17 premium wages for missed meal periods as herein alleged;
- 18 c. Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff
19 and other aggrieved employees and failure to pay premium wages for missed
20 rest periods as herein alleged;
- 21 d. Violation of Labor Code §§ 226 and 226.3 for failure to provide accurate
22 itemized wage statements to Plaintiff and other aggrieved employees as
23 herein alleged; and
- 24 e. Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate
25 records.

26 33. Plaintiff is an "aggrieved employee" because he was employed by the alleged
27 violator and had one or more of the alleged violations committed against him, and therefore is
28 properly suited to represent the interests of all other aggrieved employees.

1 34. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3
2 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and
3 all other aggrieved employees under PAGA.

4 35. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
5 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
6 cited above.

7 36. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred
8 herein.

9 **PRAYER FOR RELIEF**

10 Plaintiff, on his own behalf and on behalf of all other aggrieved employees, prays for
11 judgment against Defendants as follows:

- 12 1. For civil penalties against Defendants on behalf of all aggrieved employees;
13 2. For reasonable attorney's fees and costs of suit to the extent permitted by law,
14 including pursuant to California Labor Code §§ 2698, *et seq.*, and California Code of Civil
15 Procedure § 1021.5; and
16 3. For such other relief as the Court deems just and proper.

17
18 Dated: June 26, 2020

AEGIS LAW FIRM, PC

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20 By: 
21 Clare M. Wernet
22 Attorneys for Plaintiff Florencio Legaspi
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