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11 individually and on behalf of all others similarly situated
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13 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF ALAMEDA**

15 **DONALD REED, individually and**
16 **on behalf of the proposed class,**

17 **Plaintiffs,**

18 **v.**

19 **MAXIM HEALTHCARE STAFFING**
20 **SERVICES, INC., A Maryland**
21 **Corporation, MAXIM HEALTHCARE**
22 **SERVICES, INC.; A Maryland**
23 **Corporation; CHANCELIGHT, INC., a**
24 **Delaware Corporation, Doing Business as**
25 **Spectrum Center, and DOES 1 through 50,**
26 **inclusive,**

27 **Defendants.**

Case No.:

REPRESENTATIVE ACTION
COMPLAINT FOR:

Violation of the Private Attorneys
General Act of 2004, Cal. Lab. Code §
2698, et seq.

28 Plaintiff, Donald Reed (hereinafter "Plaintiff"), individually, and on behalf of the general public
as private attorneys general and all other aggrieved employees, by and through his attorneys, hereby brings
this Representative Action Complaint against Defendants MAXIM HEALTHCARE STAFFING

SERVICES, INC., MAXIM HEALTHCARE SERVICES, Inc., CHANCELIGHT, INC., doing business as SPECTRUM CENTER (hereinafter referred to as “Defendants” or (THE EMPLOYERS), as follows:

I. INTRODUCTION

1. This is a representative action for recovery of civil penalties only under the Private Attorneys General Act of 2004 ("PAGA") codified by California Labor Code sections 2698, et seq. The PAGA permits "aggrieved employees" to bring a lawsuit as a representative action on behalf of themselves and all other current and former aggrieved employees to recover civil penalties and address an employer's violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code and Industrial Welfare Commission ("IWC") Wage Orders. Specifically, The Employers maintained and implemented policies and practices which result in the failure to authorize and permit paid rest periods under section 226.7 and the applicable wage order; failure to provide Meal breaks in violation of Labor code 512; failure to pay all wages owed upon separation under sections 201, 202, and 203; failure to provide accurate, itemized wage statements under section 226; failure to pay minimum wages under section 1194; failure to reimburse necessary expenditure under Section 2802; failure to pay Reporting Time pay, and violation of Private Attorneys General Act of 2004, Labor Code § 2698, et seq.

3. Plaintiff was employed by one or more of The Employers in California from on or about August 2018, to February 21, 2020 as a non-exempt Behavioral Therapist. Plaintiff brings this action on behalf of himself and all other aggrieved employees employed by The Employers as non-exempt Behavioral Therapists and other similarly situated California employees (the “Aggrieved Employees”).

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.”

5. This Court has subject matter jurisdiction over this action pursuant to Code of Civil Procedure section 410.10.

6. This Court has personal jurisdiction over Defendants in that Defendants had sufficient

1 minimum contacts with the State of California so as to render the exercise of jurisdiction over
2 Defendants by the California courts consistent with traditional notions of fair play and substantial
3 justice.

4 7. Venue is proper in this judicial district pursuant to Code of Civil Procedure section 395.5
5 because Defendants conducts business and commits Labor Code violations in Alameda County, and
6 Defendant employs numerous employees in Alameda County and throughout the State of California.

7 8. On or about July 8, 2020, Plaintiff complied with the notice requirements pursuant to
8 California Labor Code § 2699.3 and gave written notice via online filing and certified mail of the
9 specific provisions alleged to have been violated to the Labor and Workforce Development Agency
10 (“LWDA”) and Defendant. A true and correct copy of the notice is attached hereto as **Exhibit A** and
11 incorporated herein by reference.

12 9. Sixty-five (65) days has passed since Plaintiff provided written notice required by Labor
13 Code § 2699.3. Therefore, Plaintiff may commence a civil action pursuant to Labor Code § 269.3(a)(1)-
14 (2).

15 **III. THE PARTIES**

16 10. Plaintiff is a resident of California and was employed by The Employers from August
17 2018 to February 21, 2020 as a Behavioral Therapist, in Alameda County.

18 11. Defendant Maxim Healthcare Staffing, Inc., and Maxim Healthcare Services, Inc. are
19 Maryland Corporations are registered to do business in California, and at all times relevant herein
20 conducted and continues to conduct substantial and regular business throughout the state of California.
21 Defendant ChanceLight Inc., is a Delaware corporation doing business as Spectrum Center and are
22 registered to do business in California, and at all times relevant herein conducted and continues to
23 conduct substantial and regular business throughout the state of California.

24 12. Maxim HealthCare Staffing and Maxim HealthCare Services Inc., are in the business of
25 staffing facilities that provide services to those with disabilities throughout the State of California.
26 Chancelight Inc., doing business as Spectrum Center operates facilities throughout the State of
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1 California where individuals with disabilities are provided with Behavioral Therapists and similar
2 services.

3 13. The true names and capacities of Defendants, whether individual, corporate, associate, or
4 otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who
5 therefore sues such Defendants by such fictitious names under Code of Civil Procedure section 474.
6 Plaintiff is informed and believes, and based thereon alleges that each of the Defendants designated
7 herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff
8 will seek leave of court to amend this Complaint to reflect the true names and capacities of the
9 Defendants designated hereinafter as DOES when such identities become known.

10 14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in
11 all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
12 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
13 attributable to the other Defendants.

14 IV. FACTUAL ALLEGATIONS

15 15. At all times during the liability period, The Employers had conducted business by
16 providing one on one Behavioral Therapy services for the disabled in Alameda County and throughout
17 the State of California.

18 16. Plaintiff was employed by Defendant from August 2018 to February 21, 2020 as a
19 Behavioral Therapist in Alameda County, California.

20 17. Plaintiff work(ed) in non-exempt, non-managerial positions, such as Behavioral Therapist
21 and however titled, and similar and incidental positions in California.

22 18. Plaintiff is informed and believes, and based thereon alleges, Defendant currently
23 employs and during the relevant period has employed hundreds of employees in the State of California
24 in non-exempt positions, such as Behavioral Therapists and/or other similar positions.

25 19. Plaintiff is, and at all times pertinent hereto, has been a non-exempt employee within the
26 meaning of the California Labor Code, and the implementing rules and regulations of the IWC
27 California Wage Orders.
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1 20. Plaintiff is informed and believes, and based thereon alleges, that non-exempt employees
2 are compensated by an hourly rate and upon information and belief, these employees have not been paid
3 wages for all hours worked.

4 21. In addition, on information and belief The Employers did not compensate Plaintiff during
5 hours that he performed labor while off the clock either before the commencement of his shift, or after
6 his shift was completed.

7 22. In addition, on information and belief Defendant failed to pay Plaintiff accurate
8 Reporting Time Pay, when Plaintiff would show up to work but would be told to go home when there
9 was no work on that day.

10 23. In addition, on information and belief Defendant failed to reimburse Plaintiff for business
11 expenditures, such the use of Plaintiff's personal vehicle, and cellular phone for the benefit of
12 Defendant.

13 24. In addition, as a result of The Employers' policies, as well as productivity requirements
14 and work schedules implemented and enforced by The Employers, Plaintiff was not permitted lawful
15 net-ten-minute rest period for every four hours worked or major fraction thereof, and/or lawful 30
16 minuet meal breaks for work period of more than five hours per day.

17 25. On information and belief, The Employers did not relieve Plaintiff of all duties during
18 meal and rest periods nor did it relinquish control over how Plaintiff spent his meal and rest break time.

19 26. Plaintiff was not paid one additional hour of pay at the employee's regular rate of pay for
20 each workday that the meal and/or rest period was not provided.

21 27. On information and belief, Defendant knew or should have known that it is improper and
22 unlawful to commit the following acts:

- 23 a. failing to authorize and permit a paid ten-minute rest period for every four hours worked
24 or a major fraction thereof;
25 b. failing to authorize and permit a lawful 30 minuet meal break for work period of more than
26 five hours per day;
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- 1 c. failing to compensate employees with one (1) hour of pay at the regular rate of
2 compensation for each workday that a legally compliant meal or rest period was not
3 provided;
4 d. failing to reimburse business expenditures;
5 e. failing to pay all wages due and owing upon separation from Defendant's employ;
6 f. failing to provide accurate, itemized wage statements; and
7 g. failure to pay minimum wages and Reporting Time Pay.

8 28. Plaintiff is informed and believes, and thereon alleges, that Defendant is and was advised
9 by skilled lawyers and other professionals, employees, and advisors with knowledge of the requirements
10 of California's wage and employment laws. Accordingly, Plaintiff is informed and believes that such
11 violations during the liability periods were willful and deliberate.

12 **V. CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **Violation of Private Attorneys General Act of 2004, Labor Code § 2698, Et Seq.**

15 (Against all Defendants)

16 29. Plaintiff incorporates the above allegations as if fully set forth herein.

17 30. Pursuant to California Labor Code § 2699.3,

18 (a) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of
19 Section 2699 alleging a violation of any provision listed in Section 2699.5 shall
commence only after the following requirements have been met:

20 (1) (A) The aggrieved employee or representative shall give written notice by
21 online filing with the Labor and Workforce Development Agency and by certified
22 mail to the employer of the specific provisions of this code alleged to have been
violated, including the facts and theories to support the alleged violation.

23 (2) (A) The agency shall notify the employer and the aggrieved employee or
24 representative by certified mail that it does not intend to investigate the alleged
25 violation within 60 calendar days of the postmark date of the notice received
26 pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided
27 within 65 calendar days of the postmark date of the notice given pursuant to
28 paragraph (1), the aggrieved employee may commence a civil action pursuant to
Section 2699.

1 31. On or about July 7, 2020, Plaintiff complied with the notice requirements pursuant to
2 California Labor Code § 2699.3 and gave written notice via online filing and certified mail of the
3 specific provisions alleged to have been violated to the Labor and Workforce Development Agency
4 (“LWDA”) and Defendant. A true and correct copy of the notice is attached hereto as **Exhibit A** and
5 incorporated herein by reference.

6 32. Sixty-five (65) days has passed since Plaintiff provided written notice required by Labor
7 Code § 2699.3. Therefore, Plaintiff may commence a civil action pursuant to Labor Code § 269.3(a)(1)-
8 (2).

9 33. Plaintiff is an aggrieved employee as defined in Labor Code § 2699(c). Plaintiff brings
10 this action on his own behalf and on behalf of other Aggrieved Employees.

11 34. Plaintiff regularly worked in excess of four hours or major fraction thereof a day without
12 being provided a rest period of not less than 10 minutes in which she was relieved of all duties, as
13 required by California Labor Code §§ 226.7 and Wage Order No. 7-2001. Similarly Plaintiff was not
14 provided with a lawful 30 minuet meal break, in violation of California Labor Code §§ 512 and Wage
15 Order No. 7-2001.

16 35. As a consequence of productivity requirements and work schedules implemented and
17 enforced by The Employers, Plaintiff was unable to take lawful net-ten-minute rest periods and lawful
18 30 minuet meal breaks for every five hours worked. As a result of violations of California Labor Code
19 § 226.7; 512, and Wage Order No. 7-2001, The Employers are liable for **civil penalties** pursuant to
20 California Labor Code § 2698 *et seq.*

21 36. Defendant has violated California Labor Code §§ 510, 1194 and IWC Wage Order 7-
22 2001 by willfully failing to pay for all hours worked, including hourly wages for Off-the-clock work.
23 Defendant failed to pay Reporting Time Pay when Plaintiff was asked to leave due to lack of work.
24 Also by allowing Plaintiff to work through meal and rest periods Defendant failed to pay hourly wages,
25 including minimum wages earned. In addition, the Aggrieved Employees are entitled to liquidated
26 damages equal to unlawfully unpaid minimum wages with interest pursuant to Labor Code § 1194.2. As
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1 a result of violations of California Labor Code § 510, 1194 and Wage Order No. 7-2001, NAF is liable
2 for civil penalties pursuant to California Labor Code § 2698 *et seq.*

3 37. Defendant has violated California Labor Code §§ 201 and 202 by willfully failing to pay
4 all compensation due and owing to Plaintiff at the time employment was terminated. Defendant failed to
5 pay Plaintiff all compensation due upon termination of employment as required under California Labor
6 Code §§ 201 and 202, including meal and rest period premium pay and commissions. Accordingly,
7 Defendant has violated California Labor Code §§ 201, 202, and 203, Defendant is liable for civil
8 penalties pursuant to Labor Code § 2698 *et seq.*

9 38. Defendant has violated California Labor Code §§ 2802 by failing to reimburse Plaintiff
10 for business expenditures for the use of his personal vehicle and his cellular phone for the benefit of The
11 Employers' business.

12 39. Defendant has violated Labor Code § 226(a) by willfully failing to furnish Plaintiff with
13 accurate, itemized wage statements showing the actual hours worked. As described above, Defendant
14 deliberately failed to pay wages for time worked off the clock, Reporting Time Pay, and failed to pay
15 meal and rest period premiums, and, therefore, knew or should have known that the wage statements
16 were inaccurate. As a result of violations of California Labor Code § 226(a), Defendant is liable for civil
17 penalties pursuant to California Labor Code § 2698 *et seq.*

18 40. Labor Code § 558 provides:

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20 “An employer or other person acting on behalf of an employer who violates, or causes to
21 be violated, a section of this chapter or any provision regulating hours and days of work in
22 any order of the Industrial Welfare Commission shall be subject to a civil penalty as
follows:

23 “(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay
24 period for which the employee was underpaid in addition to an amount sufficient to recover
underpaid wages.

25 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee
26 for each pay period for which the employee was underpaid in addition to an amount
27 sufficient to recovery underpaid wages.”

28 Plaintiff is not claiming any wages under Labor Code § 558.

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2 41. Labor Code § 2699(f) provides:

3 (f) For all provisions of this code except those for which a civil penalty is specifically
4 provided, there is established a civil penalty for a violation of these provisions, as follows:

5 (1) If, at the time of the alleged violation, the person does not employ one or more
6 employees, the civil penalty is five hundred dollars (\$500).

7 (2) If, at the time of the alleged violation, the person employs one or more employees, the
8 civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for
the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay
period for each subsequent violation.

9 42. As a direct and proximate result of Defendant's conduct as alleged above, Plaintiff and
10 the Aggrieved Employees are entitled to a civil penalty of at least fifty dollars (\$50) for the initial pay
11 period, and at least one hundred dollars (\$100) for each subsequent pay period for which Defendant
12 violated the Labor Code and applicable Wage Order as alleged herein.

13 43. Pursuant to Labor Code § 2698, *et seq.*, Plaintiff seeks to recover civil penalties only as
14 prescribed by the Labor Code Private Attorneys General Act of 2004 as the representative of the State of
15 California for the illegal conduct perpetrated on Plaintiff and the Aggrieved Employees.

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby demands a jury trial on issues triable to a jury.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays for judgment as follows:

20 1. For recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of
21 2004, Labor Code § 2698, *et seq.*;

22 2. An award of penalties, attorneys' fees and costs of suit, as allowable under the law, including, but
23 not limited to, pursuant to Labor Code sections 2698, *et seq.*; and

24 3. For such other and further relief as the Court deems just and proper.
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1 Dated: July 8, 2020

Respectfully submitted,

2 **JAMES HAWKINS APLC**

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James R. Hawkins, Esq.
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Attorneys for Plaintiffs and Members
8 of the General Public
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