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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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10 **IN THE SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF RIVERSIDE, PALM SPRINGS COURTHOUSE**

12 LAURA PISCIUERI, an individual,

13 Plaintiff,

14 vs.

15 DESERT DERMATOLOGY MEDICAL
16 ASSOCIATES, INC. AND WENDY ROBERTS,
17 and DOES 1 through 20 inclusive,

18 Defendants.

Case No. **PSC 2005174**

**COMPLAINT AND ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT**

1. Civil Penalties for Violation of Labor Code §§ 2698, et seq.;
2. Unfair Competition in Violation of Labor Code §§17200, et seq.

Jury Trial Demanded

- 19
- 20 1. Plaintiff LAURA PISCIUERI is informed and believes and thereon alleges as follows:

21 **PARTIES, VENUE AND JURISDICTION**

22 2. Plaintiff LAURA PISCIUERI was at all times relevant hereto a resident of Cathedral City,
23 California.

24 3. At all relevant times herein, Defendant DESERT DERMATOLOGY MEDICAL
25 ASSOCIATES, INC. was a Corporation with its principal place of business in Rancho Mirage, California.

26 4. Defendant WENDY ROBERTS was at all times relevant herein the principal of DESERT
27 DERMATOLOGY MEDICAL ASSOCIATES, INC.

- 28 5. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity

1 of interest and ownership between DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC.,
2 WENDY ROBERTS and DOES 1-20 that the individuality and separateness of defendants have ceased
3 to exist.

4 6. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
5 purported corporate existence, DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC., WENDY
6 ROBERTS and DOES 1-20 are, in reality, one and the same.

7 7. DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC., WENDY ROBERTS and
8 DOES 1-20 do not comply with all requisite corporate formalities to maintain a legal and separate
9 existence.

10 8. The business affairs of DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC.,
11 WENDY ROBERTS and DOES 1-20 are, and at all times relevant were, so mixed and intermingled that
12 the same cannot reasonably be segregated, and the same are in inextricable confusion. DESERT
13 DERMATOLOGY MEDICAL ASSOCIATES, INC. is, and at all times relevant hereto was, used by
14 DOES 1-20 and WENDY ROBERTS as a mere shell and conduit for the conduct of certain of Defendants'
15 affairs, and is, and was, the alter ego of DOES 1-20. The recognition of the separate existence of DESERT
16 DERMATOLOGY MEDICAL ASSOCIATES, INC. would not promote justice, in that it would permit
17 Defendants to insulate themselves from liability to Plaintiff for violations of state law. The corporate
18 existence of DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC. and DOES 1-20 should be
19 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and
20 injustice to Plaintiff herein.

21 9. Accordingly, DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC., WENDY
22 ROBERTS and DOES 1-20 are the alter egos of one another, and the fiction of their separate corporate
23 existence must be disregarded.

24 10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
25 thereon alleges that DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC., WENDY ROBERTS
26 and DOES 1-20 are joint employers by virtue of a joint enterprise, and that the employees and agents of
27 DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC. were also employees of WENDY
28 ROBERTS and DOES 1-20. DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC. employees

1 performed services for each and every one of Defendants, and to the mutual benefit of all Defendants, and
2 all Defendants shared control of them as employees, either directly or indirectly, and the manner in which
3 Defendants' business was and is conducted.

4 11. The true names and capacities, whether individual, corporate, associate, or otherwise, of
5 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
6 these Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this Complaint to
7 insert the true names and capacities of these Defendants when they become known to Plaintiff. Plaintiff
8 is informed and believes and based thereupon alleges, that each of the fictitiously named Defendants is
9 responsible for the wrongful acts alleged herein and are therefore liable to Plaintiff as alleged hereinafter.

10 12. Plaintiff is informed and believes and based thereupon alleges, that at all times relevant
11 hereto, Defendants were the agents, employees, managing agents, supervisors, coconspirators, parent
12 corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendants, and
13 each of them, and in doing the things alleged herein, were acting at least in part within the course and
14 scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or
15 joint venture and with the permission and consent of each of the other Defendants.

16 13. Plaintiff is informed and believes and based thereupon alleges, that Defendants, including
17 those defendants named as DOES 1-20 acted in concert with one another to commit the wrongful acts
18 alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts
19 alleged herein, and/or attempted to do so. Plaintiff is further informed and believes, and based thereupon
20 alleges, that Defendants, including those defendants named as DOES 1-20 formed and executed a
21 conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with
22 all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and actually
23 causing Plaintiff's harm.

24 14. Whenever and wherever reference is made in this Complaint to any act or failure to act by
25 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts and/or
26 failures to act by each Defendant acting individually, jointly and severally.

27 **FACTUAL ALLEGATIONS**

28 15. Plaintiff LAURA PISCIUERI is licensed as a Cosmetologist and worked as an esthetician

1 (beautician) for Defendants DESERT DERMATOLOGY MEDICAL ASSOCIATES, INC. dba WINK
2 LASH & BEAUTY BAR and WENDY E. ROBERTS from June 14, 2018 to June 23, 2020.

3 16. At all relevant times herein, Defendants DESERT DERMATOLOGY MEDICAL
4 ASSOCIATES, INC. dba WINK LASH & BEAUTY BAR and WENDY E. ROBERTS specialized in
5 cosmetic dermatology, and provided services such as Botox injections, laser treatments, scar removal,
6 chemical peels, liquid facelifts, Sclerotherapy (varicose vein removal), skin tightening, filler injections,
7 hair restoration, microdermabrasion, mole removals, body shaping and skin tightening.

8 17. For about the first year of her employment, Plaintiff worked for WENDY E. ROBERTS in
9 a salon under the auspices of WINK LASH & BEAUTY BAR, located at 73375 El Paseo, Palm Desert,
10 California, 92260. However, her wage statements for this time listed DESERT DERMATOLOGY
11 MEDICAL ASSOCIATES, INC. as the employer.

12 18. About one year into Plaintiff's employment, WENDY E. ROBERTS and DESERT
13 DERMATOLOGY MEDICAL ASSOCIATES, INC. dba WINK LASH & BEAUTY BAR moved to a
14 new location, 35280 Bob Hope Drive Ste. 104-105, Rancho Mirage, CA 92270, where Plaintiff was
15 provided a room to do her cosmetology work. Around this time, Plaintiff no longer received itemized
16 wage statements with her payroll check. Further, the employer listed on the paychecks would either be
17 WINK LASH & BEAUTY BAR or WENDY E ROBERTS, M.D.

18 19. Throughout her employment with Defendants, Ms. Pisciueri would serve anywhere from
19 five clients per day to no clients. Regardless of whether she was working with clients or not, Ms. Pisciueri
20 adhered to regular office hours, typically from 10:00 a.m. to 7:00 p.m., and conducted office work for
21 Defendants. When not directly serving clients, Ms. Pisciueri conducted marketing work to bring in clients
22 to Defendants' business; or she was directed to work the front desk, prepare patient instructions and
23 consent forms, or conduct other administrative work. Nonetheless, Defendants did not pay her for this
24 time; Defendants only paid her infrequently based on service to individual cosmetology clients. Ms.
25 Pisciueri repeatedly asked Defendants to compensate her for her time, but they never did. Ms. Pisciueri
26 alleges that Defendants conducted this same practice with other employees.

27 20. For approximately the first nine months of her employment, Ms. Pisciueri received
28 itemized wage statements in the name of Desert Dermatology Medical Associates Inc. However, that

1 corporation was suspended at the time those wage statements were furnished. Consequently, the name
2 listed on the wage statements was not the true name of the employer. Rather, it was WENDY E.
3 ROBERTS. Further, the address listed on these wage statements was incorrect, as it listed the address of
4 the agent for service of process, rather than the business's physical location, which was 73375 El Paseo,
5 Palm Desert, California, 92260. Thus, the wage statements failed to list the correct name and address of
6 the employer. Ms. Pisciueri alleges that the wage statements of other employees also failed to list the
7 correct name and address of the employer.

8 21. Beginning in approximately March 2019, Defendants ceased providing Plaintiff with wage
9 statements, and instead only paid her infrequently with checks bearing the name WINK LASH &
10 BEAUTY BAR or WENDY E ROBERS, MD, signed by WENDY E. ROBERTS, with no accompanying
11 wage statement. Thus, Defendants violated and caused to be violated Labor Code section 226 because
12 they failed to furnish Plaintiff with itemized wage statements during this time period. Ms. Pisciueri alleges
13 that Defendants also failed to furnish other employees with itemized wage statements.

14 22. On June 23, 2020, Kristina Radoff told Ms. Pisciueri she had to turn in her office key and
15 "logo shirts" – shirts with the company logo. In so ordering Ms. Pisciueri, Radoff communicated WENDY
16 E. ROBERTS'S decision to terminate Plaintiff's employment with Defendants.

17 23. Aside from the logo shirts Plaintiff was required to return, throughout her employment Ms.
18 Pisciueri had to obtain and pay for all of the cosmetology supplies necessary to work on clients. When she
19 performed facials, almost all of the necessary material had been purchased and supplied by Plaintiff.
20 Defendants did not reimburse her for the expenses of these supplies.

21 24. Throughout her employment with Defendants, Defendants did not timely pay wages; they
22 failed to furnish accurate itemized wage statements; they failed to provide meal and rest periods; they
23 failed to pay overtime; they failed to pay minimum wage; and they failed to reimburse employees for work
24 expenditures. Finally, although they terminated her employment on or before June 23, 2020, Defendants
25 did not pay Plaintiff's wages due.

26 25. As a result of the above, Defendant is subject to penalties under the Labor Code's Private
27 Attorneys General Act, Cal. Lab. Code § 2698, et seq.

FIRST CAUSE OF ACTION
CIVIL PENALTIES IN VIOLATION OF
LABOR CODE § 2698, ET SEQ.
(AGAINST ALL DEFENDANTS)

26. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

27. Under Labor Code §2698, et seq., Plaintiff, as a aggrieved employee, may bring an action against Defendants, on behalf of herself and other current or former employees, seeking civil penalties for defendants' violations of the California Labor Code.

28. Plaintiff was an aggrieved employee within the meaning of Labor Code §2698, et seq. by virtue of the numerous Labor Code violations she was subjected to as plead herein, including failing to reimburse for necessary business expenditures in violation of Labor Code § 2802, failing to pay minimum wages in violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198, failing to pay overtime in violation Labor Code §§ 510 and 1198, failing to furnish compliant wage statements and maintain accurate pay records in violation of § 226, 1174 (d), and 1198, failing to provide meal periods in violation of §§ 226.7, 512 (a), and 1198, failing to provide rest periods in violation of Labor Code §§ 226.7 and 1198, failure to timely pay wages in violation of Labor Code § 204 and willful failure to pay wages in violation of Labor Code § 201-203..

29. Defendants also subjected the aggrieved employees on whose behalf Plaintiff brings this enforcement action to all of the Labor Code violations plead herein, including failing to reimburse for necessary business expenditures in violation of Labor Code § 2802, failing to pay minimum wages in violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198, failing to pay overtime in violation Labor Code §§ 510 and 1198, failing to furnish compliant wage statements and maintain accurate pay records in violation of § 226, 1174 (d), and 1198, failing to provide meal periods in violation of §§ 226.7, 512 (a), and 1198, failing to provide rest periods in violation of Labor Code §§ 226.7 and 1198, failure to timely pay wages in violation of Labor Code § 204 and willful failure to pay wages in violation of Labor Code § 201-203.

30. On August 28, 2020, Ms. Pisciueri provided written notice by online filing with the Labor

1 and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the
2 Labor Code alleged to have been violated, including the facts and theories to support the alleged violation,
3 as required by Labor Code § 2699.3 (a) (1) (A). The certified mail to Defendants was returned.

4 31. As of the filing of this Complaint, Plaintiff has received no notice from the Labor and
5 Workforce Development Agency of its intent to pursue an action against Defendants.

6 32. Plaintiff alleges that Defendants failed to compensate her for all hours worked, including
7 her “standby time,” in violation of Cal. Lab. Code §§ 201-203. Defendants paid her infrequently and based
8 only on service to individual cosmetology clients, and they did not pay her for the other time she worked
9 in the office – and was expected to work in the office. Plaintiff alleges that Defendants committed the
10 same Labor Code violations against other employees, in violation of Cal. Lab. Code § 2698 et seq.

11 33. From June 14, 2018 until the termination of her employment on June 23, 2020, Defendants
12 failed to pay Plaintiff by the due dates and/or time periods specified in Labor Code § 204. Here, Plaintiff
13 alleges that Defendants committed the same violations of Cal. Lab. Code § 204 against other employees;
14 therefore violating Cal. Lab. Code § 2698 et seq.

15 34. As alleged above, Defendants failed to provide Plaintiff with wage statements listing the
16 correct name and address of the employer. Then, beginning in approximately March 2019, Defendants
17 ceased providing Plaintiff with any wage statements, and instead only paid her infrequently with checks
18 bearing the name WINK LASH & BEAUTY BAR or WENDY E ROBERS, MD, signed by WENDY E.
19 ROBERTS, with no accompanying wage statement, in violation of Labor Code section 226. Ms. Pisciueri
20 alleges that Defendants committed these same violations of Labor Code §226 against other employees,
21 thus violating Cal. Lab. Code § 2698 et seq.

22 35. Ms. Pisciueri regularly worked in excess of five hours per day, and was thereby entitled to
23 take uninterrupted 30-minute meal periods and 10-minute rest periods on each day of work. However,
24 about four days per week, Ms. Pisciueri’s meal periods were interrupted. Furthermore, Ms. Pisciueri was
25 not permitted to take rest periods, as required by Labor Code §§ 226.7 and the applicable sections of 8
26 Code of Regulations and Industrial Welfare Commission Order No. 4-2001. Ms. Pisciueri alleges that
27 Defendants committed these same violations of Labor Code §§ 226, 226.7 against other employees, in
28 violation of Cal. Lab. Code § 2698 et seq.

36. As stated above, Ms. Pisciueri typically worked from 10:00 a.m. to 7:00 p.m. Because her meal periods were often interrupted, she worked at least nine hours per day on those days, and she was not compensated for that overtime, in violation of Cal. Lab. Code § 510. Ms. Pisciueri alleges that Defendants committed these same violations of Labor Code § 510 against other employees, therefore violating Cal. Lab. Code § 2698 et seq.

37. Defendants failed and refused to pay Ms. Pisciueri the applicable legal minimum wage in the State of California, as set forth in Industrial Welfare Commission Order No. 4-2001 and California Labor Code §§ 1182.12, 1194, 1194.2 and 1197 because there were numerous regular time hours that she worked in the office for which she was never paid. Ms. Pisciueri alleges that Defendants committed these violations against other employees, therefore violating Cal. Lab. Code § 2698 et seq.

38. As stated above, Ms. Pisciueri had to obtain and pay for all of the cosmetology supplies necessary to work on clients, but Defendants did not reimburse her for the expenses of these supplies, in violation of Cal. Lab. Code § 2802. Ms. Pisciueri alleges that Defendants committed these same violations against other employees, therefore violating Cal. Lab. Code § 2698 et seq.

39. As a direct and proximate result of Defendants' California Labor Code violations as set forth herein, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, pursuant to Labor Code §2699 (f), for those Labor Code sections not expressly providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty.

40. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the recovered civil penalties.

SECOND CAUSE OF ACTION

**UNFAIR COMPETITION IN VIOLATION OF
BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.
(AGAINST ALL DEFENDANTS)**

41. Plaintiff incorporates, by reference, all allegations in the foregoing paragraphs as though fully set forth herein.

42. Defendants are a “person” as defined by California Business & Professions Code sections

1 17201.

2 43. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and
3 harmful to Plaintiff and to the general public. Plaintiff has suffered injury in fact and has lost money as a
4 result of Defendants' unlawful business practices. Plaintiff seeks to enforce important rights affecting the
5 public interest within the meaning of Code of Civil Procedure section 1021.5.

6 44. A violation of California Business & Professions Code sections 17200, *et seq.* may be
7 predicated on the violation of any state or federal law.

8 45. Defendants' failure to obey the wage and hour laws plead herein, including violations of
9 the Labor Code, Code of Regulations and Wage Orders, constitute unfair business practices in violation
10 of Business & Professions Code §§17200, *et seq.*

11 46. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits
12 and illegal profits at the expense of Plaintiff and members of the public.

13 47. Pursuant to California Business & Professions Code sections 17200 *et seq.* Plaintiff is
14 entitled to restitution of the wages withheld and retained by Defendants during a period that commences
15 four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all
16 outstanding wages due to Plaintiff and aggrieved employees; and an award of attorneys' fees pursuant to
17 California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

18 **PRAYER FOR RELIEF**

19 Plaintiff prays for relief and judgment against Defendants as follows:

20 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of
21 \$25,000, exclusive of interest and costs.

22 **(Civil Penalties under the PAGA, Cal. Lab. Code § 2698 *et seq.*)**

23 2. That the Court declare, adjudge, and decree that Defendants violated all California Labor
24 Code sections plead herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12,
25 1194, 1197, 1197.1, 1198 and 2802;

26 3. For civil penalties pursuant to 210, 226.3, 256, 558, 1174.5, 1197.1, 2699 (a) and/or 2699
27 (a), (f) and (g), for violations of all California Labor Code sections plead herein, including Labor Code §§
28 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

4. For attorneys' fees and costs pursuant to California Labor Code § 2699 (g) (1), and any and all other relevant statutes, for Defendants' violations of all California Labor Code sections pleaded herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

5. For pre-judgment and post-judgment interest as provided by law; and

6. For such other and further relief as the Court deems just and appropriate.

(Unfair Competition)

7. That the employment practices engaged in by Defendant as plead herein, including violations of the Labor Code sections, Code of Regulations and Wage Orders, constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.;

8. For restitution of unpaid wages to Plaintiff and prejudgment interest from the day such amounts were due and payable;

9. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, et seq.;

10. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5; and

11. For such other and further relief as the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues.

PIMENTEL LAW, P.C.

Dated: November 2, 2020

By: Bruce T. Murray
Bruce T. Murray, Esq.
Attorney for Plaintiff