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Attorneys for Plaintiff JASMINE VEGA,
on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JASMINE VEGA, individually and on
behalf of herself and all others similarly
situated,

Plaintiff,

v.

PRISM AUTISM FOUNDATION, a
California Nonprofit Corporation; PRISM
BEHAVIORAL SOLUTIONS, INC., a
California Corporation; DR. LUSINE
GABRIELIAN, an individual; and DOES
1-50, inclusive,

Defendants.

Case No.

COMPLAINT

Assigned for All Purposes To:

Hon.

Dept.:

COMPLAINT

- 1) Penalties under the Private Attorney
Generals Act, Labor Code section 2698

DEMAND FOR JURY TRIAL

Plaintiff JASMINE VEGA ("Plaintiff"), an individual, asserts representative claims against
defendants PRISM AUTISM FOUNDATION, a California Nonprofit Corporation; PRISM
BEHAVIORAL SOLUTIONS, INC., a California Corporation; DR. LUSINE GABRIELIAN, an
individual; and DOES 1-50, inclusive (collectively "PRISM" or "Defendants") as follows:

INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys
General Act of 2004 ("PAGA"), Cal. Lab. Code sections 2698 *et seq.* PAGA permits "aggrieved
employees" to bring a lawsuit as a representative action on behalf of themselves and all other

1 current and former employees during the liability period to recover civil penalties and address an
2 employer's violations of the California Labor Code.

3 2. Plaintiff brings this suit on behalf of herself and all other current and former
4 employees working for Defendants in California during the relevant time period to recover civil
5 penalties and address the employer's violations of the California Labor Code (the "Aggrieved
6 Employees").

7 3. Plaintiff also asserts certain other claims on behalf of all current and former non-
8 exempt employees that worked for Defendants in California during the relevant time period (the
9 "Aggrieved Non-Exempt Employees").

10 4. The Aggrieved Non-Exempt Employee group is a subset of the Aggrieved
11 Employee group.

12 5. Throughout the liability period, Defendants consistently maintained and enforced
13 against their Aggrieved Employees unlawful practices and policies in violation of California state
14 wage and hour laws, including failing to lawfully and accurately pay Aggrieved Employees for all
15 hours worked; failing to reimburse necessary expenses; failing to provide accurate itemized wage
16 statements; failing to timely pay wages during employment; failing to timely pay all wages owed
17 at the time of termination; failing to provide accurate itemized wage statements; and failing to keep
18 accurate records.

19 6. Defendants' uniform policies and practices deprived Plaintiff and the Aggrieved
20 Employees of earned wages, premiums, penalties, and sums paid for necessary expenses.

21 7. As set forth in greater detail herein, Defendants engaged in conduct and adopted
22 policies that were and continue to be in violation of the California Labor Code and applicable law.
23 Plaintiff, on behalf of herself and all other Aggrieved Non-Exempt Employees, brings this PAGA
24 action and seeks penalties for violations of the California Labor Code, including without limitation
25 sections, including sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 510, 512, 516, 558,
26 1174, 1194, 1194.2, 1195, 1197, 1198, 2802, 2698 *et. seq.*, applicable IWC California Wage Orders
27 (including Wage Order 2 and 4) and California Code of Regulations, Title 8, section 11000 *et seq.*

1 **JURISDICTION AND VENUE**

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

6 9. This Court has jurisdiction over Defendants because, upon information and belief,
7 each Defendant is either a resident of California, has sufficient minimum contacts in California, or
8 otherwise intentionally avails itself of the California market so as to render the exercise of
9 jurisdiction over them by the California Courts consistent with traditional notions of fair play and
10 substantial justice. Defendants have done and are doing business throughout California.

11 10. The unlawful acts alleged herein have a direct effect on Plaintiff and the other
12 similarly situated Aggrieved Employees within San Bernardino County and it is believed that
13 Defendants have employed over one hundred Aggrieved Employees as Non-Exempt Employees
14 throughout the state.

15 11. The California Superior Court also has jurisdiction in this matter because the
16 individual claims of the Aggrieved Employees described herein are presently believed to be under
17 the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for Federal Court and
18 because this is a PAGA action, the penalties may not be aggregated to satisfy the amount in
19 controversy requirement to establish diversity. Further, there is no federal question at issue, as the
20 issues herein are based solely on California statutes and law, including the Labor Code, and IWC
21 Wage Orders.

22 12. Venue is proper in this Court because one or more of the Defendants reside, transact
23 business, or have offices in this County, and the acts or omissions alleged herein took place, at least
24 in part, in this County.

25 **PARTIES**

26 13. Prism Autism Foundation is a California Nonprofit corporation in good standing
27 that is authorized to do business throughout the state. Prism Autism Foundation's headquarters
28 are located at 23928 Jensen Dr., West Hills, California 91304.

1 14. Prism Autism Foundation does business as Prism Behavioral Solutions, Inc. and
2 operates several business locations in the State of California under the name of Prism Behavioral
3 Solutions, Inc.

4 15. Prism Behavioral Solutions maintains its headquarters at 21600 Oxnard St. Suite
5 1030, Woodland Hills, CA 91367.

6 16. Prism Behavioral Solutions and Prism Autism Foundation are referred to
7 collectively herein as “Prism” or “Defendants”.

8 17. Upon information and belief, Dr. Lusine Gabrielyan is the founder and President
9 of Prism Behavioral Solutions and Prism Autism Foundation.

10 18. Upon information and belief, Dr. Gabrielyan is an employer or other person acting
11 on behalf of an employer who violated or caused to be violated Labor Code sections 500-558.1
12 and the IWC Wage Order, and thus is subject to liability under Labor Code Section 558.

13 19. Defendants operate in California from multiple locations providing skills and
14 support to promote positive behaviors in children with a specific emphasis on autism.

15 20. Plaintiff Jasmine Vega is and during the liability period has been, a resident of the
16 State of California, and during the relevant time resided in San Bernardino County.

17 21. Plaintiff was employed by defendant during the liability period as an Office
18 Manager based in San Bernardino, CA. Defendant classified Plaintiff as a salaried, exempt
19 employee.

20 22. Plaintiff and the members of the aggrieved group were employed by Defendants as
21 exempt and non-exempt employees, however titled, (the “Aggrieved Employees”) of Prism
22 Behavioral Solutions during the liability period.

23 23. Plaintiff also asserts specific claims on behalf of non-exempt employees, however
24 titled, working for Prism Behavioral Solutions throughout the state of California during the liability
25 period. (the “Aggrieved Non-Exempt Employees”).

26 24. Whenever in this complaint reference is made to any act, deed, or conduct of
27 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through
28 one or more of Defendants’ officers, directors, agents, employees, or representatives, who was

1 actively engaged in the management, direction, control, or transaction of the ordinary business and
2 affairs of Defendants.

3 25. The true names and capacities of Defendants, whether individual, corporate,
4 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
5 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure §
6 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
7 capacities of the Defendants designated hereinafter as DOES when such identities become known.

8 26. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are
9 the partners, agents, or principals and co-conspirators of Defendants and of each other; that
10 Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided
11 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits
12 of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the
13 liability of the Defendants as alleged herein.

14 27. Plaintiff is further informed and believes, and thereon alleges, that at all times
15 material herein, each Defendant was completely dominated and controlled by its co-Defendants
16 and each was the alter ego of the other. Whenever and wherever reference is made in this complaint
17 to any conduct by Defendant or Defendants, such allegations and references shall also be deemed
18 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.
19 Whenever and wherever reference is made to individuals who are not named as Defendants in this
20 complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times
21 acted on behalf of Defendants named in this complaint within the scope of their respective
22 employments.

23 **FACTUAL ALLEGATIONS**

24 28. This action is timely because Plaintiff suffered from a violation or numerous
25 violations of the California Labor Code within one year of the date on which her PAGA notice
26 was sent to the LWDA.

27 29. The Aggrieved Non-Exempt Employees and the Aggrieved Employees worked as
28 employees of Defendants throughout the state of California during the liability period.

1 30. During the relevant time, Plaintiff worked as an office manager for Defendants
2 from December 2018 through September 2019, until she resigned because of Defendants'
3 repeated failure to timely pay employees for work performed.

4 31. Plaintiff typically worked 7 days a week and often 9-10 hours per day.

5 32. All Aggrieved Employees, including Plaintiff, are similarly situated in that they
6 are all subject to Defendants' uniform policies and systemic practices as specified herein.

7 33. Defendants frequently failed to timely provide paychecks to employees and, on
8 occasion, when Defendants issued paychecks to Plaintiff and the Aggrieved Employees, such
9 paychecks would bounce (generally due to insufficient funds).

10 34. In addition, Defendants failed to reimburse Plaintiff and the Aggrieved Employees
11 for necessary expenses incurred for mileage, cellular phone usage, and other items for the
12 workforce, and forced employees to incur certain expenses associated with bounced checks.

13 35. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
14 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the
15 requirements of California's wage and employment laws.

16 36. Plaintiff also asserts certain claims as to the group of Aggrieved Non-Exempt
17 Employees. *See, Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018) (an
18 "aggrieved employee" may pursue penalties under PAGA for all Labor Code violations
19 committed by an employer even if s/he is not personally affected by all of the violations).

20 37. During the relevant time frame, Defendants compensated the Aggrieved Non-
21 Exempt Employees based upon an hourly wage.

22 38. The Aggrieved Non-Exempt Employees were, and at all times pertinent hereto,
23 have been non-exempt employees within the meaning of the California Labor Code, and the
24 implementing rules and regulations of the IWC California Wage Orders. They are subject to the
25 protections of the IWC Wage Orders and the Labor Code.

26 39. The Aggrieved Non-Exempt Employees were not properly compensated for all
27 hours worked, in part because they were frequently required to work off the clock as they were
28 required to answer calls, respond to messages, perform work before and after scheduled work hours

1 and during meal periods, and travel to and from various locations without complete compensation.

2 40. Aggrieved Non-Exempt Employees were paid a certain amount of time to travel to
3 and from locations, but such time was counted against breaks/lunch and if Aggrieved Non-Exempt
4 Employees encountered traffic or any delays that caused the travel time to be in excess of the set
5 amount, they would not be compensated for such time.

6 41. In addition, the Aggrieved Non-Exempt Employees frequently worked in excess of
7 eight (8) hours a day and/or over forty (40) hours in a workweek, but were not properly paid for
8 such time at a rate of time and one-half the employee's regular rate of pay per hour. The
9 Aggrieved Employees also often worked in excess of twelve (12) hours in one day and/or over
10 eight (8) hours on the seventh day of the workweek, but were not properly paid for such time at a
11 rate of two times the employee's regular rate of pay per hour.

12 42. The Aggrieved Non-Exempt Employees were regularly required to work shifts in
13 excess of five hours without being provided a lawful meal period and over ten hours in a day
14 without being provided a second lawful meal period as required by law.

15 43. Indeed, during the relevant time, as a consequence of Defendants' staffing and
16 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
17 Defendants frequently failed to provide the Aggrieved Non-Exempt Employees timely, legally
18 complaint uninterrupted 30-minute meal periods on shifts over five hours as required by law.

19 44. On information and belief, the Aggrieved Non-Exempt Employees did not waive
20 their rights to meal periods under the law.

21 45. The Aggrieved Non-Exempt Employees were not provided with valid lawful on-
22 duty meal periods.

23 46. Despite the above-mentioned meal period violations, Defendants failed to, on
24 information and belief, failed to compensate Aggrieved Non-Exempt Employees, one additional
25 hour of pay at their regular rate as required by California law when meal periods were not timely
26 or lawfully provided in a compliant manner.

27 47. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
28 should know, knew, and/or should have known that Aggrieved Non-Exempt Employees were

1 entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but
2 were not receiving such compensation.

3 48. In addition, during the relevant time frame, the Aggrieved Non-Exempt
4 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
5 period for every four hours worked or major fraction thereof, which is a violation of the Labor
6 Code and IWC wage order.

7 49. Defendants maintained and enforced scheduling practices, policies, and imposed
8 work demands that frequently required the Aggrieved Non-Exempt Employees to forego their
9 lawful, paid rest periods of a net ten minutes for every four hours worked or major fraction
10 thereof. Such requisite rest periods were not timely authorized and permitted.

11 50. Despite the above-mentioned rest period violations, Defendants did not pay
12 Aggrieved Non-Exempt Employees one additional hour of pay at their regular rate as required by
13 California law, including Labor Code section 226.7 and the applicable IWC wage order, for each
14 day on which lawful rest periods were not authorized and permitted.

15 51. In violation of Labor Code section 226, Defendants also failed to provide accurate,
16 lawful itemized wage statements to Plaintiff and the Aggrieved Employees in part because of the
17 above specified violations. In addition, upon information and belief, Defendants omitted an
18 accurate itemization of total hours worked, and the applicable rates of pay, as well as the name
19 and address of the legal entity that is the employer from Plaintiff and the Aggrieved Employees'
20 wage statements.

21 52. In violation of Labor Code section 246(h), Defendants also failed to include the
22 amount of paid sick leave available, or paid time off leave provided in lieu of sick leave, for use
23 on either the Aggrieved Employees' itemized wage statements described in Section 226 or in a
24 separate writing provided on the designated pay date with the employee's payment of wages.

25 53. In addition, upon information and belief, Defendants failed to pay sick leave to the
26 Aggrieved Employees at the proper regular rate of pay specified in Labor Code section 246.

27 54. As to the Aggrieved Employees, Defendants also failed to implement and preserve
28 a lawful record-keeping method to record all hours worked, wages earned, meal periods, and non-

1 provided rest and meal periods owed to employees as required for non-exempt employees by
2 California Labor Code section 226, 1174, and applicable California Wage Orders.

3 55. Plaintiff is informed and believes, and thereon alleges, that at all times herein
4 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
5 thereof for resignations without prior notice as the case may be) they had a duty to accurately
6 compensate Aggrieved Non-Exempt Employees for all wages owed including minimum wages,
7 straight time wages, overtime, meal and rest period premiums, and that Defendants had the financial
8 ability to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed
9 to do so in part because of the above-specified violations.

10 **Failure to Accurately and Fully Pay All Wages,**
11 **Including Minimum Wages and Overtime**
12 **(Aggrieved Non-Exempt Employees)**

13 56. Labor Code § 1182.12 sets the minimum wage.

14 57. Labor Code § 1194 provides that “Notwithstanding any agreement to work for a
15 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
16 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
17 of the full amount of this minimum wage or overtime compensation, including interest thereon,
18 reasonable attorney’s fees, and costs of suit.”

19 58. Labor Code § 1197 states that “The minimum wage for employees fixed by the
20 commission or by any applicable state or local law, is the minimum wage to be paid to employees,
21 and the payment of a lower wage than the minimum so fixed is unlawful.”

22 59. Labor Code § 1198 provides: “The maximum hours of work and the standard
23 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
24 conditions of labor for employees. The employment of any employee for longer hours than those
25 fixed by the order or under conditions of labor prohibited by the order is unlawful.”

26 60. The Labor Code and the Wage Orders require that employers pay employees at least
27 minimum wage for every hour worked, and overtime for hours worked over eight hours in a day
28 and over forty hours in a week.

1 61. Labor Code §510, 515 requires employers to pay employees one-and-one-half (1-
2 1/2) times the employee's regular rate of pay for all those hours worked in excess of forty (40)
3 hours in one work week and/or in excess of eight (8) in one work day, and two (2) times the regular
4 rate of pay for hours worked in excess of twelve (12) hours per day, unless such employees are
5 exempt from the requirements of the Wage Order.

6 62. An employee who works more than twelve (12) hours in a day or more than eight
7 (8) hours on the seventh day in a workweek is entitled to overtime compensation at a rate of twice
8 the regular rate of pay.

9 63. The Aggrieved Non-Exempt Employees were not exempt from the requirement to
10 be paid minimum wages and overtime wages in accordance with the law.

11 64. Plaintiff alleges that Defendants violated Labor Code sections 510, 1194, 1197,
12 1198 and the IWC Wage Order by failing to pay all wages owed including minimum wages and
13 overtime to Aggrieved Non-Exempt Employees.

14 65. Plaintiff alleges that during the relevant time, the Aggrieved Non-Exempt
15 Employees were required to work hours for which they were not compensated, including minimum
16 wages and overtime, in violation of the law by virtue of Defendants' policies, practices, procedures,
17 labor models, staffing models, and labor budgets.

18 66. By way of example only, such hours were worked off-the-clock to perform non-
19 productive work, and duties and functions such as driving between visits and office locations,
20 answering calls and performing work while off-duty before and after work, during days off, and
21 during purported off-duty meal periods.

22 67. Defendants knew or should have known that the Aggrieved Non-Exempt Employees
23 were required to work off-the clock but did not pay Aggrieved Non-Exempt Employees for such
24 hours worked.

25 68. As a result of Defendants' conduct in requiring the Aggrieved Non-Exempt
26 Employees to work hours for which they were not even paid minimum wage and work hours in
27 excess of eight (8) hours per work day and/or forty (40) in one work week without paying them
28 one-and-one-half (1-1/2) times their regular hour rate (or double-time hours for hours worked in

1 excess of twelve (12) hours per day), the Aggrieved Non-Exempt Employees have sustained and
2 will sustain damages in the amount of one-half (1/2) times or double (2) times their regular hourly
3 rate for all overtime hours worked together.

4 69. In addition, upon information and belief, Defendants failed to pay Aggrieved Non-
5 Exempt Employees for overtime hours worked at the proper rate, because Defendants failed to use
6 the proper regular rate, as the regular rate did not include all applicable forms of compensation,
7 including non-discretionary bonuses and incentives.

8 70. The Aggrieved Non-Exempt Employees are or were employees in the State of
9 California and Defendant was and is an employer employing persons in the State of California. As
10 such, the Aggrieved Non-Exempt Employees were the type of persons contemplated to be protected
11 by Labor Code §§1194, and 1194.2 and said provisions were intended to apply to Defendants and
12 to prevent the type of injury and damage set forth herein.

13 71. As a result of Defendants' conduct in not paying the Aggrieved Non-Exempt
14 Employees all wages earned, the Aggrieved Non-Exempt Employees have been deprived of
15 minimum wages for off the clock hours and the legal overtime wage for all overtime hours they
16 worked and for which they were not compensated.

17 **Failure to Authorize and Permit Legally Compliant Rest Breaks**
18 **(Aggrieved Non-Exempt Employees)**

19 72. This action is brought under Labor Code §226.7, 1198, and Section 12(A) of Wage
20 Order 2 and 4, which provides that employers shall authorize and permit employees to take a rest
21 period of ten (10) minutes for each four (4) hours, or major fraction thereof, worked.

22 73. This action is further brought under Labor Code §226.7(b) and Section 12(B) of
23 Wage Order 2 and 4, which provides that if an employer fails to provide an employee with a rest
24 period, the employer shall pay the employee one hour of pay for each work day that a rest period
25 was missed.

26 74. The Aggrieved Non-Exempt Employees were systematically not authorized and
27 permitted to take legally compliant net ten (10) minute rest periods for every four hours worked or
28

major fraction thereof, which is a violation of the Labor Code section 226.7, 1198, and the applicable IWC wage order.

75. Aggrieved Non-Exempt Employees were not authorized and permitted to take a lawful net ten minute rest period as required by law, in part because Defendants maintained and enforced scheduling practices, policies and practices, imposed work demands, to forego their breaks or return before a net ten minutes of rest.

76. Aggrieved Non-Exempt Employees were also not separately compensated for non-productive work live rest periods.

77. This conduct violates the Labor Code § 226.7, 1198, and Wage Order 2-2001 and 4-2001.

78. Pursuant to Labor Code § 226.7, 1198, and the Wage Order 2-2001 and 5-2001, the Aggrieved Non-Exempt Employees are entitled to recover one (1) hour of premium pay for each day in which a rest period violation occurred.

79. Despite the above-mentioned rest period violations, Defendants did not compensate the Aggrieved Non-Exempt Employees one additional hour of pay at their regular rate as required by California law for each day on which rest periods were not lawfully authorized and permitted. This constitutes a further violation of Labor Code § 226.7, 1198, and Wage Order 2-2001 and 4-2001.

80. As a direct and proximate result of Defendants' conduct as alleged above, the Aggrieved Non-Exempt Employees have sustained damages in the amount of one hour of wages for each day they were not authorized and permitted to take lawful net ten (10) minute rest periods.

Failure to Provide Lawful Meal Periods

(Aggrieved Non-Exempt Employees)

81. Pursuant to Labor Code § 512, 1198, and Wage Order 2-2001 and 4-2001, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties, 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 employee.

1 82. Similarly, pursuant to Labor Code § 512, 1198, and Wage Order 2-2001 and 4-2001,
2 no employer shall employ an employee for a work period of more than ten (10) hours without
3 providing a second meal break of not less than thirty (30) minutes in which the employee is relieved
4 of all of his or her duties.

5 83. During the liability period, Defendant failed to provide Aggrieved Non-Exempt
6 Employees with timely and uninterrupted first meal periods of not less than thirty (30) minutes
7 within the first five hours of a shift.

8 84. Indeed, during the relevant time, as a consequence of Defendants' staffing and
9 scheduling practices, lack of coverage, labor models, staffing models, labor budgets, and
10 Defendants' policies and practices, the Aggrieved Non-Exempt Employees were not provided
11 with legally required uninterrupted meal periods.

12 85. In addition, Aggrieved Non-Exempt Employees were required to interrupt meal
13 periods and perform job duties and respond to issues that arose during such breaks.

14 86. On information and belief, the Aggrieved Non-Exempt Employees did not waive
15 their rights to meal periods under the law.

16 87. Pursuant to Labor Code § 226.7, the Aggrieved Non-Exempt Employees are entitled
17 to recover one (1) hour of premium pay for each day in which a meal period violation occurred.

18 88. The Aggrieved Non-Exempt Employees were not paid one hour of pay at their
19 regular rate for each day that a first meal period was not lawfully provided. This constitutes a
20 further violation of Labor Code § 226.7, 1198, and Wage Order 2-2001 and 4-2001.

21 **Failure To Timely Pay Wages Due And Payable During Employment**

22 **(Aggrieved Employees)**

23 89. Labor Code section 204 requires that all wages are due and payable twice in each
24 calendar month.

25 90. The wages required by Labor Code §§ 200, 226.7, 510, 515, 1194, 1197, 1198,
26 Wage Orders 2-2001 and 4-2001, and other sections became due and payable to each employee
27 twice during each calendar month, on days designated as the regular paydays.

1 91. Specifically, Labor Code § 204 requires “Labor performed between the 1st and 15th
2 days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
3 month during which the labor was performed, and labor performed between the 16th and the last
4 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
5 following month. However, salaries of executive, administrative, and professional employees of
6 employers covered by the Fair Labor Standards Act, as set forth pursuant to Section 13(a)(1) of the
7 Fair Labor Standards Act, as amended through March 1, 1969, in Part 541 of Title 29 of the Code
8 of Federal Regulations, as that part now reads or may be amended to read at any time hereafter,
9 may be paid once a month on or before the 26th day of the month during which the labor was
10 performed if the entire month’s salaries, including the unearned portion between the date of
11 payment and the last day of the month, are paid at that time.”

12 92. Defendants violated Labor Code § 204 by systematically failing and refusing to pay
13 Plaintiff and the Aggrieved Employees all wages due under the Labor Code in a timely manner as
14 required by statute.

15 93. Indeed, as detailed above, Defendants frequently failed to issue paychecks to
16 Aggrieved Employees and, on other occasions, when they did issue paychecks, such paychecks
17 bounced or were returned.

18 94. Labor Code section 210 (a) provides that “In addition to, and entirely independent
19 and apart from, any other penalty provided in this article, every person who fails to pay the wages
20 of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and
21 1197.5, shall be subject to a penalty as follow:

22 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each
23 employee.

24 (2) For each subsequent violation, or any willful or intentional violation, two hundred
25 dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount
26 unlawfully withheld.

1 **Failure to Reimburse Expenses**

2 **(Aggrieved Employees)**

3 95. Wage Order 2-2001 and 4-2001, and Labor Code § 2802 require employers to
4 reimburse employees for necessary expenses incurred in direct consequence of the discharge of
5 the employees' duties or in obedience to the direction of the employer.

6 96. Plaintiff and the Aggrieved Employees were required to incur expenses in direct
7 consequence of the discharge of their duties.

8 97. By way of example only, Aggrieved Employees were required to incur necessary
9 expenses that include those related to mileage to travel for appointments and between locations,
10 office purchases, cellular phone usage, and mileage/travel costs for traveling to other locations
11 and/or picking up supplies from other locations. In addition, Aggrieved Employees were
12 frequently required to bear expenses, like bank charges and penalties, associated with the returned
13 or bounced paychecks.

14 98. By way of further example, Plaintiff purchased water for the workforce, but
15 Defendants failed and refused to reimburse for such expenses.

16 99. Upon information and belief, other Aggrieved Employees incurred expenses for
17 items, in addition to mileage and cellular phone expenses.

18 100. Defendants failed and refused to reimburse such expenses and lacked a mechanism
19 for seeking such reimbursements.

20 101. Defendant did not reimburse the necessary expenses incurred by Plaintiff and the
21 Aggrieved Employees in violation of the IWC Wage Order 2-2001 and 4-2001 and Labor Code
22 section 2802.

23 **Failure to Provide Accurate Itemized Wage Statements**

24 **(Aggrieved Employees)**

25 102. In relevant part, Labor Code section 226(a) requires: An employer, semimonthly
26 or at the time of each payment of wages, shall furnish to his or her employee, an accurate
27 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
28

1 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee
2 is paid on a piece-rate basis, (4) all deductions , (5) net wages earned, (6) the inclusive dates of
3 the period for which the employee is paid, (7) the name of the employee and only the last four
4 digits of his or her social security number or an employee identification number other than a
5 social security number, (8) the name and address of the legal entity that is the employer, and (9)
6 all applicable hourly rates in effect during the pay period and the corresponding number of hours
7 worked at each hourly rate by the employee.

8 103. As to Plaintiff and the Aggrieved Employees, Defendants violated Labor Code
9 section 226 in part because of the above specified violations, including the failure to pay for all
10 hours worked, the failure to pay overtime at the proper regular rate, and the failure to pay one
11 hour of premium pay at the employee's regular rate of pay for rest breaks and meal breaks that
12 were not legally provided.

13 104. In addition, Defendants violated Labor Code section 226 by omitting the name and
14 address of the employer, all applicable hourly rates in effect and the corresponding number of
15 hours worked at each hourly rate.

16 **Failure to Pay Sick Leave Properly and Failure to Comply With Sick Leave Notice**
17 **Requirements.**
18 **(Aggrieved Employees)**

19 105. In violation of Labor Code section 246(h), Defendants also failed to include the
20 amount of paid sick leave available, or paid time off leave provided in lieu of sick leave, for use
21 on either Plaintiff and the Aggrieved Employees' itemized wage statements described in Section
22 226 or in a separate writing provided on the designated pay date with the employee's payment of
23 wages.

24 106. In addition, upon information and belief, Defendants failed to pay sick leave to the
25 Aggrieved Employees at the proper regular rate of pay specified in Labor Code section 246(l)(1).
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1 **Failure to Keep Accurate Payroll and Timekeeping Records**
2 **(Aggrieved Employees)**

3 107. IWC wage orders, Labor Code sections 226(a), 1174, and 1174.5 require that the
4 Defendant keep accurate payroll and timekeeping information.

5 108. By virtue of the above-specified violations, including the failure to record hours
6 worked off the clock, wages earned, proper rates of pay and hours worked during purportedly
7 provided meal breaks, and the failure to timely pay wages according to requirements of Labor
8 Code 204, Defendant failed to keep accurate timekeeping and wage information and violated
9 Labor Code sections 226(a), 1174, and 1174.5.

10 109. Defendant also failed to keep accurate payroll information as a consequence of the
11 above specified violations, including the failure to pay for all hours worked, premiums for missed
12 meal and rest breaks as required by law.

13 **Failure to Timely Pay Wages at Termination**
14 **(Aggrieved Non-Exempt Employees)**

15 110. In part as a result of the above specified violations, Defendants have also failed to
16 pay all wages owed at the time of separation as required by Labor Code §§ 201-202, and did not
17 receive waiting time penalties as required by Labor Code § 203.

18 111. Plaintiff and the Aggrieved Non-Exempt Employees who were separated from
19 employment are entitled to compensation for all forms of wages earned, including but not limited
20 to unpaid straight time wages, minimum wage, overtime compensation and compensation for
21 non-provided meal and rest periods, but to date have not received such compensation, therefore
22 entitling them to civil penalties under PAGA for violations of Labor Code sections 201-203.

23 **Penalties Under Labor Code Section 558**
24 **(Aggrieved Employees)**

25 112. Labor Code Section 558(a) provides: “Any employer or other person acting on
26 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
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1 provision regulating hours and days of work in any order of the Industrial Welfare Commission
2 shall be subject to a civil penalty as follows:

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

6 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
7 employee for each pay period for which the employee was underpaid in addition to an
8 amount sufficient to recover underpaid wages.

9 113. A PAGA Plaintiff may recover the civil penalty specified under the statute. (See,
10 *ZB, N.A. v. Superior Court* (Lawson), 8 Cal. 5th 175 (2019).

11 114. Defendants, including without limitation Defendants Prism and Dr. Gabrielyan,
12 are subject to penalties for the violations set forth herein.

13 **FIRST CAUSE OF ACTION**

14 **THE PRIVATE ATTORNEYS GENERAL ACT - LABOR CODE §§ 2698, et. seq.**

15 115. Plaintiff incorporates by reference and reallege each and every allegation contained
16 above, as though fully set forth herein.

17 116. On July 7, 2020, Plaintiff provided written notice by online filing to the Labor and
18 Workforce Development Agency ("LWDA") and via certified mail to Defendant of the specific
19 violations of the California Labor Code that Defendants have violated and continue to violate,
20 including the facts and theories that supported each alleged violation.

21 117. 65 days have passed and no response has been received from the LWDA.
22 Accordingly, the LWDA has permitted Plaintiff to proceed in a representative capacity.

23 118. Plaintiff has exhausted all administrative procedures required of them under Labor
24 Code §§2698, 2699 and 2699.3, and as a result, is justified as a matter of right in bringing forward
25 this cause of action.
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1 119. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a). She
2 brings this cause of action on her own behalf and all Aggrieved Employees and Aggrieved Non-
3 Exempt Employees of Defendant.

4 120. Pursuant to Labor Code section 2698 et seq and 2699(a), Plaintiff seeks to recover
5 civil penalties for which Defendants are liable due to numerous Labor Code and Wage Order
6 violations as set forth in this Complaint.

7 121. Specifically, Plaintiff, on behalf of herself and the Aggrieved Non-Exempt
8 Employees, seek penalties under Labor Code §2699 for the violations set forth herein including,
9 without limitation, the following:

- 10 a. Defendants' failure to comply with the requirement of Labor Code
11 §1182.12, 1194, 1197, 1198, and IWC Wage Order to pay at least minimum
12 wage for every hour worked;
- 13 b. Defendants' failure to comply with the requirement of Labor Code §510,
14 1194, 1197, 1198, and IWC Wage Order to pay all wages earned including
15 overtime wages;
- 16 c. Defendants' failure to comply with the requirement of Labor Code §216 to
17 pay wages after demand was made by Plaintiffs;
- 18 d. Defendants' failure to comply with the requirement of Labor Code §§204
19 and 210 to pay, without condition and within the time set by the applicable
20 article, all wages earned;
- 21 e. Defendants' failure to comply with the requirement of Labor Code §225.5
22 to pay wages due;
- 23 f. Defendants' failure to comply with the requirement of Labor Code §§201
24 and 202 to pay wages due to former employees;
- 25 g. Defendants' failure to comply with the requirement of Labor Code §203 to
26 pay waiting time penalties to former employees for violating Labor Code
27 §§201-202.

- h. Defendants' failure to comply with the requirement of Labor Code §226.7, 1198, and IWC Wage Order 2-2001 and 4-2001 to authorize and permit ten (10) minute rest breaks;
- i. Defendants' failure to comply with the requirement of Labor Code §226.7, 1198, and IWC Wage Order 2-2001 and 4-2001 to pay one hour of premium pay for each statutorily required rest break that was not authorized and permitted;
- j. Defendants' failure to comply with the requirement of Labor Code §226.7, 512, 1198, and IWC Wage Order 2-2001 and 4-2001 to provide uninterrupted 30 minute off-duty meal periods;
- k. Defendants' failure to comply with the requirement of Labor Code §226.7, 1198, and IWC Wage Order 2-2001 and 4-2001 to pay one hour of premium pay for each statutorily required meal break that was not provided;
- l. Defendants' failure to maintain required records in violation of Labor Code § 226, 1174, and IWC Wage Order 2-2001 and 4-2001
- m. Defendants' failure to provide accurate compliant wage statements under Labor Code § 226.
- n. Defendants' failure to include sick leave on wage statements or other document in violation of Labor Code §246(h);
- o. Defendants' failure to pay sick leave at the proper rate of pay in violation of Labor Code §246;
- p. Defendants' failure to reimburse necessary expenses in violation of Labor Code § 2802.

122. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code §§2698 and 2699 because of Defendants' violation of numerous provisions of the California Labor Code and IWC Wage Orders. Plaintiff seeks civil penalties for Defendants' violation of Labor Code provisions for which a civil penalty is specifically provided, including but not limited to the following:

- 1 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204,
2 Defendants are subject to a civil penalty in the amount of one
3 hundred dollars (\$100) for the initial violation for each failure to pay
4 each employee and two hundred (\$200) per employee for violations
5 in subsequent pay periods.
- 6 b. Pursuant to Labor Code § 226.3, for violations of Labor Code §
7 226(a), Defendants are subject to a civil penalty in the amount of two
8 hundred and fifty dollars (\$250) per aggrieved employee for the
9 initial pay period where a violation occurs and one thousand dollars
10 (\$1,000) per aggrieved employee for violations in subsequent pay
11 periods.
- 12 c. Pursuant to Labor Code § 558(a), “[a]ny employer or other person
13 acting on behalf of an employer who violates, or causes to be
14 violated, a section of this chapter or any provision regulating hours
15 and days of work in any order of the Industrial Welfare
16 Commission,” shall be subject to a civil penalty, in addition to any
17 other penalty provided by law, of fifty dollars (\$50) for initial
18 violations for each underpaid employee for each pay period for
19 which the employee was underpaid and one hundred dollars (\$100)
20 for each subsequent violation for each underpaid employee for each
21 pay period for which the employee was underpaid.
- 22 d. Pursuant to Labor Code § 1174.5, for violations of Labor Code §
23 1174(d), Defendants are subject to a civil penalty of five hundred
24 dollars (\$500).
- 25 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes
26 to be paid to any employee a wage less than the minimum fixed by
27 an order of the commission, shall be subject to a civil penalty as
28 follows: for any initial violation that is intentionally committed, one

1 hundred dollars (\$100) for each underpaid employee for each pay
2 period for which the employee is underpaid; and for each subsequent
3 violation of the same offense, two hundred fifty dollars (\$250) for
4 each underpaid employee for each pay period for which the
5 employee is underpaid regardless of whether the initial violation was
6 intentionally committed.

7 123. Under Labor Code §2699(f), Plaintiff, and the Aggrieved Non-Exempt Employees
8 are entitled to \$100 for any initial violation and \$200 for all subsequent violations of the above-
9 mentioned provisions of the California Labor Code for which no other civil penalty is specifically
10 provided.

11 124. Under Labor Code §2699, Plaintiff, and the Aggrieved Non-Exempt Employees
12 should be awarded twenty-five percent (25%) of all penalties due under California law, as well as
13 interest, attorneys' fees and costs.

14 125. Under Labor Code §2699, the State of California should be awarded seventy-five
15 percent (75%) of the penalties due under California law.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for judgment against Defendants, on behalf of herself and
18 the Aggrieved Employees (including without limitation the Aggrieved Non-Exempt Employees) as
19 follows:

- 20 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq. for the
21 violations specified above;
- 22 2. For penalties under Labor Code sections 210, 226.3, 1174.5, 1197.1, and 2699(a) and
23 (f);
- 24 3. For interest at the legal rate pursuant to Labor Code §§ 218.6, 1194, 2802, California
25 Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-
26 judgment interest;
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- 1 4. For reasonable attorneys' fees, expenses and costs under Labor Code §§1194, 226,
2 2699, and/or Code of Civil Procedure §1021.5, and/or any other applicable provisions
3 providing for attorneys' fees and costs; and
4 5. For such other and further relief as the Court deems proper.
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8 Respectfully submitted,
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10 Dated: July 07, 2020
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12 JAMES HAWKINS, APLC
13 James R. Hawkins, Esq.
14 Christina M. Lucio, Esq.
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Attorneys for Plaintiff JASMINE VEGA, on behalf of
herself and all others similarly situated