

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: LIFE BY ME, LLC, a California limited liability company; LIFE BY ME, LLC, a Delaware limited liability company; and DOES 1 through 50, inclusive

YOU ARE BEING SUED BY PLAINTIFF: MARIE RUSSELL, on behalf of herself, (LO ESTÁ DEMANDANDO EL DEMANDANTE): the State of California, and as an "aggrieved employee" on behalf of other "aggrieved employees" under the Labor Code Private Attorneys General Act of 2004

FOR COURT USE ONLY
SOLO PARA USO DE LA CORTE
CONFIRMED
ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 05 2020

Sherri K. Carter, CLERK OF COURT
By Steven Drew, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of Los Angeles
111 North Hill Street
Los Angeles, California 90012

CASE NUMBER:
(Número del Caso):

20STCV38025

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: David Spivak, Esq.
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

The Spivak Law Firm
16530 Ventura Blvd., Ste. 203, Encino, CA 91436

818-582-3086

DATE:
(Fecha) OCT 05 2020

Sherri R. Carter, Clerk

Clerk, by

(Secretario)

STEVEN OREW

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David Spivak, Esq./Carl Kaplan, Esq. SBN: 179684/323019 The Spivak Law Firm 16530 Ventura Blvd., Ste. 203, Encino, CA 91436 TELEPHONE NO.: 818-582-3086 FAX NO.: 818-582-2561 ATTORNEY FOR (Name): Marie Russell		FOR COURT USE ONLY CONFORMED COPY ORIGINAL FILED Superior Court of California County of Los Angeles OCT 05 2020 Sherri K. Carter, CLERK OF COURT By <u>Steven Drew</u> , Deputy	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles, 90012 BRANCH NAME: Stanley Mosk Courthouse			
CASE NAME: Russell v. Life by Me, LLC, et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 20STCV38025 JUDGE: DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties
b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☒ Substantial amount of documentary evidence | d. ☒ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☒ Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Seven (7)
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 5, 2020

David Spivak, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|---|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.
2. Permissive filing in central district.
3. Location where cause of action arose.
4. Mandatory personal injury filing in North District.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle. | 7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.
11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury). |
|--|---|

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	☐ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	☐ A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	☐ A6070 Asbestos Property Damage ☐ A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	☐ A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	☐ A7210 Medical Malpractice - Physicians & Surgeons ☐ A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	☐ A7250 Premises Liability (e.g., slip and fall)	1, 4, 11
		☐ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) ☐ A7270 Intentional Infliction of Emotional Distress ☐ A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11 1, 4, 11 1, 4, 11

SHORT TITLE: RUSSELL v. LIFE BY ME, LLC, et al.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	☐ A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3	
	Civil Rights (08)	☐ A6005 Civil Rights/Discrimination	1, 2, 3	
	Defamation (13)	☐ A6010 Defamation (slander/libel)	1, 2, 3	
	Fraud (16)	☐ A6013 Fraud (no contract)	1, 2, 3	
	Professional Negligence (25)	☐ A6017 Legal Malpractice ☐ A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3 1, 2, 3	
	Other (35)	☐ A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3	
Employment	Wrongful Termination (36)	☐ A6037 Wrongful Termination	1, 2, 3	
	Other Employment (15)	☒ A6024 Other Employment Complaint Case ☐ A6109 Labor Commissioner Appeals	1, 2, 3 10	
Contract	Breach of Contract/ Warranty (06) (not insurance)	☐ A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) ☐ A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) ☐ A6019 Negligent Breach of Contract/Warranty (no fraud) ☐ A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5 2, 5 1, 2, 5 1, 2, 5	
	Collections (09)	☐ A6002 Collections Case-Seller Plaintiff ☐ A6012 Other Promissory Note/Collections Case ☐ A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11 5, 11 5, 6, 11	
	Insurance Coverage (18)	☐ A6015 Insurance Coverage (not complex)	1, 2, 5, 8	
	Other Contract (37)	☐ A6009 Contractual Fraud ☐ A6031 Tortious Interference ☐ A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5 1, 2, 3, 5 1, 2, 3, 8, 9	
	Real Property	Eminent Domain/Inverse Condemnation (14)	☐ A7300 Eminent Domain/Condemnation Number of parcels_____	2, 6
		Wrongful Eviction (33)	☐ A6023 Wrongful Eviction Case	2, 6
Other Real Property (26)		☐ A6018 Mortgage Foreclosure ☐ A6032 Quiet Title ☐ A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6 2, 6 2, 6	
Unlawful Detainer	Unlawful Detainer-Commercial (31)	☐ A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11	
	Unlawful Detainer-Residential (32)	☐ A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11	
	Unlawful Detainer- Post-Foreclosure (34)	☐ A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11	
	Unlawful Detainer-Drugs (38)	☐ A6022 Unlawful Detainer-Drugs	2, 6, 11	

SHORT TITLE: RUSSELL v. LIFE BY ME, LLC, et al.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	☐ A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	☐ A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	☐ A6151 Writ - Administrative Mandamus ☐ A6152 Writ - Mandamus on Limited Court Case Matter ☐ A6153 Writ - Other Limited Court Case Review	2, 8 2 2
	Other Judicial Review (39)	☐ A6150 Other Writ /Judicial Review	2, 8
	Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	☐ A6003 Antitrust/Trade Regulation
Construction Defect (10)		☐ A6007 Construction Defect	1, 2, 3
Claims Involving Mass Tort (40)		☐ A6006 Claims Involving Mass Tort	1, 2, 8
Securities Litigation (28)		☐ A6035 Securities Litigation Case	1, 2, 8
Toxic Tort Environmental (30)		☐ A6036 Toxic Tort/Environmental	1, 2, 3, 8
Insurance Coverage Claims from Complex Case (41)		☐ A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	☐ A6141 Sister State Judgment ☐ A6160 Abstract of Judgment ☐ A6107 Confession of Judgment (non-domestic relations) ☐ A6140 Administrative Agency Award (not unpaid taxes) ☐ A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax ☐ A6112 Other Enforcement of Judgment Case	2, 5, 11 2, 6 2, 9 2, 8 2, 8 2, 8, 9
	RICO (27)	☐ A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	☐ A6030 Declaratory Relief Only	1, 2, 8
		☐ A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		☐ A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
		☐ A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	☐ A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	☐ A6121 Civil Harassment With Damages	2, 3, 9
		☐ A6123 Workplace Harassment With Damages	2, 3, 9
		☐ A6124 Elder/Dependent Adult Abuse Case With Damages	2, 3, 9
		☐ A6190 Election Contest	2
		☐ A6110 Petition for Change of Name/Change of Gender	2, 7
☐ A6170 Petition for Relief from Late Claim Law		2, 3, 8	
☐ A6100 Other Civil Petition	2, 9		

Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: ☒ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10. ☐ 11.			ADDRESS:
CITY:	STATE:	ZIP CODE:	

Step 5: Certification of Assignment: I certify that this case is properly filed in the CENTRAL District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: October 5, 2020



(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

COPY

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

OCT 05 2020

Sherrill K. Carter, Deputy Clerk of Court

By [Signature], Deputy

1 DAVID G. SPIVAK (SBN 179684)

david@spivaklaw.com

2 CARL J. KAPLAN (SBN 323019)

carl@spivaklaw.com

3 THE SPIVAK LAW FIRM

16530 Ventura Blvd., Ste 203

4 Encino, CA 91436

5 Telephone (818) 582-3086

Facsimile (818) 582-2561

6 Attorneys for Plaintiff,

7 MARIE RUSSELL, and all others similarly situated

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10 (UNLIMITED JURISDICTION)

11 MARIE RUSSELL, on behalf of herself, the
12 State of California, and as an "aggrieved
13 employee" on behalf of other "aggrieved
14 employees" under the Labor Code Private
15 Attorneys General Act of 2004,

16 *Plaintiff(s),*

17 vs.

18 LIFE BY ME, LLC, a California limited
19 liability company; LIFE BY ME, LLC, a
20 Delaware limited liability company; and DOES
21 1 through 50, inclusive,

22 *Defendant(s).*

Case No.: **20STCV38025**

CLASS ACTION

COMPLAINT FOR:

1. Failure to Provide Meal and Rest Periods (Lab. Code §§ 226.7, 512, and 1198);
2. Failure to Pay All Wages Earned for All Hours Worked (Lab. Code §§ 510, 1194, 1197, and 1198);
3. Failure to Indemnify (Lab. Code §§ 1198 & 2802)
4. Wage Statement Penalties (Lab. Code § 226);
5. Waiting Time Penalties (Lab. Code §§ 201, 202, 203);
6. Unfair Competition (Bus. & Prof. Code §§ 17200, *et seq.*); and
7. Civil Penalties (Lab. Code §§ 2968, *et seq.*).

JURY TRIAL DEMANDED



SPIVAK LAW

Employee Rights Attorneys
16530 Ventura Bl. Ste 203
Encino CA 91436
(818) 582-3086 Tel
(818) 582-2561 Fax
SpivakLaw.com

ADDITIONAL ATTORNEY FOR PLAINTIFF

Walter Haines (SBN 71075)
whaines@uelglaw.com
UNITED EMPLOYEES LAW GROUP
5500 Bolsa Ave, Suite 201
Telephone: (562) 256-1047
Facsimile: (562) 256-1006



SPIVAK LAW

Employee Rights Attorneys
16530 Ventura Bl. Ste 203
Encino CA 91436
(818) 582-3086 Tel
(818) 582-2561 Fax
SpivakLaw.com

1 Plaintiff MARIE RUSSELL (hereafter “Plaintiff”), on behalf of herself and all others
2 similarly situated, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action based on alleged violations of
5 the California Labor Code, Industrial Welfare Commission Order No. 2-2001 (hereafter “the
6 Wage Order”) and the Business and Professions Code against defendants LIFE BY ME, LLC, a
7 California limited liability company; LIFE BY ME, LLC, a Delaware limited liability company;
8 and DOES 1 through 50, inclusive (collectively “Defendants”).

9 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
10 her, the State of California, and other similarly situated current and former employees in
11 California for unpaid wages, unpaid meal and rest period premium wages, statutory penalties,
12 civil penalties, and other related relief. These claims are based on Defendants’ alleged failures to
13 (1) provide all rest and meal periods; (2) pay all wages for all hours worked; (3) indemnify for
14 necessary work-related expenditures; (4) provide accurate written wage statements, (5) timely
15 pay all wages upon termination, and (6) fairly compete. Additionally, Plaintiff seeks civil
16 penalties under the California Labor Code Private Attorneys General Act, Labor Code §§ 2698,
17 *et seq.* (“PAGA”). Accordingly, Plaintiff now seeks to recover unpaid wages, unpaid meal and
18 rest break premium wages, statutory penalties, civil penalties, and related relief through this class
19 and representative action.

20 **JURISDICTION AND VENUE**

21 3. This Court has subject matter jurisdiction because the aggregate claims of Plaintiff
22 and Class Members, inclusive of all relief, place more than \$25,000 in controversy.

23 4. There is no basis for federal question subject matter jurisdiction in this case.
24 Specifically, Plaintiff asserts claims on behalf of herself and Class Members that solely arise
25 under California law, rather than federal law.

26 5. Venue is proper in Los Angeles County pursuant to California Code of Civil
27 Procedure § 395(a) and § 395.5 in that liability arose in Los Angeles County because at least some
28 of the transactions that are the subject matter of this Complaint occurred therein and/or because
each defendant is found, maintains offices, transacts business, and/or has an agent therein.

PARTIES

6. Plaintiff MARIE RUSSELL is a natural person and resident of the State of



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1 California.

2 7. Defendant LIFE BY ME, LLC is a California limited liability company and is
3 doing business in the State of California.

4 8. Defendant LIFE BY ME, LLC is a Delaware limited liability company and is
5 doing business in the State of California.

6 9. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
7 participation in the conduct alleged herein, of the defendants sued as DOES 1-50, inclusive, but
8 is informed and believes and thereon alleges that said defendants are legally responsible for the
9 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.
10 Plaintiff will amend the complaint to allege the true names and capacities of the DOE defendants
11 when ascertained.

12 10. Plaintiff is informed and believes and thereon alleges that, at all relevant times
13 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
14 remaining Defendants, and in doing the things hereinafter alleged, were acting within the course
15 and scope of such agency or employment, and with the approval and ratification of each of the
16 other Defendants.

17 11. At all relevant times, in perpetrating the acts and omissions alleged herein,
18 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
19 of a practice which resulted in Defendants not paying Plaintiff and other members of the below-
20 described class in accordance with applicable California labor laws as alleged herein.

21 12. Plaintiff is informed and believes and thereon alleges that each and every one of
22 the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants,
23 each acting as agents and/or employees, and/or under the direction and control of each of the other
24 Defendants, and that said acts and failures to act were within the course and scope of said agency,
25 employment and/or direction and control.

26 **CLASS ACTION ALLEGATIONS**

27 13. This action has been brought and may be maintained as a class action pursuant to
28 California Code of Civil Procedure § 382 because there is a well-defined community of interest
among the persons who comprise the readily ascertainable class defined below and because
Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class
action.



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1 14. **Class Definition:** The class is defined as follows: All persons Defendants
2 employed in California as hourly employees, including but not limited to greeters, concierges,
3 spa staff, trainers, sales persons, and workers employed in comparable positions, at any time
4 during the period beginning four years prior to the filing of this action and ending on the date that
5 final judgment is entered in this action.

6 15. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
7 right to amend or modify the class definition with greater specificity, by further division into
8 subclasses and/or by limitation to particular issues.

9 16. **Numerosity:** The Class Members are so numerous that the individual joinder of
10 each individual Class Member is impractical. While Plaintiff does not currently know the exact
11 number of Class Members, Plaintiff is informed and believes that the actual number exceeds the
12 minimum required for numerosity under California law.

13 17. **Commonality and Predominance:** Common questions of law and fact exist as to
14 all Class Members and predominate over any questions which affect only individual Class
15 Members. These questions include, but are not limited to:

16 A. Whether Defendants failed to provide the Class Members with all rest
17 periods as required by section 12 of the Wage Order;

18 B. Whether Defendants failed to provide the Class Members with all meal
19 periods as required by section 11 of the Wage Order;

20 C. Whether Defendants failed to pay all wages earned to Class Members for
21 all hours worked;

22 D. Whether Defendants failed to indemnify the Class Members for all
23 necessary work-related expenditures;

24 E. Whether Defendants knowingly and intentionally failed to provide the
25 Class Members with accurate wage statements;

26 F. Whether Defendants violated California Labor Code §§ 201-203 by failing
27 to provide all wages earned and due at the time of termination;

28 G. Whether Defendants engaged in unfair competition within the meaning of
Business and Professions Code §§ 17200, *et seq.*, with respect to the Class Members;

 H. Whether the Class Members are entitled to restitution of money or property
that Defendants may have acquired from them through alleged Labor Code violations;



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- I. Whether the Class Members are entitled to prejudgment interest; and
J. Whether the Class Members are entitled to attorneys' fees.

18. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims. Plaintiff is informed and believes and thereon alleges that Defendants have a policy, practice or a lack of a policy which resulted in Defendants failing to comply with the California Labor Code, the Wage Order, and the Business and Professions Code as alleged herein.

19. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in that she has no interests that are adverse to, or otherwise in conflict with, the interests of absent Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of Class Members. Plaintiff will fairly and adequately represent and protect the interests of Class Members.

20. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that they have no known conflicts of interest with Plaintiff or absent Class Members, are experienced in wage and hour class action litigation and are dedicated to vigorously prosecuting this action on behalf of Plaintiff and absent Class Members.

21. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of Class Members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual Class Members are likely to be relatively small and would thus make it difficult, if not impossible, for individual Class Members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting Class Members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

STATEMENT OF FACTS

22. Defendants first employed Plaintiff as a non-exempt hourly greeter at their day spa in Santa Monica, California on or about November 12, 2019, and continuously employed her in this capacity from that date until on or about February 19, 2020, when her employment ended. At all relevant times, Plaintiff was an "employee" within the meaning of Title 8 of the California Code of Regulations Section 11040 and an "aggrieved employee" within the meaning of Labor



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1 Code Section 2699(c).

2 23. At all relevant times, Defendants compensated Plaintiff and the Class at an hourly
3 rate and paid their wages on a bi-weekly basis.

4 24. At all relevant times, Defendants required Plaintiff and the Class to perform work
5 while clocked out. When Plaintiff and the Class worked the night shift, Defendants instructed
6 them to clock out no later than 10:00 p.m. If Plaintiff or the other Class Members recorded
7 workdays in which they clocked out after 10:00 p.m., Defendants' supervisory staff would
8 reprimand them verbally and via email.

9 25. However, due to the volume of work that Defendants assigned, Plaintiff and the
10 Class were rarely able to complete their daily tasks by 10:00 p.m. In approximately January of
11 2020, Defendants laid off their cleaning staff and assigned the cleaning staff duties to Plaintiff
12 and the Class. Along with completion of their other duties, Defendants expected Plaintiff and the
13 Class to "break down" the house – a process which consisted of many tasks, including but not
14 limited to emptying all trash, cleaning all bathrooms and changing rooms, completing laundry,
15 loading dishes into the dishwasher, cleaning the kitchen, preparing beauty towels, slicing
16 oranges, and turning off all lights. Defendants' managerial staff were aware of this and expected
17 Plaintiff and the Class to work off-the-clock without pay to complete their work – work which
18 they could not complete otherwise. Also, Defendants permitted guests to remain in their "relax
19 rooms" until 9:50 pm. Thus, leaving aside all of the other tasks listed above, Plaintiff and the
20 Class Members only had ten minutes to fully clean Defendants' "Relax Rooms," and buss all
21 dishes and cups left therein before their required clock-out time of 10:00 p.m. Plaintiff and the
22 Class were unable to complete these tasks before their required clock-out times.

23 26. In order to avoid Defendants' disciplinary actions, discussed above, Plaintiff and
24 the Class members working the night shift would clock out at 10:00 p.m. and continue to work
25 while off-the-clock. Plaintiff and the Class Members regularly spent 30 to 45 minutes per shift
26 performing the tasks detailed above after clocking out for work. Defendants knowingly permitted
27 them to do this without pay.

28 27. Further, at all relevant times, when Plaintiff and the Class Members worked the
morning shift, Defendants required them to perform work off-the-clock at the beginning of their
shifts. Defendants scheduled the first morning shift – consisting of only one employee – to begin
at 7:45 a.m., and scheduled their first appointments for approximately 8:30 a.m. Defendants



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1 expected Plaintiff and the Class working the morning shift to perform several tasks, including
2 but not limited to reviewing guest reservations for the day, finishing any laundry not completed
3 the previous night, filling water bottles, and making beds. Thus, in order to be sufficiently
4 prepared for 8:30 a.m. reservations, Defendants required Plaintiff and the Class to arrive and
begin work off-the-clock for approximately 30 minutes before their scheduled clock-in times.

5 28. Additionally, Defendants failed to compensate Plaintiff and the Class for work
6 performed off-the-clock between shifts. Defendants sent Plaintiff and the Class a weekly
7 memorandum, called the “Monday Update.” Along with information regarding Defendants’
8 operations, each Monday Update included a question to Plaintiff and the Class, to confirm they
9 had read the memorandum (for instance, “what is your favorite Italian restaurant?”). If Plaintiff
10 or the Class failed to respond to these Monday Updates, Defendants would reprimand them.
11 Further, at relevant times, Defendants sent Plaintiff and the Class messages with sales targets.
12 Defendants required Plaintiff and the Class to text Defendants’ sales coordinator with their daily
metrics after they clocked out at the end of their shifts.

13 29. At all relevant times, Defendants failed to consistently provide Plaintiff and the
14 Class with a daily 30-minute off-duty meal period within the first five hours of work. Defendants’
15 policy permitted Plaintiff and the Class to remain clocked in for work during their meal periods
16 in order to assist guests. However, due to Defendants’ insufficient staffing levels, Defendants
17 nonetheless required Plaintiff and the Class to work through their meal periods.

18 30. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
19 Class to take a ten-minute, paid, duty-free rest break every four hours or major portion thereof.
20 Defendants failed to provide duty-free rest periods to Plaintiff and the Class because there were
21 no employees to cover for them. On information and belief, Defendants have not requested an
22 exemption from California’s rest period law from the Division of Labor Standards Enforcement.
23 Further, neither Plaintiff nor the Class entered into on-duty meal period agreements with
24 Defendants. Defendants further failed to pay premium wages for days on which they failed to
provide Plaintiff and the Class with all timely, off-duty meal and rest periods.

25 31. Defendants also required Plaintiff and the Class to incur certain business expenses
26 in the course of performing their duties, including the use of their personal mobile telephones to
27 communicate with Defendants. Defendants required Plaintiff and the Class to download mobile
28 phone applications in order to receive notifications about sales promotions and other company



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offerings. Further, as noted above, Defendants sent Monday Updates to Plaintiff and the Class and required them to text Defendants back to confirm they had received and read the Monday Updates. Moreover, as also detailed above, Defendants required Plaintiff and the Class to text their sales metrics to Defendants' sales coordinator. Defendants failed to reimburse for mobile phone charges to Plaintiff and the Class, nor did they offer them a free alternative to such personal phone use.

32. For the reasons stated herein, Plaintiff alleges the following violations of the California Labor Code and the Wage Order on behalf of herself and the Class Members:

a) Defendants failed to provide Plaintiff and the Class Members with all rest breaks and meal periods;

b) Defendants failed to pay Plaintiff and the Class Members one hour's pay for each workday in which they failed to provide Plaintiff and the Class Members with one or more rest breaks required by law;

c) Defendants failed to pay Plaintiff and the Class Members one hour's pay for each workday in which they failed to provide them with one or more meal periods required by law;

d) Defendants failed to pay Plaintiff and the Class Members for all hours worked at the correct rates of pay, including but not limited to regular and overtime pay due to off-the-clock work;

e) Defendants failed to indemnify Plaintiff and the Class for all necessary business expenditures incurred in the discharge of their duties;

f) Defendants failed to provide Plaintiff and the Class Members with accurate and complete wage statements; and

g) Defendants failed to timely pay Plaintiff and the Class Members during employment and at the time of termination the wages they earned.

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE REST BREAKS AND MEAL PERIODS

(Lab. Code §§ 226.7, 512, and 1198)

(By Plaintiff and the Class against all Defendants)

33. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.



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1 34. At all relevant times during the applicable limitations period, Plaintiff and the
2 Class Members have been non-exempt employees of Defendants and entitled to the benefits and
3 protections of California Labor Code §§ 226.7, 512, 1198, and the Wage Order.

4 35. In relevant part, California Labor Code § 1198 states:

5 The maximum hours of work and the standard conditions of labor
6 fixed by the commission shall be the maximum hours of work and
7 the standard conditions of labor for employees. The employment
8 of any employee for longer hours than those fixed by the order or
9 under conditions of labor prohibited by the order is unlawful.

10 36. In relevant part, California Labor Code § 512 states:

11 An employer shall not employ an employee for a work period of
12 more than five hours per day without providing the employee with
13 a meal period of not less than 30 minutes, except that if the total
14 work period per day of the employee is no more than six hours, the
15 meal period may be waived by mutual consent of both the
16 employer and employee.

17 An employer shall not employ an employee for a work period of
18 more than 10 hours per day without providing the employee with
19 a second meal period of not less than 30 minutes, except that if the
20 total hours worked is no more than 12 hours, the second meal
21 period may be waived by mutual consent of the employer and the
22 employee only if the first meal period was not waived.

23 37. In relevant part, Section 12 of the Wage Order states:

24 **Rest Periods**

25 (A) “Every employer shall authorize and permit all employees
26 to take rest periods, which insofar as practicable shall be in the
27 middle of each work period. The authorized rest period time shall
28 be based on the total hours worked daily at the rate of ten (10)
minutes net rest time per four (4) hours or major fraction thereof.
However, a rest period need not be authorized for employees
whose total daily work time is less than three and one-half (3 1/2)
hours. Authorized rest period time shall be counted as hours
worked for which there shall be no deduction from wages.”

 (B) If an employer fails to provide an employee a rest period in
accordance with the applicable provisions of this Order, the
employer shall pay the employee one (1) hour of pay at the
employee’s regular rate of compensation for each work day that
the rest period is not provided.”



1 38. In relevant part, Section 11 of the Wage Order states:

2 **Meal Periods**

3 (A) “No employer shall employ any person for a work period
4 of more than five (5) hours without a meal period of not less than
5 30 minutes, except that when a work period of not more than six
6 (6) hours will complete the day’s work the meal period may be
waived by mutual consent of the employee and the employee.

7 (B) If an employer fails to provide an employee a meal period
8 in accordance with the applicable provisions of this Order, the
9 employer shall pay the employee one (1) hour of pay at the
employee’s regular rate of compensation for each work day that
the meal period is not provided.

10 (C) Unless the employee is relieved of all duty during a 30 minute
11 meal period the meal period shall be considered an “on duty” meal
12 period and counted as time worked. An “on duty” meal period shall
13 be permitted only when the nature of the work prevents an
14 employee from being relieved of all duty and when by written
15 agreement between the parties an on-the-job paid meal period is
agreed to. The written agreement shall state that the employee
may, in writing, revoke the agreement at any time.”

16 39. In relevant part, California Labor Code § 226.7 states:

17 (b) An employer shall not require an employee to work during
18 a meal or rest period mandated pursuant to an applicable statute,
19 or applicable regulation, standard, or order of the Industrial
Welfare Commission, the Occupational Safety and Health
Standards Board, or the Division of Occupational Safety and
Health.

20 (c) If an employer fails to provide an employee a meal period
21 or rest period in accordance with a state law, including, but not
22 limited to, an applicable statute or applicable regulation, standard,
23 or order of the Industrial Welfare Commission, the Occupational
24 Safety and Health Standards Board, or the Division of
Occupational Safety and Health, the employer shall pay the
25 employee one additional hour of pay at the employee’s regular rate
26 of compensation for each work day that the meal or rest period is
not provided.

27 40. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
28 Class Members were entitled to uninterrupted meal periods of at least 30 minutes for each day



1 they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled
2 to a second 30-minute meal period when they worked more than 10 hours in a workday.

3 41. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to be
4 provided with net rest breaks of at least ten minutes for each four-hour period of work, or major
5 fraction thereof.

6 42. Defendants intentionally failed to provide Plaintiff and the Class Members with
7 all required 30-minute duty free meal periods and 10-minute rest periods in accordance with the
8 Wage Order. Plaintiff is informed and believes and thereon alleges that, at all relevant times
9 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
10 which resulted in Defendants not providing the Class with all off-duty meal periods and rest
11 breaks required by California law.

12 43. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members
13 have suffered damages in an amount, subject to proof, to the extent they were not paid the full
14 amount of wages earned during each pay period during the applicable limitations period.

15 44. By reason of the above, pursuant to California Labor Code section 226.7, Plaintiff
16 and the Class Members are entitled to premium wages for workdays in which one or more off-
17 duty meal periods were not provided to them, and for workdays in which one or more rest breaks
18 were not provided to them.

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PAY EMPLOYEES ALL WAGES FOR ALL HOURS WORKED AT 21 CORRECT RATES OF PAY**

22 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

23 **(By Plaintiff and the Class against all Defendants)**

24 45. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

25 46. At all relevant times, Plaintiff and the Class Members have been employees of
26 Defendants and entitled to the benefits and protections of the California Labor Code §§ 510,
27 1194, 1197, and 1198 and the Wage Order.

28 47. Section 3 of the applicable Wage Order states:

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to
employees 18 years of age or over and to employees 16 or 17 years
of age who are not required by law to attend school and are not



1 otherwise prohibited by law from engaging in the subject work.
2 Such employees shall not be employed more than eight (8) hours
3 in any workday or more than 40 hours in any workweek unless the
4 employee receives one and one-half (1 1/2) times such employee's
5 regular rate of pay for all hours worked over 40 hours in the
6 workweek. Eight (8) hours of labor constitutes a day's work.
7 Employment beyond eight (8) hours in any workday or more than
8 six (6) days in any workweek is permissible provided the employee
9 is compensated for such overtime at not less than:

10 (a) One and one-half (1 1/2) times the employee's regular
11 rate of pay for all hours worked in excess of eight (8) hours up to
12 and including 12 hours in any workday, and for the first eight (8)
13 hours worked on the seventh (7th) consecutive day of work in a
14 workweek; and

15 (b) Double the employee's regular rate of pay for all hours
16 worked in excess of 12 hours in any workday and for all hours
17 worked in excess of eight (8) hours on the seventh (7th)
18 consecutive day of work in a workweek.

19 (c) The overtime rate of compensation required to be paid
20 to a nonexempt full-time salaried employee shall be computed by
21 using the employee's regular hourly salary as one-fortieth (1/40)
22 of the employee's weekly salary.

23 48. Labor Code section 510 states:

24 Eight hours of labor constitutes a day's work. Any work in
25 excess of eight hours in one workday and any work in excess of 40
26 hours in any one workweek and the first eight hours worked on the
27 seventh day of work in any one workweek shall be compensated at
28 the rate of no less than one and one-half times the regular rate of
pay for an employee. Any work in excess of 12 hours in one day
shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of
eight hours on any seventh day of a workweek shall be
compensated at the rate of no less than twice the regular rate of pay
of an employee. Nothing in this section requires an employer to
combine more than one rate of overtime compensation in order to
calculate the amount to be paid to an employee for any hour of
overtime work.

49. California Labor Code § 1194 invalidates any agreement between an employer
and an employee to work for less than the minimum or overtime wage required under the
applicable Wage Order.



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1 50. California Labor Code § 1197 makes it unlawful for an employer to pay an
2 employee less than the minimum wage required under the applicable Wage Order for all hours
3 worked during a payroll period.

4 51. California Labor Code § 1198 makes it unlawful for an employer to employ an
5 employee under conditions that violate the Wage Order.

6 52. In conjunction, these provisions of the California Labor Code require employers
7 to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates
8 for all hours worked, including unrecorded hours when the employers knew or should have
9 known that the employees were working those hours. *Morillion v. Royal Packing Co.* (2000) 22
10 Cal.4th 575, 585.

11 53. With respect to overtime wages, the regular rate of pay under California law must
12 include “all remuneration for employment paid to, on behalf of, the employee.” O.L. 2002.06.14
13 (quoting 29 U.S.C. § 207(e)). This requirement includes, but is not limited, to, non-discretionary
14 bonuses. *See, e.g., Huntington Memorial Hosp. v. Superior Court* (2005) 131 Cal. App. 4th 893,
15 904–05. Commissions and bonuses must be included in the regular rate whether they are the sole
16 source of the employee’s compensation or are in addition to a guaranteed salary or hourly rate.
17 29 C.F.R. §§778.117, 778.208. *See Oliver v. Mercy Med. Ctr., Inc.* (9th Cir 1982) 695 F.2d 379.

18 54. Plaintiff is informed and believes that, at all relevant times, Defendants have
19 applied centrally devised policies and practices to her and the Class Members with respect to
20 working conditions and compensation arrangements.

21 55. At all relevant times, Defendants compensated Plaintiff and the Class Members
22 with an hourly rate of pay on a bi-weekly basis.

23 56. At all relevant times, Defendants failed to pay Plaintiff and the Class Members
24 for all hours worked at the correct rates of pay, including but not limited to all regular and
25 overtime wages for work they performed while clocked out for work.

26 57. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
27 Defendants have maintained a policy, practice, or a lack of a policy which resulted in Defendants’
28 failure to compensate the Class Members for all hours worked as required by California law.

 58. As a result of Defendants’ unlawful conduct, Plaintiff and the other Class
Members have suffered damages in an amount, subject to proof, to the extent they were not paid
the full amount of wages earned during each pay period during the applicable limitations period,



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1 including but not limited to regular and overtime wages.

2 59. Pursuant to Labor Code section 1194, Plaintiff, on behalf of herself and Class
3 Members, seeks to recover unpaid wages, liquidated damages in amounts equal to the amounts
4 of unpaid wages, interest thereon, and awards of reasonable costs and attorneys' fees, including
5 interest thereon, as permitted by law, all in amounts subject to proof.

6 **THIRD CAUSE OF ACTION**

7 **FAILURE TO INDEMNIFY**

8 **(Lab. Code §§ 1198 & 2802)**

9 **(By Plaintiff and the Class against all Defendants)**

10 60. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

11 61. At all relevant times, Plaintiff and the Class Members have been non-exempt
12 employees of Defendant and entitled to the benefits and protections of the California Labor Code
13 §§ 1198 and 2802 and the Wage Order.

14 62. In pertinent part, California Labor Code § 2802(a) states:

15 “An employer shall indemnify his or her employee[s] for all
16 necessary expenditures incurred by the employee in direct
17 consequence of the discharge of his or her duties.”

18 63. Section 9(B) of the Wage Order states:

19 When tools or equipment are required by the employer or are
20 necessary to the performance of a job, such tools and equipment
21 shall be provided and maintained by the employer, except that an
22 employee whose wages are at least two (2) times the minimum
23 wage provided herein may be required to provide and maintain
24 hand tools and equipment customarily required by the trade or
25 craft.

26 64. California Labor Code § 1198 prohibits employers from employing their
27 employees under conditions prohibited by the Wage Order.

28 65. At relevant times during the applicable limitations period, Defendants required
Plaintiff and the Class Members to use their personal mobile telephones to communicate with
Defendants as a necessary condition of employment. Defendants failed to indemnify Plaintiff
and the Class for these expenses both during and after their employment ended.

66. Plaintiff is informed and believes and thereon alleges that, at all relevant times,



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1 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
2 failure to indemnify Plaintiff and the Class Members for the reasonable expenses they incurred
3 during the course of performing their duties.

4 67. Therefore, pursuant to California Labor Code § 2802(b), Plaintiff and the Class
5 Members are entitled to reimbursement for all necessary expenditures and losses and interest
6 thereon, due and owing to them within four years of the date of the filing of the Complaint until
7 the entry of judgment.

8 68. Accordingly, with respect to this cause of action, on behalf of herself and the Class
9 Members, Plaintiff prays for the above stated relief, costs, and all reasonable attorneys' fees
10 pursuant to Labor Code § 2802(c) and as otherwise permitted by law.

11 **FOURTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ACCURATE, WRITTEN WAGE STATEMENTS**

13 **(Lab. Code § 226)**

14 **(By Plaintiff and the Class Members against all Defendants)**

15 69. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

16 70. At all relevant times during the applicable limitations period, Plaintiff and the
17 Class Members have been employees of Defendants and entitled to the benefits and protections
18 of California Labor Code § 226.

19 71. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were
20 entitled to receive, semimonthly or at the time of each payment of wages, an accurate itemized
21 statement showing among other things: a) gross wages earned; b) total hours worked; c) net
22 wages earned; d) all deductions; e) the inclusive dates of the period for which the employee is
23 paid; e) the name of the employee and only the last four digits of his or her social security number
24 or an employee identification number; f) the name and address of the legal entity that is the
25 employer; g) all applicable hourly rates in effect during the pay period and the corresponding
26 number of hours worked at each hourly rate by the employee.

27 72. Pursuant to California Labor Code § 226(e), an employee suffering injury as a
28 result of a knowing and intentional failure by an employer to comply with subdivision (a) is
entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period
in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and



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1 is entitled to an award of costs and reasonable attorney's fees.

2 73. Pursuant to California Labor Code § 226(e), an employee is deemed to suffer
3 injury if the employer fails to provide a wage statement. Also, an employee is deemed to suffer
4 injury if the employer fails to provide accurate and complete information as required by
5 California Labor Code § 226(a) and the employee cannot "promptly and easily determine" from
6 the wage statement alone one or more of the following:

7 A. The amount of the gross wages or net wages paid to the employee during
8 the pay period or any of the other information required to be provided on the itemized wage
9 statement pursuant to California Labor Code § 226(a);

10 B. Which deductions the employer made from gross wages to determine the
11 net wages paid to the employee during the pay period;

12 C. The name and address of the employer and, if the employer is a farm labor
13 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
14 and address of the legal entity that secured the services of the employer during the pay period;
15 and

16 D. The name of the employee and only the last four digits of his or her social
17 security number or an employee identification number other than a social security number.

18 74. "Promptly and easily determine," as stated in California Labor Code § 226(e),
19 means a reasonable person would be able to readily ascertain the information without reference
20 to other documents or information.

21 75. As alleged herein, Defendants failed to provide Plaintiff and the Class Members
22 all wages owed, including but not limited to regular and overtime wages for work performed off-
23 the-clock. As a result, Defendants have failed to properly and accurately itemize each employee's
24 gross wages earned, net wages earned, the total hours worked, the corresponding number of hours
25 worked by employees and other requirements of California Labor Code § 226. As a result,
26 Defendants have violated California Labor Code § 226.

27 76. Defendants' failure to provide Plaintiff and the Class Members with accurate
28 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
the Class Members with accurate wage statements but intentionally provided wage statements
that Defendants knew were not accurate.

77. As a result of being provided with inaccurate wage statements by Defendants,



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1 Plaintiff and the Class Members have suffered injury. Their legal rights to receive accurate wage
2 statements were violated and they were misled about the amount of wages they had actually
3 earned and were owed. In addition, the absence of accurate information on their wage statements
4 prevented immediate challenges to Defendants' unlawful pay practices, has required discovery
5 and mathematical computations to determine the amounts of wages owed, has caused difficulty
6 and expense in attempting to reconstruct time and pay records and/or has led to the submission
7 of inaccurate information about wages to state and federal government agencies. Further,
8 Plaintiff and the Class Members were not able to ascertain from the wage statements whether
9 Defendants complied with their obligations under California Labor Code § 226(a).

10 **FIFTH CAUSE OF ACTION**

11 **WAITING TIME PENALTIES**

12 **(Lab. Code §§ 201-203)**

13 **(By Plaintiff and the Class against all Defendants)**

14 78. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

15 79. At all relevant times during the applicable limitations period, Plaintiff and the
16 Class have been non-exempt employees of Defendants and entitled to the benefits and protections
17 of California Labor Code §§ 201 to 203 and the Wage Order.

18 80. California Labor Code § 201 provides that all earned and unpaid wages of an
19 employee who is discharged are due and payable immediately at the time of discharge.

20 81. California Labor Code § 202 provides that all earned and unpaid wages of an
21 employee who quits after providing at least 72-hours notice before quitting are due and payable
22 at the time of quitting and that all earned and unpaid wages of an employee who quits without
23 providing at least 72-hours notice before quitting are due and payable within 72 hours.

24 82. By failing to pay all earned regular and overtime wages to Plaintiff and the Class
25 Members as described above, Defendants failed to timely pay Plaintiff and the Class Members
26 all earned and unpaid wages in violation of California Labor Code §§ 201 or 202.

27 83. Plaintiff is informed and believes that Defendants' failures to timely pay all final
28 wages to her and the Class Members have been willful in that Defendants have the ability to pay
final wages in accordance with California Labor Code §§ 201 and 202 but have intentionally
adopted policies or practice that are incompatible with those requirements.

84. California Labor Code § 203 provides that the wages of an employee continue on



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1 a daily basis as a penalty for up to 30 days where an employer willfully fails to timely pay earned
2 and unpaid wages to the employee in accordance with California Labor Code §§ 201 or 202.

3 85. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
4 and the Class all of their earned and unpaid wages have been willful in that, at all relevant times,
5 Defendants have deliberately maintained policies and practices that violate the requirements of
6 the Labor Code and the Wage Order even though, at all relevant times, they have had the ability
7 to comply with those legal requirements.

8 86. Pursuant to California Labor Code § 203, Plaintiff seeks waiting time penalties
9 on behalf of herself and the Class Members, in amounts subject to proof not to exceed 30 days
10 of waiting time penalties for each Class Member.

11 **SIXTH CAUSE OF ACTION**

12 **UNFAIR COMPETITION**

13 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

14 **(By Plaintiff and the Class against all Defendants)**

15 87. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

16 88. At all relevant times during the applicable limitations period, Plaintiff and the
17 Class Members have been employees of Defendants and entitled to the benefits and protections
18 of the Business and Professions Code §§ 17200, *et seq.*

19 89. The unlawful conduct of Defendants alleged herein amount to and constitutes
20 unfair competition within the meaning of California Business & Professions Code §§ 17200, *et*
21 *seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly
22 gained a competitive advantage over other comparable companies doing business in California
23 that comply with their legal obligations to, among other things, pay their employees premium
24 wages for workdays in which they did not provide employees with one or more meal and rest
25 period, reimburse their employees for reasonable expenses incurred during the course of
26 performing their duties, and pay them all wages earned for all hours worked at the correct rates
27 of pay.

28 90. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
Class Members have suffered injuries in fact and lost money or property. Defendants deprived
Plaintiff and the Class of regular wages, overtime wages, premium wages for all workdays in
which one or more meal periods were not provided, premium wages for all workdays in which a



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1 rest period was not provided, and reimbursement for expenses that Plaintiff and the Class
2 incurred during the course of performing their duties.

3 91. Pursuant to California Business & Professions Code § 17203, Plaintiff and the
4 Class Members are entitled to restitution of all monies rightfully belonging to them that
5 Defendants did not pay them or otherwise retained by means of their unlawful and unfair business
6 practices.

7 92. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in
8 connection with their unfair competition claims pursuant to California Code of Civil Procedure
9 § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

10 93. Accordingly, with respect to this cause of action, on behalf of herself and the
11 Class, Plaintiff prays for the herein stated relief, an award of all reasonable costs and attorneys'
12 fees, including interest thereon, as permitted by law, all in amounts subject to proof.

13 **SEVENTH CAUSE OF ACTION**

14 **CIVIL PENALTIES**

15 **(By Plaintiff and the Class against all Defendants)**

16 94. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

17 95. The "Aggrieved Employees" are all members of the above-defined Class whom
18 Defendants employed during the period beginning July 21, 2019 and ending on the date that final
19 judgment is entered in this action.

20 96. Labor Code § 204 states

21 (a) All wages, other than those mentioned in Section 201, 201.3, 202,
22 204.1, or 204.2, earned by any person in any employment are due
23 and payable twice during each calendar month, on days
24 designated in advance by the employer as the regular paydays.
25 Labor performed between the 1st and 15th days, inclusive, of any
26 calendar month shall be paid for between the 16th and the 26th
27 day of the month during which the labor was performed, and labor
28 performed between the 16th and the last day, inclusive, of any
calendar month, shall be paid for between the 1st and 10th day of
the following month. ...

(b) (1) Notwithstanding any other provision of this section, all
wages earned for labor in excess of the normal work period shall
be paid no later than the payday for the next regular payroll
period.



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(2) An employer is in compliance with the requirements of subdivision (a) of Section 226 relating to total hours worked by the employee, if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

97. Defendants paid wages to employees on regular intervals. Defendants failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such intervals for all wages earned and all hours worked.

98. During the applicable time period, Defendants violated California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802.

99. California Labor Code §§2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

100. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Class are entitled to recover civil penalties for each of the Defendants' violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802 during the applicable limitations period in the following amounts:

A. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee for each subsequent, willful, or intentional violation (penalty amounts established by California Labor Code § 210).

B. For violations of California Labor Code § 226(a), two hundred fifty



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1 dollars (\$250.00) for each Aggrieved Employee for each initial violation and one thousand
2 dollars (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty
3 amounts established by California Labor Code § 226.3)

4 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
5 (\$50.00) for each Aggrieved Employee for each initial violation and one hundred dollars
6 (\$100.00) for each Aggrieved Employee for each subsequent violation per pay period (penalty
7 amounts established by California Labor Code § 558).

8 D. For violations of California Labor Code § 1174, five hundred dollars
9 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
10 California Labor Code § 1174.5).

11 E. For violations of California Labor Code § 1197, one hundred dollars
12 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
13 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation per
14 pay period (regardless of whether the initial violations were intentionally committed) (penalty
15 amounts established by California Labor Code § 1197.1).

16 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
17 1198, and 2802, one hundred dollars (\$100.00) for each aggrieved employee per pay period for
18 each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay
19 period for each subsequent violation (penalty amounts established by California Labor Code §
20 2699(f)(2)).

21 101. Plaintiff has complied with the procedures for bringing suit specified in California
22 Labor Code § 2699.3. By letter dated July 21, 2020, Plaintiff filed written notice online with the
23 Labor and Workforce Development Agency (“LWDA”) and gave written notice by certified mail
24 to Defendants of the specific provisions of the California Labor Code alleged to have been
25 violated, including the facts and theories to support the alleged violations. Plaintiff accompanied
26 her LWDA notice with a fee in the amount of \$75.00. A true and correct copy of Plaintiff’s letter
27 to the LWDA dated July 21, 2020 is attached hereto as **Exhibit A**. The LWDA has not responded
28 to Plaintiff’s letter.

102. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
Employees are entitled to an award of civil penalties and reasonable attorneys’ fees and costs in
connection with their claims for civil penalties.



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PRAYER FOR RELIEF

103. WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for relief and judgment against Defendants as follows:

- A. An order that the action be certified as a class action;
- B. An order that Plaintiff be appointed class representative;
- C. An order that counsel for Plaintiff be appointed class counsel;
- D. Unpaid wages;
- E. Premium wages;
- F. Statutory penalties;
- G. Civil Penalties;
- H. Declaratory relief;
- I. Actual damages;
- J. Liquidated damages;
- K. Restitution;
- L. Pre-judgment interest and post-judgment interest;
- M. Costs of suit;
- N. Interest;
- O. Reasonable attorneys' fees; and
- P. Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all others similarly situated, hereby demands a jury trial on all issues so triable.

Respectfully submitted,
THE SPIVAK LAW FIRM

Dated: October 5, 2020

By 
DAVID SPIVAK
CARL KAPLAN
Attorneys for Plaintiff, MARIE RUSSELL and
all others similarly situated



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EXHIBIT A



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SENT BY ELECTRONIC SUBMISSION AND CERTIFIED MAIL

July 21, 2020

Attn: PAGA Administrator
Labor and Workforce Development Agency
Attn: PAGA Administrator
<http://dir.tflaforms.net>
Via Electronic Submission

RE: *Marie Russell / Life By Me, LLC*

To Whom It May Concern:

This notice concerns the following employers:

1. Life By Me, LLC, a Delaware limited liability company; and
2. Life By Me, LLC, a California limited liability company.

Collectively, the aforementioned employers are herein referred to as “Shape House.”

Pursuant to the California Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.*, Marie Russell (hereafter “Russell”) provides notice on behalf of herself and all individuals currently and formerly employed in California as non-exempt hourly employees, including but not limited to greeters, concierges, spa staff, trainers, sales persons, and workers employed in comparable positions (hereafter “Aggrieved Employees”) by doing business as Shape House (hereafter “Shape House”), of violations of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802.

At all relevant times, Shape House has employed persons, conducted business in, and engaged in illegal payroll practices and policies in California. Russell and the Aggrieved Employees are “employees” within the meaning of Wage Order 2-2001 (hereafter “the Wage Order”) § 2, subdivision (F) and “Aggrieved

Employees” within the meaning of Labor Code § 2699, subdivision (c).

Statement of Facts

On or about November 12, 2019, Shape House first employed Russell to work in California as a non-exempt, hourly greeter at its day spa in Santa Monica, California. Shape House continuously employed Russell in California in a similar capacity from the time of her hire until on or about February 19, 2020, when her employment ended.

At all relevant times, Shape House employed Russell and the other Aggrieved Employees at an hourly rate of pay and issued their paychecks on a bi-weekly basis. At all relevant times, Shape House classified Russell and the other Aggrieved Employees as non-exempt employees entitled to the protections of both the Labor Code and the Wage Order.

At all relevant times, Shape House required Russell and the Aggrieved Employees to perform work while clocked out. When Russell and the Aggrieved Employees worked the night shift, Shape House instructed them to clock out no later than 10:00 p.m. If Russell or the other Aggrieved Employees recorded workdays in which they clocked out after 10:00 p.m., Jocelyn Patterson, Russell’s supervisor, would reprimand them verbally and via email.

However, due to the volume of work that Shape House assigned, Russell and the Aggrieved Employees were rarely able to complete their daily tasks by 10:00 p.m. In approximately January of 2020, Shape House laid off its cleaning staff and assigned their duties to Russell and the other Aggrieved Employees. As a result, along with their other duties, Shape House expected Russell and the other Aggrieved Employees to “break down” the house – a process which consisted of many tasks, including but not limited to emptying all trash, cleaning all bathrooms and changing rooms, completing laundry, loading dishes into the dishwasher, cleaning the kitchen, preparing beauty towels, slicing oranges, and turning off all lights. Shape House management was aware of this and permitted Russell and the Aggrieved Employees to work off-the-clock without pay to complete their work – work which they could not complete otherwise. Shape

House permitted guests to remain in its “relax rooms” until 9:50 p.m. Thus, leaving aside all of the other tasks listed above, Russell and the other Aggrieved Employees had only ten minutes to fully clean Shape House’s relax rooms, and buss all dishes and cups left therein, before their required clock-out time of 10:00 p.m.

In order to avoid Shape House’s disciplinary actions, discussed above, Russell and the other Aggrieved Employees working the night shift would clock out at 10:00 p.m. and continue to work while off-the-clock. Russell and the other Aggrieved Employees regularly spent 30 to 45 minutes per shift performing the tasks detailed above after clocking out for work.

Further, at all relevant times, when Russell and the Aggrieved Employees worked the morning shift, Shape House required them to perform work off-the-clock at the beginning of their shifts. Shape House scheduled its first morning shift – consisting of only one employee – to begin at 7:45 a.m., and scheduled its first appointments for approximately 8:30 a.m. Shape House expected Aggrieved Employees working the morning shift to perform several tasks, including but not limited to reviewing guests reservations for the day, finishing any laundry not completed the previous night, filling water bottles, and making beds. Thus, in order to be sufficiently prepared for 8:30 a.m. reservations, Shapehouse required Russell and the Aggrieved Employees to arrive and begin work off-the-clock for approximately 30 minutes before their scheduled clock-in time.

Additionally, Shape House failed to compensate Russell and the other Aggrieved Employees for work performed off-the-clock between shifts. Shape House sent Russell and the Aggrieved Employees a weekly memorandum, called the “Monday Update.” Along with information regarding Shape House’s operations, each Monday Update included a question to Russell and the Aggrieved Employees, to confirm they had read the update (for instance, “what is your favorite Italian restaurant?”). If Russell or the Aggrieved Employees failed to respond to the Monday Updates, Shape House would reprimand them. Further, at relevant times, Shape House’s sales coordinator, Lilian (last name unknown), sent Russell and the Aggrieved Employees messages with sales targets. Shape

House required Russell and the Aggrieved Employees to text Lilian with their daily metrics after they clocked out at the end of their shifts.

At all relevant times, Shape House failed to consistently provide Russell and the Aggrieved Employees with a daily 30-minute off duty meal period within the first five hours of work. Shape House's policy permitted Russell and the Aggrieved Employees to remain clocked in for work during their meal periods in order to assist guests. However, due to Shape House's insufficient staffing levels, Shape House nonetheless required Russell and the Aggrieved Employees to work through their meal periods.

At all relevant times, Shape House failed to authorize and permit Russell and the Aggrieved Employees to take a ten-minute, paid, duty-free rest break every four hours or major portion thereof. Shape House failed to provide duty-free rest periods to Russell and the Aggrieved Employees because there were no employees to cover for them. Shape House has not requested an exemption from California's rest period law from the Division of Labor Standards Enforcement. Further, neither Russell nor the aggrieved Employees entered into on duty meal period agreements with Shape House.

Shape House failed to pay premium wages for days on which it failed to provide Russell and the Aggrieved Employees with all timely, off duty meal and rest periods.

Shape House also required Russell and the Aggrieved Employees to incur certain business expenses in the course of performing their duties, including the use of their personal mobile telephones to communicate with Shape House. Shape House required Russell and the Aggrieved Employees to download mobile phone applications in order to receive notifications about sales promotions and other company offerings. Further, as noted above, Shape House sent Monday Updates to Russell and the Aggrieved Employees and required them to text Shape House back to confirm they had received and read the Monday Updates. Moreover, as also detailed above, Shape House required Russell and the Aggrieved Employees to text their sales metrics to Shape House's sales coordinator, Lilian. Shape House failed to reimburse for mobile phone charges

to Russell and the Aggrieved Employees, nor did it offer them a free alternative to such personal phone use.

For the reasons stated herein, Russell alleges the following violations of the California Labor Code and the Wage Order on behalf of herself and the Aggrieved Employees:

- a) Shape House failed to provide Russell and the Aggrieved Employees with all meal periods as required by law;
- b) Shape House failed to provide Russell and the Aggrieved Employees with all rest periods as required by law;
- c) Shape House failed to compensate Russell and the Aggrieved Employees at one hour's pay on days when Shape House failed to provide them with one or more meal periods in a workday;
- d) Shape House failed to compensate Russell and the Aggrieved Employees at one hour's pay on days when Shape House failed to provide them with one or more rest periods in a workday;
- e) Shape House failed to pay Russell and the Aggrieved Employees for all hours worked at the correct rates of pay including, but not limited to, regular and overtime pay due to off-the-clock work;
- f) Shape House failed to indemnify Russell and the Aggrieved Employees for all business expenses;
- g) Shape House failed to timely pay Russell and the Aggrieved Employees all earned and unpaid wages during employment;
- h) Shape House failed to provide Russell and the Aggrieved Employees with accurate and complete wage statements; and

- i) Shape House failed to timely pay Russell and the Aggrieved Employees all earned and unpaid wages at the time of separation of employment.

Accordingly, Russell now seeks civil penalties on behalf of herself and the other Aggrieved Employees based on Shape House's violations of the California Labor Code.

The Wage Order

The Wage Order applies to "all persons employed in the personal service industry whether paid on a time, piece rate, commission, or other basis[.] § 1. The term "Personal Service Industry" means any industry, business, or establishment operated for the purpose of rendering, directly or indirectly, any service, operation, or process used or useful in the care, cleansing, or beautification of the body, skin, nails, or hair, or in the enhancement of personal appearance or health, including but not limited to beauty salons, schools of beauty culture offering beauty care to the public for a fee, barber shops, bath and massage parlors, physical conditioning, weight control salons, health clubs, and mortuaries." § 2(J).

At all relevant times during the applicable limitations period, Shape House employed Russell and the Aggrieved Employees as greeters, concierges, spa staff, trainers, sales persons, and in comparable positions at its day spas. Accordingly, Russell and the Aggrieved Employees are entitled to the protections provided under the Wage Order.

Failure to Provide Rest Breaks and Meal Periods **(Lab. Code §§ 226.7, 512, and 1198)**

In relevant part, California Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment

of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

In relevant part, Section 12 of the Wage Order states:

Rest Periods:

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total number of hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
- (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

In relevant part, California Labor Code § 512 states:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.

An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with

a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In relevant part, Section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.

...

- (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

California Labor Code § 226.7 states:

- (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- (b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

Shape House intentionally failed to provide all rest breaks and/or meal periods free from any work duties to Russell and the Aggrieved Employees as required by law. In failing to do so, Shape House violated the provisions of California Labor Code §§ 226.7, 512, and 1198. Accordingly, Russell seeks civil penalties on behalf of herself and the Aggrieved Employees as follows:

1. \$100 for each Aggrieved Employee for each initial violation of California Labor Code § 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2));
2. \$50 for each Aggrieved Employee for each initial violation of California Labor Code § 512, and \$100 for each aggrieved employee for each subsequent violation, per pay period (penalties set by California Labor Code § 558); and
3. \$100 for each Aggrieved Employee for each initial violation of California Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2)).

Failure to Pay All Wages Earned for All Hours Worked
(Lab Code §§ 510, 1194, 1197, and 1198)

Under California Labor Code § 1197, “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

In relevant part, section 2(K) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so[.]

In relevant part, California Labor Code § 1194 states,

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the [...] legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of [...] overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

In relevant part, Section 3 of the Wage Order states,

(A) Daily Overtime - General Provisions

- (1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in a workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:
 - (a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8)

hours worked on the seventh (7th) consecutive day of work in a workweek.

- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

In relevant part, California Labor Code § 510 states,

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

With respect to overtime wages, the regular rate of pay under California law must include "all remuneration for employment paid to, on behalf of, the employee." O.L. 2002.06.14 (quoting 29 U.S.C. § 207(e)). This requirement includes, but is not limited, to, non-discretionary bonuses. See, e.g., *Huntington Memorial Hosp. v. Superior Court* (2005) 131 Cal. App. 4th 893, 904–05. Commissions and bonuses must be included in the regular rate whether they are the sole source of the employee's compensation or are in addition to a guaranteed salary or hourly rate. 29 C.F.R. §§778.117, 778.208. See *Oliver v. Mercy Med. Ctr., Inc.* (9th Cir 1982) 695 F.2d 379.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

Employers must compensate non-exempt employees for "off-the-clock" work

(before punching in or after punching out on a time clock) if the employers knew or should have known that the employees were working those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

At all relevant times during the applicable limitations period, Shape House knowingly failed to pay Russell and the Aggrieved Employees for all hours worked at the correct rates of pay, including, but not limited to, all regular and overtime wages for the work they performed off-the-clock. Accordingly, Russell seeks civil penalties on behalf of herself and the other Aggrieved Employees as follows:

1. \$50 for each Aggrieved Employee for each initial violation of California Labor Code § 510, and \$100 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by California Labor Code § 558);
2. \$100 for each Aggrieved Employee for each initial violation of California Labor Code § 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2));
3. \$100 for each Aggrieved Employee for each initial violation of California Labor Code § 1194, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2)); and
4. \$100 for each Aggrieved Employee for each initial and intentional violation of California Labor Code § 1197, and \$250 for each Aggrieved Employee for each subsequent violation, per pay period (regardless of whether the initial violations were intentionally committed) (penalties set by California Labor Code § 1197.1).

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Failure to Indemnify
(Lab. Code § 2802)

In pertinent part, California Labor Code § 2802 states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

At all relevant times during the applicable limitations period, Shape House required Russell and the Aggrieved Employees to use personal mobile telephones to communicate with Shape House as a necessary condition of employment. Shape House failed to indemnify Russell and the Aggrieved Employees for these expenses both during and after their employment ended.

Accordingly, Russell seeks civil penalties on behalf of herself and the Aggrieved Employees as follows: \$100 for each Aggrieved Employee per pay period in which initial violations of California Labor Code § 2802 occurred, and \$200 for each Aggrieved Employee per pay period in which subsequent violations of § 2802 occurred (penalties set by California Labor Code § 2699(f)(2)).

Failure to Provide Accurate Written Wage Statements
(Lab. Code § 226)

California Labor Code § 226 requires employers to furnish employees with accurate itemized written wage statements 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 only the last four digits of his or her social security number or an employee identification number;
- 8) The name and address of the legal entity that is 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.

At relevant times during the applicable limitations period, Shape House violated California Labor Code § 226 because it did not properly and accurately itemize each employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the employee and other requirements of California Labor Code § 226. Shape House failed to state in the wage statements it issued to Russell and the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock.

Accordingly, Russell now seeks civil penalties for the Labor Code violations that Shape House has committed against her and the other Aggrieved Employees as follows: \$250 for each Aggrieved Employee for each initial violation of California Labor Code § 226(a), and \$1,000 for each Aggrieved Employee for each subsequent violation (penalties set by California Labor Code § 226.3).

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Failure to Timely Pay Wages
(Lab. Code § 204)

California Labor Code § 204 states all wages (other than those mentioned in Labor Code sections 201–202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

Because of Shape House's failure to pay Russell and the Aggrieved Employees wages for off-the-clock work and premium wages for unprovided meal periods within the time periods set by California Labor Code § 204, Shape House failed to timely pay all wages due during employment. Accordingly, Russell seeks civil penalties on behalf of herself and Aggrieved Employees as follows:

\$100 for each Aggrieved Employee for each initial violation of California Labor Code § 204; and \$200 for each Aggrieved Employee for each subsequent violation (penalties set by Labor Code § 210).

Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174, 1198)

Labor Code § 1174, which pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

- (a) Keep a record showing the names and addresses of all employees employed and the ages of all minors.

(d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code § 1174.5 states:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Section 7 of Wage Order 1 states:

(A) Every employer shall keep accurate information with respect to each employee including the following:

- (1) Full name, home address, occupation and social security number.
- (2) Birth date, if under 18 years, and designation as a minor.
- (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods

during which operations cease and authorized rest periods need not be recorded.

- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.
- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

Shape House has willfully failed to maintain the records required by § 1174 and the Wage Order, including, but not limited to, the total premium wages earned for missed or untimely meal and rest periods, and records pertaining to all unpaid hours worked by Russell and the Aggrieved Employees. Accordingly, Russell seeks civil penalties from Shape House on behalf of herself and other Aggrieved Employees as follows:

1. \$500 for each Aggrieved Employee for each violation of California Labor Code § 1174 (penalties set by Labor Code § 1174.5); and
2. \$100 for each Aggrieved Employee for each initial violation of California Labor Code § 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2)).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201-203)

Under Labor Code § 2019, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

By failing to pay Russell and the Aggrieved Employees as set forth above, Shape House is liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of herself and the Aggrieved Employees, Russell seeks civil penalties from Shape House as follows:

1. For violations of Labor Code § 201, \$100 per Aggrieved Employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per Aggrieved Employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per Aggrieved Employee for each of the pay periods in which initial violations of § 202

occurred, and \$200 per Aggrieved Employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and

3. For violations of Labor Code § 203, \$100 per Aggrieved Employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per Aggrieved Employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Conclusion

As noted above, this letter constitutes the required notice under the California Labor Code Private Attorneys General Act of 2004. Please be advised that I will seek both reasonable attorneys' fees and costs under Labor Code § 2699, subdivision (g) (1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure §1021.5 to resolve this matter before litigation.

Sincerely,



David Spivak, Esq.
david@spivaklaw.com

cc: Marie Russell
Walter Haines, Esq.

Life By Me, LLC, a Delaware limited liability company
c/o Agent for Service of Process
CT Corporation System
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

///

Life By Me, LLC, a Delaware limited liability company
c/o Rae Ravich
Manager
434 N. Larchmont Blvd.
Los Angeles CA 90004

Life By Me, LLC, a California limited liability company
c/o Agent for Service of Process
CT Corporation System
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Life By Me, LLC, a California limited liability company
c/o Rae Ravich
Manager
434 N. Larchmont Blvd.
Los Angeles CA 90004

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	Reserved for Clerk's File Stamp FILED Superior Court of California County of Los Angeles 10/05/2020 Sherri R. Carter, Executive Officer / Clerk of Court By: <u>S. Drew</u> Deputy
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012	
NOTICE OF CASE ASSIGNMENT UNLIMITED CIVIL CASE	
Your case is assigned for all purposes to the judicial officer indicated below.	CASE NUMBER: 20STCV38025

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

	ASSIGNED JUDGE	DEPT	ROOM		ASSIGNED JUDGE	DEPT	ROOM
✓	Carolyn B. Kuhl	12					

Given to the Plaintiff/Cross-Complainant/Attorney of Record Sherri R. Carter, Executive Officer / Clerk of Court
 on 10/05/2020 (Date) By S. Drew, Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

APPLICATION

The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure Section 170.6 must be made within **15** days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

COMPLAINTS

All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

CROSS-COMPLAINTS

Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

STATUS CONFERENCE

A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested form jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.

Class Actions

Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

***Provisionally Complex Cases**

Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

VOLUNTARY EFFICIENT LITIGATION STIPULATIONS



Superior Court of California
County of Los Angeles



Los Angeles County
Bar Association
Litigation Section

Los Angeles County
Bar Association Labor and
Employment Law Section



Consumer Attorneys
Association of Los Angeles



Southern California
Defense Counsel



Association of
Business Trial Lawyers



California Employment
Lawyers Association

The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions in Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

◆ Los Angeles County Bar Association Litigation Section ◆

◆ Los Angeles County Bar Association Labor and Employment Law Section ◆

◆ Consumer Attorneys Association of Los Angeles ◆

◆ Southern California Defense Counsel ◆

◆ Association of Business Trial Lawyers ◆

◆ California Employment Lawyers Association ◆

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION – EARLY ORGANIZATIONAL MEETING			CASE NUMBER:

This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

The parties agree that:

1. The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, *to discuss and consider whether there can be agreement on the following:*
 - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
 - b. Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an employment case, the employment records, personnel file and documents relating to the conduct in question could be considered "core." In a personal injury case, an incident or police report, medical records, and repair or maintenance records could be considered "core.");
 - c. Exchange of names and contact information of witnesses;
 - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
 - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
 - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such issues can be presented to the Court;
 - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

SHORT TITLE	CASE NUMBER
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discussed in the "Alternative Dispute Resolution (ADR) Information Package" served with the complaint;

- h. Computation of damages, including documents, not privileged or protected from disclosure, on which such computation is based;
 - i. Whether the case is suitable for the Expedited Jury Trial procedures (see information at www.lacourt.org under "Civil" and then under "General Information").
2. The time for a defending party to respond to a complaint or cross-complaint will be extended to _____ for the complaint, and _____ for the cross-complaint, which is comprised of the 30 days to respond under Government Code § 68616(b), and the 30 days permitted by Code of Civil Procedure section 1054(a), good cause having been found by the Civil Supervising Judge due to the case management benefits provided by this Stipulation. A copy of the General Order can be found at www.lacourt.org under "Civil", click on "General Information", then click on "Voluntary Efficient Litigation Stipulations".
 3. The parties will prepare a joint report titled "Joint Status Report Pursuant to Initial Conference and Early Organizational Meeting Stipulation, and if desired, a proposed order summarizing results of their meet and confer and advising the Court of any way it may assist the parties' efficient conduct or resolution of the case. The parties shall attach the Joint Status Report to the Case Management Conference statement, and file the documents when the CMC statement is due.
 4. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day

The following parties stipulate:

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

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(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

➤ _____
(ATTORNEY FOR PLAINTIFF)

➤ _____
(ATTORNEY FOR DEFENDANT)

➤ _____
(ATTORNEY FOR DEFENDANT)

➤ _____
(ATTORNEY FOR DEFENDANT)

➤ _____
(ATTORNEY FOR _____)

➤ _____
(ATTORNEY FOR _____)

➤ _____
(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			CASE NUMBER:
STIPULATION – DISCOVERY RESOLUTION			

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

The parties agree that:

1. Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
3. Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
 - a. The party requesting the Informal Discovery Conference will:
 - i. File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department;
 - ii. Include a brief summary of the dispute and specify the relief requested; and
 - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
 - b. Any Answer to a Request for Informal Discovery Conference must:
 - i. Also be filed on the approved form (copy attached);
 - ii. Include a brief summary of why the requested relief should be denied;

- iii. Be filed within two (2) court days of receipt of the Request; and
 - iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
- d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
- e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.
- It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).
6. Nothing herein will preclude any party from applying *ex parte* for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

SHORT TITLE:	CASE NUMBER:
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The following parties stipulate:

Date:

(TYPE OR PRINT NAME)

Date:

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Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR PLAINTIFF)



(ATTORNEY FOR DEFENDANT)



(ATTORNEY FOR DEFENDANT)



(ATTORNEY FOR DEFENDANT)



(ATTORNEY FOR _____)



(ATTORNEY FOR _____)



(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			CASE NUMBER:
INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)			

1. This document relates to:

☐
☐

Request for Informal Discovery Conference
 Answer to Request for Informal Discovery Conference

2. Deadline for Court to decide on Request: _____ (insert date 10 calendar days following filing of the Request).
3. Deadline for Court to hold Informal Discovery Conference: _____ (insert date 20 calendar days following filing of the Request).
4. For a Request for Informal Discovery Conference, **briefly** describe the nature of the discovery dispute, including the facts and legal arguments at issue. For an Answer to Request for Informal Discovery Conference, **briefly** describe why the Court should deny the requested discovery, including the facts and legal arguments at issue.

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			CASE NUMBER:
STIPULATION AND ORDER – MOTIONS IN LIMINE			

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

The parties agree that:

1. At least ____ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
2. The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
 - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
 - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

SHORT TITLE	CASE NUMBER
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The following parties stipulate:

Date:

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Date:

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Date:

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Date:

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Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR PLAINTIFF)



(ATTORNEY FOR DEFENDANT)



(ATTORNEY FOR DEFENDANT)



(ATTORNEY FOR DEFENDANT)



(ATTORNEY FOR _____)



(ATTORNEY FOR _____)



(ATTORNEY FOR _____)

THE COURT SO ORDERS.

Date: _____

JUDICIAL OFFICER



ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE

THE PLAINTIFF MUST SERVE THIS ADR INFORMATION PACKAGE ON EACH PARTY WITH THE COMPLAINT.

CROSS-COMPLAINANTS must serve this ADR Information Package on any new parties named to the action with the cross-complaint.

What is ADR?

ADR helps people find solutions to their legal disputes without going to trial. The main types of ADR are negotiation, mediation, arbitration, and settlement conferences. When ADR is done by phone, videoconference or computer, it may be called Online Dispute Resolution (ODR). These alternatives to litigation and trial are described below.

Advantages of ADR

- **Saves Time:** ADR is faster than going to trial.
- **Saves Money:** Parties can save on court costs, attorney's fees, and witness fees.
- **Keeps Control** (with the parties): Parties choose their ADR process and provider for voluntary ADR.
- **Reduces Stress/Protects Privacy:** ADR is done outside the courtroom, in private offices, by phone or online.

Disadvantages of ADR

- **Costs:** If the parties do not resolve their dispute, they may have to pay for ADR and litigation and trial.
- **No Public Trial:** ADR does not provide a public trial or a decision by a judge or jury.

Main Types of ADR:

1. **Negotiation:** Parties often talk with each other in person, or by phone or online about resolving their case with a settlement agreement instead of a trial. If the parties have lawyers, they will negotiate for their clients.
2. **Mediation:** In mediation, a neutral mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to try to create a settlement agreement that is acceptable to all. Mediators do not decide the outcome. Parties may go to trial if they decide not to settle.

Mediation may be appropriate when the parties

- want to work out a solution but need help from a neutral person.
- have communication problems or strong emotions that interfere with resolution.

Mediation may not be appropriate when the parties

- want a public trial and want a judge or jury to decide the outcome.
- lack equal bargaining power or have a history of physical/emotional abuse.

How to arrange mediation in Los Angeles County

Mediation for civil cases is voluntary and parties may select any mediator they wish. Options include:

a. The Civil Mediation Vendor Resource List

If all parties agree to mediation, they may contact these organizations to request a "Resource List Mediation" for mediation at reduced cost or no cost (for selected cases):

- **ADR Services, Inc.** Case Manager patricia@adrservices.com (310) 201-0010 (Ext. 261)
- **JAMS, Inc.** Senior Case Manager mbinder@jamsadr.com (310) 309-6204
- **Mediation Center of Los Angeles (MCLA)** Program Manager info@mediationLA.org (833) 476-9145
 - Only MCLA provides mediation in person, by phone and by videoconference.

These organizations cannot accept every case and they may decline cases at their discretion.

Visit www.lacourt.org/ADR.Res.List for important information and FAQs before contacting them.

NOTE: This program does not accept family law, probate, or small claims cases.

b. Los Angeles County Dispute Resolution Programs

<https://wdacs.lacounty.gov/programs/drp/>

- Small claims, unlawful detainers (evictions) and, at the Spring Street Courthouse, limited civil:
 - Free, day-of-trial mediations at the courthouse. No appointment needed.
 - Free or low-cost mediations before the day of trial.
 - For free or low-cost Online Dispute Resolution (ODR) by phone or computer before the day of trial visit <http://www.lacourt.org/division/smallclaims/pdf/OnlineDisputeResolutionFlyer-EngSpan.pdf>

c. Mediators and ADR and Bar organizations that provide mediation may be found on the internet.

3. **Arbitration:** Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration, the arbitrator's decision is final; there is no right to trial. In "nonbinding" arbitration, any party can request a trial after the arbitrator's decision. For more information about arbitration, visit <http://www.courts.ca.gov/programs-adr.htm>
4. **Mandatory Settlement Conferences (MSC):** MSCs are ordered by the Court and are often held close to the trial date or on the day of trial. The parties and their attorneys meet with a judge or settlement officer who does not make a decision but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. For information about the Court's MSC programs for civil cases, visit <http://www.lacourt.org/division/civil/CI0047.aspx>

Los Angeles Superior Court ADR website: <http://www.lacourt.org/division/civil/CI0109.aspx>

For general information and videos about ADR, visit <http://www.courts.ca.gov/programs-adr.htm>