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individually and on behalf of all other Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MIRNA MOLINA, an individual, on behalf of)
herself and all other Aggrieved Employees)

Plaintiff,

vs.

VALERY SWEENEY D.D.S., a California)
corporation; VALERY SWEENEY, an)
individual; and DOES 1 through 100, inclusive,)

Defendants.

Case No. **21STCV01785**

**COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE § 2698, ET SEQ.**

) Violation of California Labor Code § 2698, et
) seq. (California Labor Code Private Attorneys
) General Act of 2004)

Plaintiff MIRNA MOLINA (hereinafter referred to as “REPRESENTATIVE PLAINTIFF”)
alleges as follows:

PARTIES

1. REPRESENTATIVE PLAINTIFF is an individual who resides in California and
was employed by VALERY SWEENEY D.D.S., (hereinafter referred to as “DEFENDANT,”) from

1 on or about January 2, 2019 until on or about June 27, 2020.

2 2. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such
3 information and belief, alleges that at all times mentioned herein, DEFENDANT is a California
4 corporation, licensed to do business and actually doing business in the State of California.
5 DEFENDANT is a dental office, and has one (1) location in California. Thus, DEFENDANT is
6 subject to the applicable California laws as alleged in this action.

7 3. Upon information and belief, DEFENDANT VALERY SWEENEY (hereinafter,
8 “VALERY SWEENEY”) is an individual who resides in the State of California and the County of
9 Los Angeles. VALERY SWEENEY was and is an agent of DEFENDANT, and in that capacity was
10 and is responsible for overseeing and implementing DEFENDANT’S timekeeping policies and
11 procedures that REPRESENTATIVE PLAINTIFF and the other Aggrieved Employees were made
12 to follow.

13 4. REPRESENTATIVE PLAINTIFF is unaware of the true names and capacities,
14 whether corporate, individual, or otherwise, of DEFENDANTS named as DOES 1 through 10,
15 inclusive. Pursuant to California Code of Civil Procedure section 474, REPRESENTATIVE
16 PLAINTIFF will seek leave of court to amend this complaint to state said DEFENDANTS’ true
17 names and capacities when the same have been ascertained. REPRESENTATIVE PLAINTIFF is
18 informed and believes, and based on such information and belief alleges, that said fictitiously-
19 named DEFENDANTS are responsible in some manner for the injuries and damages to
20 REPRESENTATIVE PLAINTIFF and the other Aggrieved Employees as further alleged herein.

21 5. This is only a Private Attorney General Action Complaint, pursuant to California
22 Labor Code section 2699 et seq., on behalf of REPRESENTATIVE PLAINTIFF and all other
23 persons similarly situated who worked for DEFENDANT in their California location(s) as non-
24 exempt, hourly employees (herein collectively identified as “other Aggrieved Employees”) for:

- 25 (i) Failure to provide employment records in violation of Labor Code sections 226,
26 432, and 1198.5;
27 (ii) failure to pay overtime and double time in violation of Labor Code sections 510 and
28 the applicable Wage Orders;

- (iii) failure to provide rest and meal periods in violation of Labor Code sections 226.7, 512(a), and the applicable Wage Orders;
- (iv) failure to pay minimum wage in violation of Labor Code sections 1182.2, 1194, 1197, 1197.1, and the applicable Wage Orders;
- (v) failure to keep accurate payroll records and provide itemized wage statements in violation of Labor Code sections 226(a), 1174(d), 1198, and the applicable Wage Orders;
- (vi) failure to pay reporting time wages in violation of California Code of Regulations, Title 8, section 11050(5)(A);
- (vii) failure to pay all wages earned on time in violation of Labor Code section 204;
- (viii) failure to pay all wages earned upon discharge or resignation in violation of Labor Code sections 201, 202, and 203;
- (ix) failure to provide basic information at the time of hiring and when employment changes occur in violation of Labor Code section 2810.5(a)(1)(A)-(C) (Wage Theft Prevention Act).
- (x) failure to reimburse necessary, business-related expenses in violation of Labor Code sections 2800 and 2802;
- (xi) failure to provide notice of paid sick time and accrual in violation of Labor Code section 246;
- (xii) employers, and individuals acting on behalf of employers, violating or causing to be violated a section of the Labor Code or any Wage Order in violation of Labor Code section 558(a).

VENUE AND JURISDICTION

6. Venue is proper under California Code of Civil Procedure section 395 and under California Government Code section 12965(b), in that REPRESENTATIVE PLAINTIFF's injuries were incurred within the County of Los Angeles, the actions giving rise to REPRESENTATIVE PLAINTIFF's complaint arose within the County of Los Angeles, and DEFENDANT is located in the County of Los Angeles.

1 **SCOPE**

2 7. The “Aggrieved Employees” are Defendants’ current and former employees, who
3 either were or are employed in California during the relevant statutory period and who were or are
4 paid on an hourly, non-exempt basis.

5 8. The obligations and responsibilities of Defendants’ current and former non-exempt,
6 hourly paid employees employed in California by Defendants are virtually identical from location
7 to location and employee to employee.

8 9. Any differences in job activities between the different individuals in these positions
9 were and are legally insignificant to the issues presented by this action.

10 **STATEMENT OF FACTS**

11 10. REPRESENTATIVE PLAINTIFF was hired by DEFENDANT as a Front Desk
12 associate on or about January 2, 2019. DEFENDANT is a California Corporation that is a dental
13 office. REPRESENTATIVE PLAINTIFF worked for DEFENDANT up until on or about June 27,
14 2020 and received their final pay check on or about July 2020.

15 11. While employed with DEFENDANT, REPRESENTATIVE PLAINTIFF and other
16 Aggrieved Employees that worked with PLAINTIFF at DEFENDANT’S California locations,
17 which include other Aggrieved Employees that PLAINTIFF seeks to represent in this action,
18 working as non-exempt, hourly employees (herein collectively identified as “Aggrieved
19 Employees”) were regularly required to work off-the-clock, and during their rest and meal periods.

20 12. REPRESENTATIVE PLAINTIFF filed their PAGA Notice on August 4, 2020 by
21 furnishing copies of their PAGA Notice to all named DEFENDANTS and their representative
22 Agents for Service of Process as well as the LWDA. As of October 8, 2020, 65 Days after
23 REPRESENTATIVE PLAINTIFF’s initial PAGA Notice, REPRESENTATIVE PLAINTIFF has
24 not received correspondence from the LWDA regarding their intent to investigate PLAINTIFF’s
25 claims.

26 **FAILURE TO PROVIDE EMPLOYMENT RECORDS**

27 13. California Labor Code Section 226 provides, “An employer who receives a written
28 or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or

1 former employee [records of hours worked and wages paid]...shall comply with the request as
2 soon as practicable, but no later than 21 calendar days from the date of the request.”

3 14. California Labor Code Section 432 provides, “If an employee signs any instrument
4 relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon
5 request.”

6 15. California Labor Code Section 1198.5 provides that every employee shall be
7 permitted to inspect and obtain a copy of their personnel records upon request.

8 16. In accordance with the process set out in Labor Code Section 226,
9 REPRESENTATIVE PLAINTIFF requested, in writing by letter via certified first-class mail to
10 DEFENDANT, and regular first-class mail to DEFENDANTS’ California agent for service of
11 process, that DEFENDANT provide REPRESENTATIVE PLAINTIFF with REPRESENTATIVE
12 PLAINTIFF’s wage and payroll history, all documents signed by REPRESENTATIVE
13 PLAINTIFF pursuant to Labor Code Section 432, and a copy of REPRESENTATIVE
14 PLAINTIFF’s personnel records pursuant to Labor Code Section 1198.5. Receipts indicate that the
15 correspondence was delivered to DEFENDANTS’ principal place of business.

16 17. The time periods provided to DEFENDANT by Labor Code Sections 226, 432,
17 1198.5 and any other relevant statutes have elapsed since DEFENDANT received
18 REPRESENTATIVE PLAINTIFF’s correspondence requesting documents pursuant to Labor Code
19 Sections 226 and 432, and a copy of REPRESENTATIVE PLAINTIFF’s personnel records
20 pursuant to Labor Code Section 1198.5. However, DEFENDANT failed to provide
21 REPRESENTATIVE PLAINTIFF with all of the employment documents to which they are
22 entitled, including, but not limited to, wage and payroll history, all documents signed by
23 REPRESENTATIVE PLAINTIFF, and copy of her personnel records.

24 **OVERTIME / DOUBLE TIME**

25 18. California Labor Code sections 510 and the applicable Wage Orders require
26 employers to pay employees working more than eight (8) hours in a day or more than 40 hours in a
27 week at the rate of at least time-and-one-half (1.5) times their regular rate of pay (“overtime”) for
28 time such worked, and two (2) times their regular rate of pay (“double time”) for such hours

1 worked in excess of 12 hours in a day. "Regular rate" includes all remuneration, including non-
2 discretionary bonuses and incentives.

3 19. During the relevant time period, REPRESENTATIVE PLAINTIFF and other
4 Aggrieved Employees regularly worked in excess of eight (8), and in excess 12, hours in a
5 workday and/or 40 hours in a workweek.

6 20. DEFENDANT routinely required REPRESENTATIVE PLAINTIFF and the other
7 Aggrieved Employees to perform work tasks before and/or after their scheduled shifts, and/or
8 during off-the-clock meal breaks, and/or during rest breaks. As a consequence, DEFENDANT
9 willfully failed to pay REPRESENTATIVE PLAINTIFF and the other Aggrieved Employees all of
10 the wages to which they were entitled.

11 **MEAL / REST BREAKS**

12 21. California Labor Code sections 226.7, 512(a), and the applicable Wage Orders
13 require employers to pay employees one (1) additional hour of pay at the employees' regular rate
14 for each work day that a legally compliant meal and/or rest break was not provided. Employers
15 cannot require, cause, or permit an employee to work more than five (5) hours per day without
16 providing an uninterrupted meal break. If an employee works over ten (10) hours in a workday,
17 employers are required to either provide a second, uninterrupted 30-minute meal break or pay
18 employees an additional one (1) hour of pay at the employees' regular rate. If the employer fails to
19 properly record a valid meal period, it is presumed that no meal period was provided. Furthermore,
20 no employer shall require an employee to work during any rest period. Rest periods requirements
21 are based on the total hours worked; employees are legally entitled to ten (10) minutes per four (4)
22 hours, or major fraction thereof, that employee worked.

23 22. DEFENDANT failed to provide REPRESENTATIVE PLAINTIFF and other
24 Aggrieved Employees with the required rest and meal break periods. REPRESENTATIVE
25 PLAINTIFF and other Aggrieved Employees were routinely required to work through these
26 periods instead, because of understaffing, inadequate coverage, unreasonably high workload and
27 expectations, and/or other actions, inactions, or decisions made by and within the sole control and
28 discretion of DEFENDANT.

23. REPRESENTATIVE PLAINTIFF and other Aggrieved Employees worked shifts in excess of five (5) hours without a meal break, and worked shifts of ten (10) hours or more without a second meal break, due to understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of DEFENDANT.

24. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that any purported appearance of meal and rest break compliance is because DEFENDANT systematically and routinely clocked out for and/or otherwise altered the timekeeping records of REPRESENTATIVE PLAINTIFF and other Aggrieved Employees in an attempt to hide the aforementioned infractions. DEFENDANT, knowingly and contrary to law and public policy, employed a tactic of clocking-out employees for rest and/or meal periods that were never taken and/or were legally non-compliant, and/or otherwise falsified or altered timekeeping records.

25. DEFENDANT knew, or should have known, that their behavior caused REPRESENTATIVE PLAINTIFF and other Aggrieved Employees to work through the above-described meal and/or rest periods. As a company-wide policy, DEFENDANT still chose not to pay meal and rest period premiums required by law.

MINIMUM WAGE

26. California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require employers to pay the minimum wage as set by the IWC. California Labor Code section 1182.12, as amended by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

(1) For any employer who employs 26 or more employees:

(A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.

(B) From January 1, 2018, to December 31, 2018, \$11 per hour.

(C) From January 1, 2019, to December 31, 2019, \$12 per hour.

(D) From January 1, 2020, to December 31, 2020, \$13 per hour.

(E) From January 1, 2021, to December 31, 2021, \$14 per hour.

(F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.

1 (2) For any employer who employs 25 or fewer employees:

2 (A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.

3 (B) From January 1, 2019, to December 31, 2019, \$11 per hour.

4 (C) From January 1, 2020, to December 31, 2020, \$12 per hour.

5 (D) From January 1, 2021, to December 31, 2021, \$13 per hour.

6 (E) From January 1, 2022, to December 31, 2022, \$14 per hour.

7 (F) From January 1, 2023, and until adjusted by subdivision (c) \$15 per hour.

8 27. The minimum wage standard applies to each hour employees worked for which they
9 were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee
10 is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in
11 an average hourly wage above minimum wage.

12 28. As alleged throughout this Complaint, due to the company-wide failures of
13 DEFENDANT, REPRESENTATIVE PLAINTIFF and other Aggrieved Employees were forced to
14 work off-the-clock before and/or after their scheduled work shifts, and/or during rest breaks, and/or
15 during meal breaks. DEFENDANT failed to pay REPRESENTATIVE PLAINTIFF and other
16 Aggrieved Employees minimum wage for this time and/or falsified timekeeping records to hide
17 this fact.

18 **ACCURATE/ITEMIZED WAGE STATEMENTS**

19 29. California Labor Code 226(a) requires employers to create and provide to
20 employees true and accurate employment records. California Labor Code section 226(e) provides
21 that if an employer fails to furnish an employee with same, the employee is entitled to recover the
22 greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each
23 subsequent violation in any pay period. California Labor Code 226.3 imposes civil penalties on any
24 employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and
25 \$1,000 per employee for each subsequent violation.

26 30. California Labor Code 1174(d) requires employers to keep payroll records showing
27 hours worked, and wages paid to and/or number of piece-rate units earned, for all employees.
28 California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain

1 same.

2 31. California Labor Code section 1198 provides that maximum hours and standard
3 conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders. Pursuant
4 to the applicable Wage Order, employers must keep accurate records of when employees begin and
5 end each work period and each meal period.

6 32. DEFENDANT knowingly provided employees with records that do not meet the
7 statutory requirements of truth and accuracy, because DEFENDANT failed to truthfully and
8 accurately document, among other things, employees off-the-clock work. As a result,
9 DEFENDANT failed to accurately list the correct amount of gross and/or net wages earned by
10 REPRESENTATIVE PLAINTIFF and the other Aggrieved Employees.

11 33. The statements in question are deficient in many other ways, including, but not
12 limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers
13 of hours worked at each rate, failure to list deductions, failure to track sick leave, failure to list the
14 employee and SSN/EID properly, failure to list the full legal name and address of the employer,
15 failure to list inclusive dates for which employees are paid, failure to provide employees with the
16 ability to easily access wage statements and get hard copies at no expense to the employee, and/or
17 failure to state all hours worked as a result of off-the-clock work.

18 34. DEFENDANT willfully failed to maintain accurate payroll records for
19 REPRESENTATIVE PLAINTIFF and other Aggrieved Employees as a result of DEFENDANT'S
20 failure to accurately record employees rest breaks, and/or meal breaks, and/or off-the-clock work.
21 DEFENDANT'S failure makes it impossible for MIRNA MOLINA and other Aggrieved
22 Employees to accurately determine the extent of their underpayment, thereby causing further
23 injuries to each of them.

24 **REPORTING TIME**

25 35. California Code of Regulations, Title 8, section 11050(5)(A) provides that for each
26 workday when an employee is required to and does in fact report to work, but is either not put to
27 work or is furnished less than half of said employee's usual scheduled day's work, that employee
28 should be paid for no less than half, and in no event less than two (2) hours, of the employees'

1 regular rate of pay.

2 36. REPRESENTATIVE PLAINTIFF and other Aggrieved Employees were frequently
3 told by DEFENDANT to report to work and were either not put to work or were furnished less than
4 half of said employee's usual scheduled day's work. DEFENDANT routinely failed to pay the
5 required reporting time wages to REPRESENTATIVE PLAINTIFF and other Aggrieved
6 Employees for each of these instances.

7 **ALL WAGES PAID ON TIME**

8 37. California Labor Code section 204 requires that all wages earned, other than those
9 due upon termination, be paid on time as defined by the statute.

10 38. As a result of the numerous company-wide failures of DEFENDANT as described
11 throughout this Complaint, EMPLOYER failed to pay MIRNA MOLINA and other Aggrieved
12 Employees all wages due to them, including, but not limited to: minimum wages, overtime wages,
13 double time wages, split shift pay and/or reporting time pay within the statutorily required time
14 period.

15 **ALL WAGES PAID ON DISCHARGE / TERMINATION**

16 39. California Labor Code sections 201, 202, and 203 provide that employees who are
17 terminated are due all wages earned immediately. Employees who resign their employment without
18 giving 72-hours' notice are due all wages earned within 72 hours of their resignation. Employees
19 who resign their employment giving 72-hours' notice are entitled to all wages earned at the time
20 their resignation becomes effective.

21 40. DEFENDANT terminated their employment relationship with REPRESENTATIVE
22 PLAINTIFF on June 27, 2020. Accordingly, REPRESENTATIVE PLAINTIFF was due all wages
23 earned immediately.

24 **WAGE THEFT PREVENTION ACT**

25 41. Codified in California Labor Code section 2810.5, California's Wage Theft
26 Protection Act requires employers to provide employees with basic information at the time of
27 hiring and when changes occur to their employment. The Wage Theft Protection Act provides that
28 an employee must be furnished with written notice of, at the time of hiring; rate of pay (including

1 overtime), whether paid by hour, salary, piece-rate, shift, day, week, commission, or otherwise, and
2 allowances claimed such as meal or lodging. This notice must include a statement that the
3 employee can accrue and use sick leave, has the right to request and use paid sick leave, may not
4 be terminated or retaliated against for requesting or using paid sick leave, and has the right to file a
5 complaint against any employer who does so retaliate.

6 42. DEFENDANT hired REPRESENTATIVE PLAINTIFF on or about January 2,
7 2019, and REPRESENTATIVE PLAINTIFF continued to work for DEFENDANT until on or
8 about June 27, 2020. During that time, changes, including, but not limited to, raises, promotions,
9 title changes, relocations, and new and additional assignments were earned by and/or assigned to
10 REPRESENTATIVE PLAINTIFF. As a result of each of these, changes occurred to
11 REPRESENTATIVE PLAINTIFF's employment as defined by Labor Code 2810.5(a)(1)(A)-(C)
12 and the Wage Theft Prevention Act.

13 43. When hired and each time such changes to REPRESENTATIVE PLAINTIFF's
14 employment occurred, DEFENDANT was required to furnish documents to REPRESENTATIVE
15 PLAINTIFF with such basic information and written notice of, among other things,
16 REPRESENTATIVE PLAINTIFF's rate of pay (including overtime), REPRESENTATIVE
17 PLAINTIFF's right to accrue and request paid sick leave, and REPRESENTATIVE PLAINTIFF's
18 right to file a complaint against DEFENDANT should they infringe upon such rights.
19 DEFENDANT failed to furnish REPRESENTATIVE PLAINTIFF and other Aggrieved
20 Employees with such written notices as required.

21 **FAILURE TO REIMBURSE**

22 44. California Labor Code Sections 2800 and 2802 require that an employer indemnify
23 employees for all necessary expenditures or losses incurred by the employee in direct consequence
24 of the discharge of their duties.

25 45. REPRESENTATIVE PLAINTIFF and other Aggrieved Employees were directed
26 and expected to incur personal expenses on behalf of DEFENDANT while performing their job
27 duties. Such personal expenses include, but are not limited to: use of personal cell phone, travel
28 expenses, and parking expenses. REPRESENTATIVE PLAINTIFF and the other Aggrieved

1 Employees would not have been able to successfully accomplish their job duties absent incurring
2 these personal expenses. DEFENDANT(S) failed to indemnify REPRESENTATIVE PLAINTIFF
3 and other Aggrieved Employees for all necessary expenditures or losses accordingly.

4 **NOTICE OF PAID SICK TIME AND ACCRUAL**

5 46. California Labor Code section 246 provides that an employee who works for the
6 same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a
7 rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the
8 commencement of employment. Employers must provide employees with written notice setting the
9 amount of sick leave available (or paid time off in lieu thereof) for use on either itemized wage
10 statements (as described in Labor Code section 226) or in a separate writing accompanying such
11 wage statements.

12 47. As such, DEFENDANT unlawfully retained and continue to retain paid sick leave
13 that should have been paid to REPRESENTATIVE PLAINTIFF and the other Aggrieved
14 Employees but for DEFENDANT's failure to properly institute and/or adhere to a legally
15 compliant paid sick leave program. REPRESENTATIVE MIRNA MOLINA is informed and
16 believes, and based thereon alleges, that these practices were experienced and continue to be
17 experienced by the other Aggrieved Employees.

18 48. REPRESENTATIVE PLAINTIFF was hired by DEFENDANT on January 2, 2019
19 and worked for DEFENDANT until June 27, 2020. REPRESENTATIVE PLAINTIFF worked for
20 DEFENDANT for more than 30 days, triggering the protections of Labor Code section 246 as
21 described above. Nevertheless, DEFENDANT failed to furnish upon REPRESENTATIVE
22 PLAINTIFF, either on itemized wage statements or in a separate writing accompanying such wage
23 statements, the amount of sick leave available to REPRESENTATIVE PLAINTIFF.

24 **CIVIL PENALTIES AND INDIVIDUAL LIABILITY**

25 49. California Labor Code section 558(a) provides that any employer, including
26 individuals acting on behalf of employers, that violates, or causes to be violated, a section of the
27 Labor Code or any applicable Wage Orders are subject to the following penalties;

- \$50 for any initial violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages;
- \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount to recover unpaid wages;

50. Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. Labor Code section 558(c) provides that the penalties in this section are in addition to any other civil penalty.

51. DEFENDANT was and is an employer, and VALERY SWEENEY, acting on behalf thereof, violated MIRNA MOLINA and other Aggrieved Employees' rights by violating, or causing to be violated, various sections of this code as described throughout this notice letter.

FIRST CAUSE OF ACTION

(VIOLATION OF LABOR CODE § 2698, *ET SEQ.*)

(By REPRESENTATIVE PLAINTIFF Against DEFENDANT(S) and Does 1 through 10, inclusive)

52. REPRESENTATIVE PLAINTIFF incorporates by reference the allegations contained in each of the preceding paragraphs and each and every part thereof with the same force and effect as though fully set forth herein.

53. PAGA expressly establishes that any provisions of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

54. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

1 55. REPRESENTATIVE PLAINTIFF and the other hourly-paid or non-exempt
2 employees, are “Aggrieved Employees” within the meaning of California Labor Code section
3 2699(c) as they are all current or former employees of DEFENDANT, and one or more of the
4 alleged violations was committed against them.

5 **Failure to Provide Employment Records**

6 56. DEFENDANT’s failure to provide REPRESENTATIVE PLAINTIFF with
7 employment records constitutes unlawful and/or unfair activity and is prohibited by California
8 Labor Code 226, 432, and 1198.5.

9 **Failure to Pay Overtime / Double Time**

10 57. DEFENDANT’s failure to pay legally required overtime and double time wages to
11 REPRESENTATIVE PLAINTIFF and the other Aggrieved Employees is in violation of the Wage
12 Orders and constitutes unlawful and/or unfair activity prohibited by California Labor Code sections
13 510 and 1198.

14 **Failure to Provide Meal and Rest Periods**

15 58. DEFENDANT’s failure to provide legally required meal and rest periods to
16 REPRESENTATIVE PLAINTIFF and the other Aggrieved Employees constitutes unlawful and/or
17 unfair activity prohibited by California Labor Code sections 226.7, 512(a), and the applicable
18 Wage Orders.

19 **Failure to Pay Minimum Wages**

20 59. DEFENDANT’s failure to pay legally required minimum wages to
21 REPRESENTATIVE PLAINTIFF and the other Aggrieved Employees constitutes unlawful and/or
22 unfair activity prohibited by California Labor Code sections 1182.12, 1194, 1197, 1197.1, and the
23 applicable Wage Orders.

24 **Failure to Keep Accurate and Provide Itemized Wage Statements**

25 60. DEFENDANT’s failure to keep accurate and provide itemized wage statements to
26 Plaintiff and the other Aggrieved Employees constitutes unlawful and/or unfair activity prohibited
27 by California Labor Code section 226(a), 1174(d), and 1198.

28 **Failure to Pay Reporting Time**

1 61. DEFENDANT's failure to pay REPRESENTATIVE PLAINTIFF and the other
2 Aggrieved Employees who were required to and did in fact report to work, but who were then
3 furnished less than half of such employees usual scheduled day's work, with at least half, and in no
4 event less than two (2) hours, of the employees' regular rate of pay constitutes unlawful and/or
5 unfair activity prohibited by California Code of Regulations 11050 (5)(A).

6 **Failure to Pay "Split Shift" Premiums**

7 62. DEFENDANT's failure to pay REPRESENTATIVE PLAINTIFF and the other
8 Aggrieved Employees one (1) hour's pay at the minimum wage in addition to the wages for that
9 workday for any workday in which REPRESENTATIVE PLAINTIFF and the other Aggrieved
10 Employees were scheduled for and required to work a "split shift" constitutes unlawful or unfair
11 activity prohibited by California Labor Code 1198 and California Code of Regulations
12 11050(4)(C).

13 **Failure to Timely Pay Wages During Employment**

14 63. DEFENDANT's failure to timely pay wages to REPRESENTATIVE PLAINTIFF
15 and the other Aggrieved Employees during their employment constitutes unlawful and/or unfair
16 activity prohibited by California Labor Code section 204.

17 **Failure to Timely Pay Wages Upon Termination**

18 64. DEFENDANT's failure to timely pay wages to REPRESENTATIVE PLAINTIFF
19 and the other Aggrieved Employees upon termination constitutes unlawful and/or unfair activity
20 prohibited by California Labor Code sections 201, 202, and 203.

21 **Failure to Provide Information Required by the Wage Theft Prevention Act**

22 65. DEFENDANT's failure to provide basic information to REPRESENTATIVE
23 PLAINTIFF and the other Aggrieved Employees related to the conditions of their pay and their
24 rights regarding sick leave constitutes unlawful and/or unfair activity prohibited by California
25 Labor Code section 2810.5(a)(1)(A)-(C).

26 **Failure to Reimburse Necessary Business-Related Expenses and Costs**

27 66. DEFENDANT's failure to reimburse REPRESENTATIVE PLAINTIFF and the
28 other Aggrieved Employees for necessary business-related expenses and costs constitutes unlawful

1 and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

2 **Failure to Provide Notice of Paid Sick Time and Accrual**

3 67. DEFENDANT's failure to provide REPRESENTATIVE PLAINTIFF and the other
4 Aggrieved Employees that works for DEFENDANT for more than 30 days with written notice
5 setting the amount of sick leave available (or paid time off in lieu thereof) for use in their itemized
6 wage statements or in a separate writing accompanying such statements constitutes unlawful and/or
7 unfair activity prohibited by California Labor Code section 246.

8 **Civil Penalties**

9 68. VALERY SWEENYS' actions, as outlined above, on behalf of DEFENDANT that
10 violated, or caused to be violated, the above-mentioned labor codes constitute unfair and/or
11 unlawful activity in violation of California Labor Code section 558(c). California Labor Code
12 section 558(c) specifically clarifies that penalties in this section are in addition to any other civil
13 penalty.

14 69. Pursuant to California Labor Code section 2699, REPRESENTATIVE PLAINTIFF,
15 individually, and on behalf of all Aggrieved Employees, requests and is entitled to recover from
16 DEFENDANT and each of them, business expenses, unpaid wages, and/or untimely wages
17 according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section
18 218.5, as well as all statutory penalties against DEFENDANT, and each of them, including but not
19 limited to:

20 a. Penalties under California Labor Code section 2699 in the amount of a
21 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation,
22 and two hundred dollars (\$200) for each aggrieved employee per pay period for each
23 subsequent violation;

24 b. Penalties under California Code of Regulations Title 8 section 11010, et seq.
25 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the
26 initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay
27 period for each subsequent violation;

28 c. Penalties under California Labor Code section 210 in addition to, and
15.

1 entirely independent and apart from, any other penalties provided in the California Labor
2 Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay
3 period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee
4 per pay period for each subsequent violation; and

5 d. Any and all additional penalties and sums as provided by the California
6 Labor Code and/or other statutes, including, but not limited to, penalties pursuant to
7 California Labor Code 558(a).

8 70. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
9 Aggrieved Employees shall be distributed as follows: seventy-five percent (75%) to the Labor and
10 Workforce Development Agency for the enforcement of labor laws and education of employers
11 and employees about their rights and responsibilities and twenty-five percent (25%) to the
12 Aggrieved Employees.

13 71. Further, REPRESENTATIVE PLAINTIFF is entitled to seek and recover
14 reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and
15 2699 and any other applicable statute.

16 THEREFORE, REPRESENTATIVE PLAINTIFF and the individuals he seeks to represent
17 request relief as described below:

18 **PRAYER**

19 THEREFORE, REPRESENTATIVE PLAINTIFF prays for judgment against
20 DEFENDANT, and Does 1 through 10, and each of them, as follows:

- 21 1. Statutory attorneys' fees and costs under PAGA and California Code of Civil
22 Procedure Section 1021.5;
 - 23 2. Statutory penalties under PAGA;
 - 24 3. Costs of suit; and
 - 25 4. Such further relief as the Court deems just and proper.
- 26
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28

1 Dated: January 15, 2021

HAIG B. KAZANDJIAN LAWYERS, APC.

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3 By: /s/ Haig B. Kazandjian

4 Haig B. Kazandjian, Esq.,
5 Cathy Gonzalez, Esq.,
6 Kevin Crough, Esq.,
7 Attorneys for Plaintiff MIRNA MOLINA
8 Individually and on behalf of all other
9 Aggrieved Employees
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