

PIMENTEL LAW, P.C.

Gabriel J. Pimentel, Esq. (SBN 265328)
GJP@PimentelLaw.com
Rochelle R. De Golier, Esq. (SBN 271191)
RRD@PimentelLaw.com
30 N. Raymond Avenue, Suite 211
Pasadena, CA 91103
Telephone: (626) 765-9800
Fax: (626) 628-3081

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IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE, HISTORIC COURTHOUSE

VERONICA SANDOVAL, an individual,

Plaintiff,

vs.

REHAB TEX PHYSICAL THERAPY INC., a
California corporation, DONNA LEE PINEDA-
FALDAS, an individual and DOES 1 through 20
inclusive,

Defendants.

Case No. **CVRI2000454**

COMPLAINT FOR:

1. Failure to Indemnify for Necessary Expenditures in Violation of Labor Code § 2802;
2. Failure to Pay Minimum Wage in Violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198;
3. Failure to Pay Overtime in Violation of Labor Code §§ 510 and 1198;
4. Failure to Furnish Compliant Wage Statements and Maintain Accurate Pay Records in violation of § 226, 1174 (d), and 1198;
5. Failure to Provide Meal Periods in Violation of §§ 226.7, 512 (a), and 1198;
6. Failure to Provide Rest Periods in Violation of Labor Code §§ 226.7 and 1198;
7. Failure to Timely Pay Wages in Violation of Labor Code § 204;
8. Willful Failure to Pay Wages in Violation of Labor Code §§ 201-203;

9. Civil Penalties in Violation of Labor Code §§ 2698, et seq.;

10. Unfair Competition in Violation of Labor Code §§17200, et seq.

Jury Trial Demanded

1. Plaintiff VERONICA SANDOVAL is informed and believes and thereon alleges as follows:

PARTIES, VENUE AND JURISDICTION

2. Plaintiff VERONICA SANDOVAL was at all times relevant hereto a resident of Buena Park, California.

3. At all relevant times herein, Defendant REHAB TEX PHYSICAL THERAPY INC. was a California Corporation with its principal place of business in Corona, California.

4. Defendant DONNA LEE PINEDA-FALDAS was at all times relevant herein the principal of REHAB TEX PHYSICAL THERAPY INC.

5. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between REHAB TEX PHYSICAL THERAPY INC., DONNA LEE PINEDA-FALDAS, and DOES 1-20 that the individuality and separateness of defendants have ceased to exist.

6. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of purported corporate existence, REHAB TEX PHYSICAL THERAPY INC., DONNA LEE PINEDA-FALDAS, and DOES 1-20 are, in reality, one and the same.

7. REHAB TEX PHYSICAL THERAPY INC., DONNA LEE PINEDA-FALDAS, and DOES 1-20 do not comply with all requisite corporate formalities to maintain a legal and separate existence.

8. The business affairs of REHAB TEX PHYSICAL THERAPY INC., DONNA LEE PINEDA-FALDAS, and DOES 1-20 are, and at all times relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in inextricable confusion. REHAB TEX PHYSICAL THERAPY INC. is, and at all times relevant hereto was, used by DOES 1-20 and DONNA

1 LEE PINEDA-FALDAS as a mere shell and conduit for the conduct of certain of Defendants' affairs, and
2 is, and was, the alter ego of DOES 1-20. The recognition of the separate existence of REHAB TEX
3 PHYSICAL THERAPY INC. would not promote justice, in that it would permit Defendants to insulate
4 themselves from liability to Plaintiff for violations of state law. The corporate existence of REHAB TEX
5 PHYSICAL THERAPY INC. and DOES 1-20 should be disregarded in equity and for the ends of justice
6 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

7 9. Accordingly, REHAB TEX PHYSICAL THERAPY INC., DONNA LEE PINEDA-
8 FALDAS, and DOES 1-20 are the alter egos of one another, and the fiction of their separate corporate
9 existence must be disregarded.

10 10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
11 thereon alleges that REHAB TEX PHYSICAL THERAPY INC., DONNA LEE PINEDA-FALDAS, and
12 DOES 1-20 are joint employers by virtue of a joint enterprise, and that the employees and agents of
13 REHAB TEX PHYSICAL THERAPY INC. were also employees of DONNA LEE PINEDA-FALDAS
14 and DOES 1-20. REHAB TEX PHYSICAL THERAPY INC. employees performed services for each and
15 every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control
16 of them as employees, either directly or indirectly, and the manner in which Defendants' business was
17 and is conducted.

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

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

1 joint venture and with the permission and consent of each of the other Defendants.

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

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

13 **FACTUAL ALLEGATIONS**

14 15. VERONICA SANDOVAL worked as a Physical Therapy Assistant for Defendants from
15 July 23, 2019 to February 22, 2020.

16 16. Ms. Sandoval performed in-home sessions at various locations. All of her work was done
17 under the direction of a licensed physical therapist.

18 17. Her agreed upon compensation was \$50 per therapy session, which lasted approximately
19 one hour.

20 18. Plaintiff was misclassified as an independent contractor being that she was (a) subject to
21 the control and direction of the Defendants in the performance of her work, as her work was subject to the
22 direction and management of a licensed physical therapist who was also an employee of Defendants; and
23 (b) she performed work that is within the usual course of the Defendants' business – namely, physical
24 therapy. Lab. Code § 2775.

25 19. Despite the fact that she was an employee, she never received wage statements, was never
26 reimbursed for mileage or other expenses, and was routinely paid 30 days or more after the the rendering
27 of her services.

28 20. Ms. Sandoval purchased and provided medical equipment and business supplies that were

1 necessary to perform her job with her patients, including a blood pressure cuff, invoice paper, printer
2 toner, printer paper, monthly internet connection, a cellular phone, and cellular phone service. Defendants
3 did not reimburse Ms. Sandoval for either her mileage, or the costs of her medical equipment and business
4 expenses in violation of Labor Code § 2802.

5 21. During the course of Ms. Sandoval's employment there were numerous occasions in
6 which Plaintiff was either paid late (more than 30 days after the pay period); a paycheck bounced; or was
7 she was never paid at all for jobs that she completed. This has resulted in a balance due to her in excess
8 of \$3,500 for jobs that she completed during her employment.

9 22. Ms. Sandoval has requested payment for these unpaid sessions on numerous occasions
10 but has received only empty promises. She sent text messages to J.J. Faldas, the company C.F.O.; Sheila,
11 the Office Manager; and Kaylin, a member of the office staff. She also made several telephone calls.
12 Additionally, she sent emails regarding these issues to CFO J.J. Faldas and the Rehab Tex Office.

13 23. Defendants, in part, justified their behavior by stating that Medicare/Medi-Cal had not yet
14 reimbursed visits, and so they could not and/or would not pay her.

15 24. Ms. Sandoval also made several complaints in September and October 2019 regarding
16 bouncing paychecks; and had to drive to Corona, CA to retrieve a paycheck which corrected this problem.

17 25. Ms. Sandoval regularly worked at least nine hours and fifteen minutes per day. Her first
18 patient would usually start at 8:30 A.M., and her last patient would usually end around 4:30 P.M. When
19 she arrived at home, she would spend another one hour and fifteen minutes writing therapy notes / charting
20 from the patients earlier that day.

21 26. During Ms. Sandoval's employ with Defendants, she regularly worked more than 5 hours
22 without a 30 minute uninterrupted meal period. This was because she would would see patients for 45
23 minutes to 1 hour, then travel to the next scheduled patient, while trying to eat a meal along the way, while
24 driving. During this time, she would also need to be available to answer any texts/phone calls from the
25 office asking if she could take another patient, or to answer phone calls from patients who may be
26 cancelling their therapy visit for that day or the next day.

27 27. It is for this same reason that Ms. Sandoval was unable to take 10 minute uninterrupted rest
28 periods during her workdays.

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO INDEMNIFY FOR NECESSARY EXPENDITURES**

3 **IN VIOLATION OF LABOR CODE § 2802**

4 **(AGAINST ALL DEFENDANTS)**

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

7 29. An employer shall indemnify his or her employee for all necessary expenditures or losses
8 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
9 obedience to the directions of the employer.

10 30. From July 23, 2019 to February 22, 2020, Plaintiff has been required by Defendants to
11 purchase tools, and in fact did purchase tools in order to perform her duties.

12 31. From July 23, 2019 to February 22, 2020, Defendants failed to pay Plaintiff less than twice
13 the minimum wage in contravention of IWC Wage Order 4-2001, § 9(B), 8 CAL. CODE REGS. § 11040,
14 § 9(B), and California Labor Code §§ 1182, 1194, 1194.2, and 1197.

15 32. As discussed above, Plaintiff used her own vehicle, incurring gas expenses, mileage and
16 wear and tear on her vehicle, to drive to and from job assignments for the benefit of and on behalf of her
17 employer, the Defendants.

18 33. Additionally, Ms. Sandoval purchased and provided medical equipment and business
19 supplies that were necessary to perform her job with her patients, including a blood pressure cuff, invoice
20 paper, printer toner, printer paper, a monthly internet connection, a cellular phone, and cellular phone
21 service.

22 34. Defendants did not reimburse Ms. Sandoval for her gas, mileage, wear & tear on her
23 vehicle, or the costs of her medical equipment and business expenses in violation of Labor Code § 2802.

24 35. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants
25 have maintained a policy, practice, or a lack of policy, which resulted in their failure to indemnify Plaintiff
26 for the reasonable expenses she incurred in the course of performing her duties.

27 36. As a result of the foregoing, Plaintiff is entitled to recover all sums incurred by her for the
28 purchase of the tools that were necessary for the performance of her job and which she was required to

1 purchase in an amount according to proof at trial.

2 37. As a result of the foregoing, Plaintiff is further entitled to an award of interest at the same
3 rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the necessary
4 expenditures or loses and all reasonable costs, including attorney's fees incurred by her enforcing the
5 rights granted by Labor Code § 2802.

6 **SECOND CAUSE OF ACTION**

7 **FAILURE TO PAY MINIMUM WAGE**

8 **IN VIOLATION OF LABOR CODE § 1197**

9 **(AGAINST ALL DEFENDANTS)**

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

12 39. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
13 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to
14 employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work
15 time is defined by the applicable wage order as "the time during which an employee is subject to the
16 control of an employer, and includes all the time the employee is suffered or permitted to work, whether
17 or not required to do so." Cal. Code. Regs. tit. 8, § 11010(2)(G).

18 40. At all times relevant to this suit, the minimum wage applicable to Plaintiff was \$26 per
19 hour, which represents twice the state minimum.

20 41. As stated above, Plaintiff performed numerous jobs for which she was never paid any
21 compensation whatsoever. This uncompensated work resulted in an outstanding balance due in excess of
22 \$3,500. Because Plaintiff was not paid any compensation whatsoever for this work performed, Defendants
23 therefore failed to pay her the applicable minimum wage for that time worked.

24 42. At all relevant times, Defendants failed and refused to pay Plaintiff the legal minimum
25 wage in the State of California, as set forth in Industrial Welfare Commission Order No. 4-2001 and
26 California Labor Code §§ 1182.12, 1194, 1194.2 and 1197.

27 43. Due to Defendants' company-wide scheduling practices and policies, Plaintiff was forced
28 to forego meal periods and/or have her meal periods interrupted by work, and was not relieved of all

1 duties for unpaid meal periods, in order to meet her deadlines and handle her workload. Defendants did
2 not pay minimum wages for meal periods Plaintiff worked through that qualified for premium payment.
3 Defendants did not pay Plaintiff for the time she continued to perform her duties during her meal periods.

4 44. Defendants failure to pay the legal minimum wage to Plaintiff as alleged herein is unlawful
5 and creates entitlement, pursuant to Labor Code §1194, to recovery by Plaintiff in a civil action for the
6 unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between the
7 straight time compensation paid and applicable minimum wage, including interest thereon.

8 45. Pursuant to Labor Code §1194, Plaintiff is entitled to an award of reasonable attorneys'
9 fees and costs incurred in this action.

10 46. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
11 damages in an amount equal to the minimum wages unlawfully unpaid in the amount according to proof
12 at trial.

13 **THIRD CAUSE OF ACTION**
14 **FAILURE TO PAY OVERTIME WAGE**
15 **IN VIOLATION OF LABOR CODE § 510**
16 **(AGAINST ALL DEFENDANTS)**

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

19 48. Labor Code § 1198 makes it unlawful to employ an employee under conditions of labor
20 that are prohibited by the applicable wage order. California Labor Code § 1198 requires that "the standard
21 conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees.
22 The employment of any employee . . . under conditions of labor prohibited by the order is unlawful."

23 49. Labor Code § 510 and the applicable IWC Wage Order required Defendants to pay
24 employees a rate of time and one-half for all hours worked in excess of 8 hours in a day or 40 hours in a
25 workweek. Labor Code § 510 and the applicable IWC Wage Order further required Defendants to pay
26 employees working more than 12 hours in a day, overtime compensation at a rate of 2 times their regular
27 rate of pay, and 2 times their regular rate of pay for all hours worked in excess of 8 hours on the seventh
28 consecutive day of a work in a workweek.

1 50. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
2 Code §510, 8 Code Regulations §§11010-11160, and the applicable IWC Wage Order.

3 51. At all relevant times, Defendants willfully failed to pay all overtime wages owed to
4 Plaintiff. At all relevant times, Plaintiff was not paid overtime premiums for all of the hours she worked
5 in excess of 8 hours in a day, in excess of 12 hours in a day, and/or in excess of 40 hours in a week.

6 52. At all relevant times, Ms. Sandoval regularly worked at least nine hours and fifteen minutes
7 per day. However the last hour and fifteen minutes were not compensated at time and one half, as required
8 per Labor Code § 510 and the applical IWC Wage Order. Her first patient would usually start at 8:30
9 A.M., and her last patient would usually end around 4:30 P.M. When she arrived at home, she would
10 spend another one hour and fifteen minutes writing therapy notes / charting from the patients earlier that
11 day.

12 53. At all relevant times herein, Defendants had, and continue to have, a company-wide policy
13 of failing to implement any policies to authorize and permit employees to take compliant meal periods
14 and, instead, engaged in a practice of discouraging and impeding employees from taking meal periods by
15 assigning them a heavy workload and putting them on-call throughout the entire workday.

16 54. Additionally, Defendants, on a company-wide basis, failed to schedule meal periods even
17 though they are aware that employees are entitled to such meal periods. As a result of this company-wide
18 policy of leaving employees on-call throughout the day and failure to schedule meal periods, Plaintiff
19 was not always authorized and permitted to take uninterrupted 30-minute meal periods during shifts to
20 which she was entitled to receive a meal period. For example, Plaintiff regularly worked through meal
21 periods, while driving to her next patient, and had meal periods interrupted by work related phone calls
22 and by work to meet expected targets.

23 55. Defendants knew or should have known that, as a result of their policies and practices,
24 Plaintiff was performing some of her assigned duties off-the-clock and/or during unpaid meal periods,
25 and was suffered or permitted to perform work for which she was not paid. Because Plaintiff worked
26 shifts in excess of 8 hours a day or more and 40 hours a week or more, much of this off-the-clock work
27 qualified for overtime premium pay. Therefore, Plaintiff was not paid overtime wages for all of the
28 overtime hours she actually worked.

56. Defendants' failure to pay Plaintiff the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code §§ 510 and 1198. Pursuant to California Labor Code § 1194, Plaintiff is entitled to recover her unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

57. Labor Code §558 (a) requires that any person acting on behalf of an employer who violates, or causes to be violated, overtime rules pay a civil penalty in the amount of \$50 for each underpaid employee for each pay period in which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Also, Labor Code §558 (a) for each subsequent violation, the person acting on behalf of an employer is liable in the amount of \$100 for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

58. In addition to the above withheld overtime wages, Plaintiff is entitled to civil penalties in this amount stated above based upon Defendants' underpayment of overtime wages. Defendants violated Labor Code §558 on each of the past pay periods within the one-year preceding the filing of this complaint, the first of which Defendants are penalized \$50.00, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties in an amount to be proven at trial.

FOURTH CAUSE OF ACTION

FAILURE TO FURNISH ACCURATE WAGE STATEMENTS

IN VIOLATION OF LABOR CODE §§ 226, 1174 and 1198

(AGAINST ALL DEFENDANTS)

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

60. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-exempt employees with accurate itemized statements showing total hours worked, hourly wages, gross wages, total deductions net wages earned and name of the employer. An employer who violates these code sections is liable to its employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay period, up to a statutory maximum of \$4,000.00.

61. Plaintiff was not furnished any wage statements whatsoever. Most of her compensation

1 was transmitted to her via electronic transfer. In one instance, a personal check was used, that
2 subsequently bounced. On several occasions, Ms. Sandoval requested itemized breakdowns of her
3 earnings and was provided such itemized breakdowns on a few occasions. However, these documents did
4 not comport with Lab. Code § 226 (a) because they failed to provide the complete name and address of
5 the employer, Ms. Sandoval's hourly rate, hours worked, deductions, the inclusive dates she was paid on
6 an identifying employee number.

7 62. To the extent that Defendants paid any meal break premium and/or rest break premium
8 payments, Defendants failed to identify such payments on Plaintiff's itemized breakdowns / "wage
9 statements" and employment records, and Defendants otherwise failed to provide information on the
10 wage statements sufficient to identify how many premium payments were paid during each pay period,
11 the specific dates worked giving rise to the premium payments owed, or to determine whether such
12 premium payments adequately and/or accurately compensated Plaintiff for any and all premiums owed.

13 63. Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time
14 records showing when the employee begins and ends each work period and meal period, as well as the
15 total daily hours worked, total wages paid each payroll period, total hours worked in the payroll period
16 and applicable rates of pay.

17 64. California Labor Code section 1174 (d) provides that "every person employing labor in
18 this state shall ... keep a record showing the names and addresses of all employees employed and the ages
19 of all minors" and "keep, at a central location in the state or at the plants or establishments at which
20 employees are employed, payroll records showing the hours worked daily by and the wages paid to, and
21 the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the
22 respective plants or establishments..."

23 65. At all relevant times, Defendants willfully failed to keep records of meal period start and
24 stop times, shift start and stop times, total hours worked in the payroll period and applicable hourly rates
25 of pay for Plaintiff as a result of failing to record the off-the-clock hours she worked during her unpaid
26 meal and rest periods in violation of section 1198 and 1174 (d).

27 66. Pursuant to Labor Code § 558.1, any employer or other person acting on behalf of an
28 employer, who violates, or causes to be violated, Labor Code section 226, may be held liable as the

1 employer for such violation. The term ‘other person acting on behalf of an employer’ is limited to a natural
2 person who is an owner, director, officer, or managing agent of the employer.

3 67. Plaintiff is entitled to recover from Defendants the greater of her actual damages caused by
4 Defendants’ failure to comply with California Labor Code section 226 (a), or an aggregate penalty not
5 exceeding \$4,000 as well as attorneys’ fees and costs.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE MEAL PERIODS**

8 **LABOR CODE §§ 226.7, 512 (a) and 1198**

9 **(AGAINST ALL DEFENDANTS)**

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

12 69. “An employer shall not employ an employee for a work period of more than five hours per
13 day without providing the employee with 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 meal period may be waived by mutual
15 consent of both the employer and employee. An employer shall not employ an employee for a work period
16 of more than 10 hours per day without providing the employee with a second meal period of not less than
17 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may
18 be waived by mutual consent of the employer and the employee only if the first meal period was not
19 waived.” Lab. Code § 512; IWC Wage Order Nos. 1–2001 to 16–2001, § 11; IWC Wage Order No. 17–
20 2001, § 9; 8 Cal Code Regs §§ 11010-11160, § 11; 8 Cal Code Regs § 11170, § 9.

21 70. “An employer shall not require an employee to work during a meal ... period mandated
22 pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
23 Commission If an employer fails to provide an employee a meal ... period in accordance with a state
24 law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the
25 Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the
26 employee's regular rate of compensation for each workday that the meal ... period is not provided.” Lab.
27 Code § 226.7 (b) & (c).

28 71. At all relevant times herein, Defendants had, and continue to have, a company-wide policy

1 and/or practice of requiring that employees be on-call and available via cell phone throughout the workday
2 while simultaneously assigning demanding workloads, which had the combined effect of preventing
3 employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally,
4 Defendants had no policy and/or practice of scheduling meal periods for employees. As a result of
5 Defendants' policies and/or practices, employees had to work through some or all of their meal periods,
6 have their meal periods interrupted to return to work, wait extended periods of time before taking meal
7 periods, and/or eat their meals while driving to and from the next patient.

8 72. At all relevant times, Plaintiff regularly worked more than five hours per day, and was
9 thereby entitled to take uninterrupted 30-minute meal periods on each day of work.

10 73. At all relevant times, Defendants failed and refused to provide Plaintiff with uninterrupted
11 meal periods during her work shifts, and failed to compensate her for missed meal periods, as required by
12 Labor Code §§ 226.7, 512, and 1198 as well as the applicable sections of the Code of Regulations and
13 Industrial Welfare Commission Orders. During Ms. Sandoval's employ with Defendants, she regularly
14 worked more than 5 hours without a 30-minute uninterrupted meal period. This was because she would
15 would see patients for approximately 45 minutes, then travel to the next scheduled patient, while trying to
16 eat a meal along the way, while driving. During this time, she would also need to be available to answer
17 any texts/phone calls from the office asking if she could take another patient, or to answer phone calls
18 from patients who may be cancelling their therapy visit for that day or the next day.

19 74. Plaintiff is also informed and believes that Defendants engaged in a systematic, company-
20 wide practice and/or policy of not paying meal period premiums to employees regardless of whether they
21 were able to take a compliant meal break, in violation of the applicable IWC Wage Order and Labor Code
22 sections 226.7 and 512 (a). As a result, Defendants failed to provide Plaintiff compliant meal periods in
23 violation of California Labor Code sections 226.7 and 512 and failed to pay the full meal period premiums
24 due.

25 75. As alleged herein, Plaintiff is not exempt from the meal period requirements of the
26 applicable Code of Regulations and Industrial Welfare Commission Orders. Consequently, Plaintiff is
27 owed one hour of pay at her regular hourly rate for each day that she was denied such meal periods.

28 76. At all relevant times, Defendants failed to provide Plaintiff with the statutory meal period

1 for those days on which she worked at least five hours. Consequently, Plaintiff is owed one hour of pay
2 at her regularly hourly rate then in effect for each day that she was denied such a meal period pursuant to
3 Labor Code §§ 226.7 and 512, plus interest thereon and costs of suit in an amount subject to proof at trial.

4 **SIXTH CAUSE OF ACTION**

5 **FAILURE TO PROVIDE REST PERIODS**

6 **LABOR CODE §§ 226.7 and 1198**

7 **(AGAINST ALL DEFENDANTS)**

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

10 78. At all times relevant herein, Labor Code §§ 226.7, 1198 and applicable IWC Wage Orders
11 were applicable to Plaintiff's employment with Defendants.

12 79. At all relevant times, Labor Code §§ 226.7, 1198 and the applicable IWC Wage Order
13 provided that employees must be given 10-minute net rest periods for every 4 hours of work, to be taken
14 in the middle of each 4-hour period insofar as practicable. However, a rest period need not be provided
15 for employees whose total daily work is less than 3.5 hours. Thus, employees are entitled to one 10-minute
16 net rest period for shifts from 3.5 to 6 hours in length, two for shifts of more than 6 hours up to 10 hours,
17 and three for shifts of more than 10 hours up to 14 hours, and so on. *Brinker Restaurant Corp. v Superior*
18 *Court*, 53 Cal.4th 1004, 1029 (2012); Wage Order Nos. 1–2001 to 16–2001, §§11–12 (A); 8 Cal Code
19 Regs §§11010-11160.

20 80. To comply with its obligation to provide rest periods under California Labor Code section
21 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees
22 spend their break time, and relieve their employees of all duties — including the obligation that an
23 employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security*
24 *Services, Inc.*, 2 Cal. 5th 257, 269-70 (2016).

25 81. “An employer shall not require an employee to work during a rest ... period mandated
26 pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
27 Commission If an employer fails to provide an employee a rest ... period in accordance with a state
28 law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the

1 Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the
2 employee's regular rate of compensation for each workday that the rest ... period is not provided." Lab.
3 Code § 226.7 (b)-(c).

4 82. Defendants' company-wide policy and practice of requiring that employees be on-call and
5 available via cell phone throughout the workday while simultaneously assigning demanding workloads,
6 prevented employees from being relieved of all duty in order to take compliant rest periods.

7 83. Defendants also had a uniform policy of failing to schedule rest breaks. As a result,
8 employees missed their rest breaks, would be required to take them late, or would have their rest breaks
9 interrupted. Employees were prevented from being relieved of all duty in order to take compliant rest
10 periods and instead would be required to continue working.

11 84. Plaintiff worked shifts in excess of 3 ½ hours, in excess of 6 hours, and/or in excess of 10
12 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. This was
13 because she would see patients for approximately 45 minutes, then immediately start traveling to
14 the next scheduled patient, without taking a 10-minute rest period. During her travel time in between
15 patients, she also needed to be available / on-call to answer any texts/phone calls from the office asking if
16 she could take another patient; or to answer phone calls from patients who may be cancelling their therapy
17 visit for that day or the next day.

18 85. Defendants have also engaged in a systematic, company-wide practice and/or policy of not
19 paying rest period premiums owed when rest periods are not authorized or permitted. Thus, Defendants
20 denied Plaintiff rest periods and failed to pay her rest period premium wages due, in violation of Labor
21 Code section 226.7 and the applicable IWC Wage Order.

22 86. As alleged herein, Plaintiff is not exempt from the rest period requirements of the
23 applicable Code of Regulations and Industrial Welfare Commission Orders. Consequently, Plaintiff is
24 owed one hour of pay at her regularly hourly rate then in effect for each day that she was denied such a
25 rest period pursuant to Labor Code §§ 226.7, plus interest thereon and costs of suit in an amount subject
26 to proof at trial.

1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY WAGES**

3 **IN VIOLATION OF LABOR CODE § 204**

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

6 88. “All wages ... earned by any person in any employment are due and payable twice during
7 each calendar month, on days designated in advance by the employer as the regular paydays ... (d) The
8 requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or
9 semimonthly payroll if the wages are paid not more than seven calendar days following the close of the
10 payroll period.” Lab. Code § 204.

11 89. “In addition to, and entirely independent and apart from, any other penalty provided in this
12 article, every person who fails to pay the wages of each employee as provided in Sections ... 204 ... shall
13 be subject to a penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure
14 to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two
15 hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully
16 withheld.” Lab. Code § 210.

17 90. At all times relevant herein, Defendants engaged in a practice of failing to pay Plaintiff by
18 the seventh calendar day following the close of the payroll period. Indeed, as discussed above, Plaintiff is
19 owed wages for unpaid minimum wage, meal periods, rest periods, and unreimbursed business expenses.
20 At no time during her employment were these outstanding sums ever paid to her. Instead, these outstanding
21 sums continued to accumulate every pay period. Therefore, Plaintiff was not paid all wages earned by the
22 seventh calendar day following the close of her pay periods. Further, in many cases, Ms. Sandoval was
23 paid more than 30-days after a pay period ended, in direct contravention of Lab. Code § 204.

24 91. As a direct and proximate result of Defendants’ failure to timely pay wages, Plaintiff is
25 entitled to penalties under Labor Code § 210 in an amount subject to proof at trial.

1 **EIGHTH CAUSE OF ACTION**

2 **WILLFUL FAILURE TO PAY WAGES**

3 **IN VIOLATION OF LABOR CODE §§ 201-203**

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

6 93. “If an employer discharges an employee, the wages earned and unpaid at the time of
7 discharge are due and payable immediately.” Lab. Code § 201.

8 94. “If an employee not having a written contract for a definite period quits his or her
9 employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the
10 employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is
11 entitled to his or her wages at the time of quitting.” Lab. Code § 202.

12 95. “If an employer willfully fails to pay any wages of an employee who is discharged or who
13 quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate
14 until paid or until an action therefor is commenced.” Lab. Code § 203.

15 96. Plaintiff was not exempt from the requirements of Labor Code §§ 201-203.

16 97. At the time of her separation from Defendants, Ms. Sandoval was owed compensation
17 including regular time wages in excess of \$3,500, wages for unpaid minimum wage, unpaid overtime,
18 meal periods, rest periods, and unreimbursed business expenses. This compensation was never remitted
19 to her.

20 98. At no time since Plaintiff's separation of employment did Defendants pay her wait-time
21 penalties as required by Labor Code § 203.

22 99. As a direct and proximate result of Defendants' willful failure to pay Plaintiff's wages upon
23 her separation of employment, Plaintiff incurred wait-time penalties in an amount equal to her daily rate
24 of pay over the period that the wages were not paid in an amount subject to proof at trial.

NINTH CAUSE OF ACTION
CIVIL PENALTIES IN VIOLATION OF
LABOR CODE § 2699, ET SEQ.
(AGAINST ALL DEFENDANTS)

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

101. 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.

102. 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.

103. 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 of 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.

104. On August 26, 2020, Plaintiff provided written notice by online filing with the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violation, as required by Labor Code § 2699.3 (a) (1) (A).

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

106. 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

1 the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation,
2 pursuant to Labor Code §2699 (f), for those Labor Code sections not expressly providing for a penalty,
3 and civil penalties provided by the specific Labor Code sections that do expressly provide for a penalty.

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

6 **TENTH CAUSE OF ACTION**
7 **UNFAIR COMPETITION IN VIOLATION OF**
8 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**
9 **(AGAINST ALL DEFENDANTS)**

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

12 109. Defendants are a "person" as defined by California Business & Professions Code sections
13 17201.

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

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

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

23 113. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits
24 and illegal profits at the expense of Plaintiff and members of the public.

25 114. Pursuant to California Business & Professions Code sections 17200 *et seq.* Plaintiff is
26 entitled to restitution of the wages withheld and retained by Defendants during a period that commences
27 four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all
28 outstanding wages due to Plaintiff and aggrieved employees; and an award of attorneys' fees pursuant to

1 California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

2 **PRAYER FOR RELIEF**

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

4 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of
5 \$25,000, exclusive of interest and costs.

6 **As to the First Cause of Action**

7 **(Unreimbursed Business Expenses)**

8 2. That the Court adjudge, declare and decree that Defendants violated Labor Code § 2802
9 by willfully failing to reimburse business expenses incurred by Plaintiff and the Class;

10 3. For unreimbursed business expenses and for all actual, consequential, and incidental losses
11 and damages, according to proof;

12 4. For interest at the same rate as judgments in civil actions, accruing from the date on which
13 Plaintiff and the Class incurred the necessary expenditures or losses pursuant to Labor Code § 2802;

14 5. For all reasonable costs and attorney's fees incurred by Plaintiff's enforcement of the rights
15 granted by Labor Code § 2802 pursuant to Labor Code § 2802 (c); and

16 6. For such other relief that the Court deems just and appropriate.

17 **As to the Second Cause of Action**

18 **(Unpaid Minimum Wages)**

19 7. That the Court adjudge, declare and decree that Defendants violated Labor Code §§
20 1182.12, 1194, 1197, 1197.1, 1198, applicable Wage Orders and Codes of Regulation by willfully failing
21 to pay minimum wages to Plaintiff and class members;

22 8. For payment of unpaid wages in an amount subject to proof;

23 9. For liquidated damages pursuant to Labor Code §1194.2 in an amount subject to proof,
24 plus interest;

25 10. For prejudgment interest at the legal rate from the date the obligation became due through
26 the date of judgment in this matter;

27 11. For all reasonable costs and attorney's fees incurred by Plaintiff's enforcement of the rights
28 granted by Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 pursuant to Labor Code § 1194 (a); and

12. For such other relief that the Court deems just and appropriate.

As to the Third Cause of Action

(Unpaid Overtime)

13. That the Court adjudge, declare and decree that Defendants violated Labor Code §§ 510 and 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to pay overtime wages to Plaintiff;

14. For payment of unpaid overtime wages in an amount subject to proof;

15. For prejudgment interest at the legal rate from the date the obligation became due through the date of judgment in this matter;

16. For all reasonable costs and attorney's fees incurred by Plaintiff's enforcement of the rights granted by Labor Code §§ 510 and 1198 pursuant to Labor Code § 1194 (a); and

17. For such other relief that the Court deems just and appropriate.

As to the Fourth Cause of Action

(Noncompliant Wage Statements and Payroll Records)

18. That the Court adjudge, declare and decree that Defendants violated Labor Code §§ 226 and 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to furnished compliant, accurate itemized wage statements to Plaintiff and for failure to keep accurate payroll records;

19. For consequential and incidental losses and damages according to proof;

20. For injunctive relief pursuant to Labor Code § 226 (h);

21. For statutory penalties pursuant to Labor Code § 226 (e);

22. For all reasonable costs and attorney's fees incurred by Plaintiff's enforcement of the rights granted by Labor Code §§ 226 pursuant to Labor Code § 226 (e) (1); and

23. For such other relief that the Court deems just and appropriate.

As to the Fifth Cause of Action

(Failure to Provide Meal Periods)

24. That the Court declare, adjudge, and decree that Defendants violated California Labor Code §§ 226.7, 512 (a), 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to provide all meal periods to Plaintiff;

25. That the Court make an award to the Plaintiff of one hour of pay at her regular rate of pay for each workday that a meal period was not provided;

26. For all actual, consequential, and incidental losses and damages, according to proof;

27. For premiums pursuant to California Labor Code section 226.7 (b);

28. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

29. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

30. For such other relief that the Court deems just and appropriate.

As to the Sixth Cause of Action

(Failure to Provide Rest Periods)

31. That the Court declare, adjudge, and decree that Defendants violated California Labor Code §§ 226.7, 1198, applicable IWC Wage Orders and Codes of Regulation by willfully failing to provide all rest periods to Plaintiff;

32. That the Court make an award to Plaintiff of one hour of pay at her regular rate of pay for each workday that a rest period was not provided;

33. For all actual, consequential, and incidental losses and damages, according to proof;

34. For premiums pursuant to California Labor Code section 226.7 (b);

35. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

36. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

37. For such other relief that the Court deems just and appropriate.

As to the Seventh Cause of Action

(Failure to Timely Pay Wages)

38. That the Court declare, adjudge, and decree that Defendants violated California Labor Code § 204, applicable IWC Wage Orders and Codes of Regulation by willfully failing to timely pay wages to Plaintiff and class members;

39. For penalties pursuant to Labor Code § 210, plus 25 percent of amounts unlawfully withheld from Plaintiff and class members;

40. For all actual, consequential, and incidental losses and damages, according to proof;

41. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

42. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

43. For such other relief that the Court deems just and appropriate.

As to the Eighth Cause of Action

(Willful Failure to Pay Wages)

44. That the Court declare, adjudge, and decree that Defendants violated California Labor Code § 201-203, applicable IWC Wage Orders and Codes of Regulation by willfully failing to pay minimum wages, overtime wages, and meal and rest premiums owed to Plaintiff either upon discharge or within 72 hours of their resignation;

45. For wait time penalties pursuant to Labor Code § 203;

46. For all actual, consequential, and incidental losses and damages, according to proof;

47. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

48. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

49. For such other relief that the Court deems just and appropriate.

As to the Ninth Cause of Action

(Civil Penalties under the PAGA)

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

51. For civil penalties pursuant to 210, 226.3, 256, 558, 1174.5, 1197.1, 2699 (a) and/or 2699 (a), (f) and (g), for violations of all California Labor Code sections plead herein, including Labor Code §§

201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

52. 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 plead herein, including Labor Code §§ 201-204, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1197, 1197.1, 1198 and 2802;

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

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

As to the Tenth Cause of Action

(Unfair Competition)

55. 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.;

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

57. 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.;

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

59. 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: December 2, 2020

By: Rochelle Reyes De Golier, Esq.
Rochelle R. De Golier, Esq.
Attorney for Plaintiff