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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES

15 CARMEN MUNOZ, individually and on behalf
16 of all similarly situated and/or aggrieved
17 employees of Defendants in the State of
18 California,

19 Plaintiff,

20 v.

21 ASSOCIATED HEALTH PROFESSIONALS,
22 INC., and DOES 1 through 50, inclusive,

23 Defendants.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 09 2021

Sherri R. Carter, Executive Officer/Clerk of Court
By: Kristina Vargas, Deputy

Case No.: 21STCV09332

Unlimited Civil

Amount Demanded exceeds \$25,000.00

CLASS ACTION COMPLAINT

[Cal. Code Civ. Proc. § 382]

1. Failure to Provide Legally Compliant Meal Periods;
2. Failure to Provide Legally Compliant Rest Periods;
3. Failure to Pay Minimum and Regular Wages;
4. Failure to Pay Overtime Wages
5. Failure to Pay Reporting Time Pay;
6. Failure to Timely Pay All Wages Due Upon Separation of Employment;
7. Failure to Reimburse for Necessary Business Expenses;
8. Failure to Furnish Accurate Itemized Wage Statements;
9. Failure to Maintain Accurate Records; and
10. Violation of Business & Professions Code §17200, *et seq.*

**REPRESENTATIVE ACTION FOR PAGA
PENALTIES**

11. Violation of the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*

– JURY TRIAL DEMANDED –

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1 PLAINTIFF CARMEN MUNOZ (hereinafter “Plaintiff”), individually and on behalf of all other
2 similarly situated and/or aggrieved employees of DEFENDANT ASSOCIATED HEALTH
3 PROFESSIONALS, INC., and DOES 1 through 50, inclusive, (hereinafter “Defendants”) alleges as
4 follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this putative class and representative action against Defendants for
7 engaging in a pattern of wage and hour violations under the California Labor Code (“Labor Code”) and
8 the applicable Industrial Welfare Commission (“IWC”) Wage Order.

9 2. Plaintiff brings this action on behalf of all current and former non-exempt employees
10 who were employed by Defendants in the State of California during the applicable relevant time period
11 (hereinafter “similarly situated employees”).

12 3. Plaintiff also brings this representative action pursuant to the Private Attorneys General
13 Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) against Defendants for engaging in a
14 pattern of wage and hour violations under the California Labor Code and the applicable IWC Wage
15 Order. Plaintiff brings this action under PAGA on behalf of all other current and former non-exempt
16 employees of Defendants in the State of California who have suffered at least one of the Labor Code
17 violations described herein during the applicable relevant time period (hereinafter “aggrieved
18 employees”).

19 4. Plaintiff is informed and believes, and on that basis alleges, that Defendants decreased
20 their employment-related costs by systematically violating California wage and hour laws and engaging
21 in unlawful and unfair business practices.

22 5. Defendants’ systematic pattern of Labor Code and IWC Wage Order violations toward
23 Plaintiff and other similarly situated and/or aggrieved employees in California include, but are not
24 limited to:

- 25 a. Failing to provide off-duty meal periods of at least thirty minutes before
26 commencement of the sixth hour of work;
- 27 b. Failing to authorize and permit off-duty paid rest periods;
- 28 c. Failing to timely compensate for all hours worked, including minimum, regular,

and/or overtime wages;

d. Failing to pay all reporting time wages;

e. Failing to timely pay all wages due and owed upon separation of employment;

f. Failing to indemnify employees for necessary business expenses;

g. Failing to furnish accurate itemized wage statements; and

h. Failing to maintain accurate records.

6. Plaintiff brings this lawsuit against Defendants seeking restitution, declaratory judgment, injunctive relief, and monetary relief, on behalf of herself and all other similarly situated and/or aggrieved employees of Defendants in California. Plaintiff seeks to recover, *inter alia*, unpaid wages, unreimbursed expenses, interest, attorney's fees, damages, liquidated damages, civil and statutory penalties, and costs pursuant to Labor Code §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802; the Business and Professions Code §§17200, *et seq.*; the provisions of the applicable IWC Wage Order; and the Private Attorneys General Act, California Labor Code § 2698, *et seq.*

7. Plaintiff reserves the right to name additional class representatives throughout the State of California.

PARTIES

A. Plaintiff

8. Plaintiff is a former employee of Defendants, who, at all relevant times, was employed as a non-exempt Certified Nurse Assistant ("CNA") in Los Angeles County.

9. Plaintiff is a resident of the State of California and currently resides in Los Angeles County.

10. At all relevant times, Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees of Defendants in California were subject to the same policies, practices, procedures, and/or guidelines governing their employment and their payment of wages and hours worked.

B. Defendants

11. Defendant ASSOCIATED HEALTH PROFESSIONALS, INC. ("AHP") is a staffing

1 agency that assigns nurses and other healthcare personnel to various facilities throughout California,
2 including medical facilities operated by the County of Los Angeles.

3 12. AHP is incorporated under the laws of the State of California, and has its principal place
4 of business in Culver City, California. AHP is doing business throughout the State of California,
5 including the County of Los Angeles.

6 13. Defendants' wrongful conduct, as alleged herein, occurred in the County of Los Angeles
7 in the State of California.

8 14. Plaintiff is informed and believes, and thereon alleges, that each defendant, whether
9 named or fictitious, is, and at all relevant times was, authorized to do business and did business in the
10 State of California, and was Plaintiff's and other similarly situated and/or aggrieved employees'
11 "employer" as defined in and subject to the Labor Code and the applicable IWC Wage Order.

12 15. Each of the fictitiously named Defendants participated in the acts alleged in this
13 Complaint. The true names and capacities of the Defendants named as DOES 1 through 50, inclusive,
14 are presently unknown to Plaintiff. Plaintiff will amend this Complaint, setting forth the true names and
15 capacities of the fictitious Defendants, if and when their true names and capacities are ascertained.
16 Plaintiff is informed and believes, and on that basis alleges, that each of the fictitious Defendants
17 participated in the acts alleged in this Complaint.

18 16. Plaintiff and all other similarly situated and/or aggrieved employees are, and at all
19 relevant times were, employees of each Defendant, including DOES 1 through 50, within the meanings
20 set forth in the Labor Code and applicable IWC Wage Order.

21 17. Plaintiff is informed and believes that at all relevant times, each Defendant, whether
22 named or fictitious, was the agent, employee or other person acting on behalf of every other Defendant,
23 and, in participating in the acts alleged in this Complaint, acted within the scope of such agency or
24 employment and ratified the acts of each other Defendant.

25 18. Plaintiff's injuries as alleged herein were proximately caused by said Defendants.
26 Wherever it is alleged herein that any act or omission was done or committed by any specially named
27 Defendant or Defendants, Plaintiff intends thereby to allege and does allege that the same act or
28 omission was also done and committed by each and every Defendant named as a DOE, both separately

1 and in concert or conspiracy with the named Defendant.

2 19. Plaintiff is informed and believes that at all relevant times, each Defendant, whether
3 named or fictitious, exercised control over Plaintiff's and other similarly situated and/or aggrieved
4 employees' wages, hours and/or working conditions.

5 20. Plaintiff is further informed and believes that at all relevant times, each Defendant,
6 whether named or fictitious, acted as the agent for the other Defendants, carried out a joint scheme,
7 business plan or policy, and the acts of each Defendant are legally attributable to the other Defendants.

8 21. Each Defendant, whether named or fictitious, was the alter ego of each of the other
9 Defendants at all relevant times herein.

10 22. A unity of interest and ownership between each Defendant, whether named or fictitious,
11 exists such that all Defendants acted as a single employer of Plaintiff and all other similarly situated
12 and/or aggrieved employees.

13 23. Defendants, including DOES 1 through 50, were Plaintiff's employers or persons acting
14 on behalf of Plaintiff's employer, within the meaning of California Labor Code section 558, who
15 violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any
16 provision regulating hours and days of work in any order of the Industrial Welfare Commission and, as
17 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code section 558,
18 at all relevant times.

19 24. Defendants, including DOES 1 through 50, were Plaintiff's employers other person
20 acting either individually or as an officer, agent, or employee of another person, within the meaning of
21 California Labor Code section 1197.1, who paid or caused to be paid to any employee a wage less than
22 the minimum fixed by an applicable state or local law, or by an order of the commission, and as such is
23 subject to a civil penalty for each underpaid employee, as set forth in Labor Code section 1197.1, at all
24 relevant times.

25 25. Defendants, including DOES 1 through 50, failed to maintain a requirement or enforce
26 any requirement that the facilities with which it contracted comply with applicable federal, state, and
27 local laws related to the wage and hours violations as alleged herein.

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JURISDICTION AND VENUE

26. This Court has subject-matter jurisdiction to hear this case because Plaintiff is informed and believes that the monetary damages and restitution sought herein for Defendants' conduct exceeds the minimum jurisdictional limits of the Superior Court.

27. Venue is proper in Los Angeles County pursuant to California Code of Civil Procedure ("Code of Civil Procedure") §§ 395(a) and 395.5 because Defendants maintain an office and transact substantial business in Los Angeles County, Defendants employed Plaintiff and other similarly situated and/or aggrieved employees in Los Angeles County, and the unlawful acts alleged herein that arose in Los Angeles County have a direct effect on Plaintiff and other similarly situated and/or aggrieved employees within Los Angeles County.

28. Pursuant to Rule 3.400 of the California Rules of Court, this case shall be deemed a complex action because it is filed as a class action that involves specialized case management, extensive discovery and evidence, difficult and/or novel issues, and is likely to require extensive post-judgment supervision.

FACTUAL ALLEGATIONS

29. Plaintiff is a former employee of Defendants who worked as a CNA from June 2017 to July 2020 at healthcare facilities operated by the County of Los Angeles. Defendants assigned Plaintiff to work at the Augustus F. Hawkins Mental Health Center ("Hawkins Facility") from approximately June 2017 to June 2020. Most recently, Plaintiff was placed to work at the LAC+USC Medical Center from approximately June of 2020 to July 1, 2020.

30. As a CNA, Plaintiff performed work duties in various positions including, but not limited to, sitter and patient care provider. As a sitter, Plaintiff's job duties consisted of watching individuals who are a danger to themselves, watching groups of patients, and ensuring patient safety, among other things. As a patient care provider, Plaintiff provided meals to patients and took readings of blood pressure and other vital signs.

31. At all relevant times, Plaintiff was a non-exempt employee and was compensated by Defendants on an hourly basis, most recently earning an hourly wage of \$16.25. Plaintiff typically worked eight (8) hour shifts, five (5) days per week. Plaintiff was often required to work past her

1 scheduled work hours and thus frequently worked over eight (8) hours in a workday.

2 32. Defendants denied Plaintiff and other similarly situated and/or aggrieved employees of
3 Defendants certain rights afforded to them under the Labor Code and the applicable IWC Wage Order.
4 Specifically, Defendants did not properly compensate Plaintiff and other similarly situated and/or
5 aggrieved employees for all hours worked, failed to provide compliant meal and/or rest periods or
6 compensation in lieu thereof, failed to pay reporting time pay, failed to reimburse for all necessary
7 business expenses, failed to provide accurate itemized wage statements, failed to maintain accurate
8 records, and did not pay all wages due and owing by the times set forth by California law.

9 33. Defendants maintained a pattern and practice of not providing Plaintiff and other
10 similarly situated and/or aggrieved employees with the opportunity to take an uninterrupted, thirty (30)
11 minute off-duty meal period before the end of their fifth (5th) hour of work, even though Plaintiff and
12 other similarly situated and/or aggrieved employees typically worked more than six (6) hours during
13 their workday.

14 34. The nature of Plaintiff's and other similarly situated and/or aggrieved employees' job
15 duties does not prevent Plaintiff and other similarly situated and/or aggrieved employees from being
16 relieved of all job duties for a thirty (30) minute, off-duty meal period.

17 35. Defendants also failed to accurately record the meal periods of Plaintiff and other similarly
18 situated and/or aggrieved employees. Specifically, Plaintiff and other similarly situated and/or aggrieved
19 employees did not clock out for meal break. Instead, Defendants automatically deducted thirty minutes
20 from Plaintiff's and other similarly situated and/or aggrieved employees' to accommodate for a meal. As
21 such, a rebuttable presumption arises that Plaintiff and other similarly situated and/or aggrieved
22 employees were not relieved of duty and/or no meal period was provided under *Donahue v. AMN*
23 *Services, LLC*.

24 36. Furthermore, Plaintiff and, on information and belief, other similarly situated and/or
25 aggrieved employees of Defendants did not sign a valid on-duty meal period agreement at any point
26 during their employment with Defendants, nor did they properly waive any of their meal periods.

27 37. Pursuant to Defendants' policies and procedures, Plaintiff and, on information and belief,
28 other similarly situated and/or aggrieved employees were required to comply with extensive security

1 procedures when leaving and re-entering the secured areas of their assigned facilities, including during
2 their meal periods. For instance, while working at the Hawkins Facility, Plaintiff was required to show
3 her badge to security and unlock and double lock several sets of doors on two floors of the building each
4 time she exited and entered the building for her meal periods. Plaintiff encountered similarly time-
5 consuming security procedures, including when leaving and returning for her meal periods, at the
6 LAC+USC Medical Center. However, Defendants did not allocate additional time or otherwise account
7 for the time Plaintiff and similarly situated and/or aggrieved employees spent undergoing these security
8 procedures during their meal periods. Instead, Defendants employed a policy and practice of
9 automatically deducting thirty (30) minutes from Plaintiff's and, on information and belief, similarly
10 situated and/or aggrieved employees' daily wages for meal periods. Meanwhile, Defendants
11 simultaneously required Plaintiff and other similarly situated and/or aggrieved employees to return to
12 their assigned workstation in no more than thirty (30) minutes. As a result, Plaintiff and other similarly
13 situated and/or aggrieved employees received meal periods that were less than thirty (30) minutes in
14 length, in violation of California law. Moreover, due to the timing constraints and security procedures
15 Plaintiff and other similarly situated and/or aggrieved employees could not leave the premises for their
16 meal breaks.

17 38. Defendants also required Plaintiff and other similarly situated and/or aggrieved
18 employees to comply with strict patient supervision policies at all times during their shifts to ensure
19 patient safety. As a result, Plaintiff and other similarly situated and/or aggrieved employees could not
20 leave patients alone at any time and had to wait to be relieved before taking their meal periods.
21 Defendants regularly scheduled Plaintiff's and other similarly situated and/or aggrieved employees'
22 work schedules such that there was often no one available to relieve them on time for their meal periods.
23 Thus, Plaintiff and other similarly situated and/or aggrieved employees were regularly forced to take
24 untimely meal periods after the end of their fifth (5th) hour of work.

25 39. Thus, as a result of Defendants' illegal policies, Plaintiff and other similarly situated
26 and/or aggrieved employees were denied the opportunity to take legally compliant meal periods, in
27 violation of the Labor Code and the applicable IWC Wage Order.

28 40. Defendants similarly had, and continue to have, a pattern and practice of failing to

1 authorize and permit Plaintiff and other similarly situated and/or aggrieved employees to take
2 uninterrupted, off-duty rest periods of at least ten (10) minutes for every four (4) hours worked, or major
3 fraction thereof. Plaintiff asserts that Defendants' failure to provide legally compliant rest periods to
4 Plaintiff and other similarly situated and/or aggrieved employees was the result of insufficient coverage
5 provided at the health facilities, as well as the lack of an enforced schedule for rest periods. For instance,
6 Plaintiff and other similarly situated and/or aggrieved employees were rarely, if at all, provided with rest
7 periods because they were required to supervise patients at all times and there was no one available to
8 relieve them for their rest periods. Specifically, while assigned at the LAC+USC Medical Center,
9 Plaintiff did not receive rest periods during her shifts because she was consistently denied coverage by
10 her supervisors and other nurses when she asked to be relieved. In addition, Plaintiff received an
11 assignment during her shifts at the Hawkins Facility that stated when she would receive her rest periods,
12 however, the schedule was rarely enforced, which prevented Plaintiff from being consistently and timely
13 relieved for her rest periods.

14 41. Moreover, Defendants lacked any policy or practice to authorize and permit Plaintiff and
15 other similarly situated and/or aggrieved employees to take all rest periods. As a result, Plaintiff and
16 other similarly situated and/or aggrieved employee were denied rest periods as required by law. For
17 example, when working for Defendants at facilities run by the County of Los Angeles, including but not
18 limited to LAC+USC Medical Center and the Hawkins Facilities, Plaintiff and other similarly situated
19 and/or aggrieved employees were limited to one rest break per shift according to written policy, even
20 though Plaintiff and other similarly situated and/or aggrieved employees frequently worked shifts of
21 over six (6), which would have required Defendants to authorize and permit a second rest break at a
22 minimum.

23 42. Thus, as a result of Defendants' illegal policies, Plaintiff and other similarly situated
24 and/or aggrieved employees were not authorized or permitted to take legally compliant rest periods.

25 43. Plaintiff alleges that, on several occasions, she verbally complained to Defendants about
26 her inability to take meal and rest periods as a result of being relieved late and the lack of coverage
27 provided to her. Accordingly, Defendants knew or should have known that Plaintiff and other similarly
28 situated and/or aggrieved employees were not provided with legally compliant meal and/or rest periods.

1 Nevertheless, Defendants failed to take action to remedy the violations.

2 44. Although Plaintiff and, on information and belief, other similarly situated and/or
3 aggrieved employees' meal and rest periods were regularly short, untimely, interrupted, and/or missed,
4 Defendants did not compensate Plaintiff and other similarly situated and/or aggrieved employees an
5 additional hour of pay at their regular rate of pay for all the times that Plaintiff and other similarly
6 situated and/or aggrieved employees were not authorized or permitted to take compliant meal or rest
7 periods, in violation of Labor Code § 226.7.

8 45. Defendants failed to properly pay Plaintiff and other similarly situated and/or aggrieved
9 employees all minimum, regular, and/or overtime wages owed for all time suffered or permitted to work.
10 Plaintiff and other similarly situated and/or aggrieved employees were required to undergo lengthy
11 security protocols at their assigned facilities prior to clocking in and after clocking out for every shift.
12 Specifically, Plaintiff was required to show her badge to security, go through security, and then unlock
13 and double lock several sets of doors on the first and second floor of the buildings where she worked in
14 order to clock in and out for her shifts at the Hawkins Facility. Likewise, Plaintiff was required to pass
15 through security, walk to the fourth floor of the building, and wait in line to use the time clock machine
16 in order to clock in and out for her shifts at the LAC+USC Medical Center. Plaintiff and other similarly
17 situated and/or aggrieved employees spent, at a minimum, several minutes before clocking in and after
18 clocking out in order to comply with these strict security procedures, but Defendants failed to provide
19 any compensation for this time spent working while off-the-clock.

20 46. Defendants also failed to pay Plaintiff and other similarly situated and/or aggrieved
21 employees for time spent working during their meal periods. As described herein, Plaintiff and other
22 similarly situated and/or aggrieved employees were required to comply with extensive security
23 procedures in order to leave and re-enter the facility during their meal periods. However, Defendants
24 improperly considered the time spent by Plaintiff and other similarly situated and/or aggrieved
25 employees undergoing security protocols during their meal periods as non-compensable time and failed
26 to provide any remuneration.

27 47. Furthermore, even though Plaintiff and other similarly situated and/or aggrieved
28 employees were not provided with meal periods of a full thirty (30) minutes, as described above,

1 Defendants nevertheless deducted a full thirty (30) minutes from their daily hours worked. Because
2 Defendants deducted thirty (30) minutes from the hours worked of Plaintiff and other similarly situated
3 and/or aggrieved employees when they were actually suffered or permitted for part or all of that time,
4 Defendant failed to compensate Plaintiff and other similarly situated and/or aggrieved employees for all
5 minimum, regular, and overtime hours worked.

6 48. Additionally, Defendants required Plaintiff and, on information and belief, other similarly
7 situated and/or aggrieved employees to report for work telephonically to Defendants two hours before
8 their scheduled shifts began to receive instruction as to whether or not they would be working that day.
9 Despite the fact that all time spent waiting for instruction from Defendants and communicating with
10 Defendants before the beginning of their shift was compensable hours worked because Plaintiff and
11 other similarly situated and/or aggrieved employees were required to do so and therefore subject to the
12 control of Defendants, Defendants did not count this time as hours worked and paid no wages for this
13 time.

14 49. Moreover, Defendants had an improper policy and practice of paying Plaintiff and other
15 similarly situated and/or aggrieved employees based on their scheduled shift hours, rather than the hours
16 they actually worked. However, Plaintiff and other similarly situated and/or aggrieved employees
17 frequently worked in excess of their scheduled shift, including over eight (8) hours in a workday and/or
18 forty (40) hours in a workweek. Nevertheless, Defendants did not pay Plaintiff and other similarly
19 situated and/or aggrieved employees for any hours exceeding their scheduled shifts. Thus, Defendants
20 did not pay Plaintiff and other similarly situated and/or aggrieved employees all minimum, regular,
21 and/or overtime wages for all hours worked.

22 50. Defendants required Plaintiff and other similarly situated and/or aggrieved employees to
23 be available two hours prior to the scheduled start time of every shift in order to call Defendants and
24 report for work. On the phone call, Plaintiff and other similarly situated and/or aggrieved employees
25 would learn from Defendants whether they would be working their scheduled shift. However, Plaintiff
26 and other similarly situated and/or aggrieved employees were frequently instructed by Defendants not to
27 come in for their scheduled shift and received no compensation for that particular day. Plaintiff and
28 other similarly situated and/or aggrieved employees were thus precluded from engaging in any

1 preplanned activity during the days they were scheduled to work for Defendants because they had to be
2 available to report to Defendants several hours before their shifts began and to work if instructed to do
3 so. Thus, Plaintiff and other similarly situated and/or aggrieved employees were uniformly underpaid
4 because Defendants failed to pay them reporting time wages in an amount of at least half of the
5 scheduled day's work at their regular rate of pay, as mandated by California law.

6 51. To this date, Defendants have not paid Plaintiff and, on information and belief, other
7 similarly situated and/or aggrieved employees all wages owed, including all minimum, regular and
8 overtime wages, reporting time pay, as well as all meal and rest period premium wages.

9 52. Defendants failed to pay Plaintiff and, on information and belief, other similarly situated
10 and/or aggrieved employees of Defendants all wages due during their employment because Defendants
11 did not pay Plaintiff and other similarly situated and/or aggrieved employees all minimum, regular, and
12 overtime wages owed, reporting time pay, as well as all meal and rest period premium wages owed,
13 within the time required by Labor Code § 204.

14 53. Similarly, Defendants maintained a pattern and practice of failing to pay Plaintiff and
15 other similarly situated and/or aggrieved employees all wages due and owing at the time of their
16 separation of employment within the time specified by Labor Code §§ 201 and 202 because Defendants
17 failed to pay Plaintiff and, on information and belief, other similarly situated and/or aggrieved
18 employees all wages due and owing at the time of termination of their employment.

19 54. Plaintiff and, on information and belief, other similarly situated and/or aggrieved
20 employees incurred expenses in direct consequence of the discharge of their duties of employment with
21 Defendants, but Defendants failed to adequately reimburse them for such expenses. For example,
22 Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees were
23 required to use their personal cell phones to report to Defendants prior to the start of their scheduled
24 shifts and confirm whether they would be worked that day. Despite Defendants' knowledge that Plaintiff
25 and other similarly situated and/or aggrieved employees were using their personal cell phones for work-
26 related purposes, Defendants failed to provide appropriate reimbursement for these expenses, in
27 violation of Labor Code § 2802.

28 55. As a direct consequence of Defendants' illegal policies, Defendants failed to provide

1 Plaintiff and other similarly situated and/or aggrieved employees with accurate itemized wage
2 statements. For example, during the applicable statutory period, Defendants failed to furnish Plaintiff
3 and other similarly situated and/or aggrieved employees with itemized wage statements correctly
4 identifying, among other things, the total regular and overtime hours worked during the pay period, the
5 corresponding gross and net wages earned, and all applicable hourly rates and the corresponding number
6 of hours worked at each hourly rate.

7 56. On information and belief, Defendants' wage statement omissions and inaccuracies were
8 not a result of an isolated and unintentional payroll error due to an inadvertent mistake, but rather a
9 result of knowing and intentional omissions by Defendants. In addition, and as a result of these
10 omissions and inaccuracies, Plaintiff and other similarly situated and/or aggrieved employees were not
11 promptly and easily able to determine the correct hours worked and/or determine the accurate wages due
12 and owing without reference to other documents and information.

13 57. Defendants similarly failed to maintain accurate records of the actual hours that Plaintiff
14 and other similarly situated and/or aggrieved employees were under the control of Defendants,
15 including, but not limited to, time suffered and permitted to work before, during, and after a shift, as
16 well as all wages earned. Defendants failed to keep accurate records of Plaintiff's and other similarly
17 situated and/or aggrieved employees' hours worked when Defendants failed to record the proper
18 beginning and ending of each work period and meal period, in addition to the total hours worked during
19 the pay period, among others. Defendants' failure to maintain accurate records was due, in part, to
20 Defendants' improper policy and practice of compensating Plaintiff and, on information and belief,
21 other similarly situated and/or aggrieved employees based on their scheduled shift hours, rather than the
22 hours actually worked by the employees.

23 58. Based on the foregoing violations of the Labor Code and IWC Wage Order, Defendants
24 engaged in unfair business practices in California and willingly and knowingly engaged in employment
25 patterns and practices that violated Business & Professions Code § 17200 *et seq.*, and Plaintiff and, on
26 information and belief, other similarly situated and/or aggrieved employees suffered damages due to
27 Defendants' unfair, unlawful and/or fraudulent actions.

28 **PRIVATE ATTORNEYS GENERAL ACT ("PAGA") REPRESENTATIVE ACTION**

DESIGNATION

59. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

60. The causes of action alleged herein are appropriately suited for a PAGA action because:

- a) Pursuant to California Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of the California Labor Code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and all other current or former employees pursuant to the procedures specified in § 2699;
- b) This action involves allegations of violations of provisions of the California Labor Code that provide or do not provide for a civil penalty to be assessed and collected by the LWDA or any departments, divisions, commissions, boards, agencies, or employees;
- c) Plaintiff is an “aggrieved employee” because she was employed by the alleged violators and had one or more of the alleged violations committed against her;
- d) On October 29, 2020, Plaintiff satisfied the procedural requirements of § 2699.3 by serving the LWDA electronically and Defendant AHP via Certified Mail with notice of wage and hour violations and penalties, including the facts and theories to support each violation. A true and correct copy of Plaintiff’s notice and proof of service is attached as **Exhibit A**; and
- e) More than 65 days have passed since Plaintiff served notice via Certified Mail to the LWDA and her employer. Therefore, Plaintiff satisfied all the administrative requirements to pursue civil penalties against Defendants pursuant to Labor Code § 2698, *et seq.*

61. Plaintiff files this action pursuant to Labor Code § 2699(a) and (f), on behalf of herself and all other aggrieved employees of Defendants to recover civil penalties.

62. Plaintiff seeks to recover all applicable civil penalties under PAGA on behalf of herself

1 and all other aggrieved employees of Defendants in California.

2 **CLASS ACTION DESIGNATION**

3 63. Plaintiff re-alleges and incorporates by reference the allegations contained in the
4 paragraphs above, as though fully set forth herein.

5 64. Plaintiff brings Causes of Action One through Ten as a class action pursuant to Code of
6 Civil Procedure § 382 on behalf of herself and all current and former non-exempt employees of
7 Defendants who were affected by Defendants' Labor Code, Business and Professions Code § 17200, *et*
8 *seq.*, and IWC Wage Order violations, as alleged herein.

9 65. Plaintiff seeks to represent the following Class, which is defined as:

10 **The Non-Exempt Class:**

11 "All current and former non-exempt employees who worked for
12 Defendants in the State of California at any time from four years prior to
13 the filing of the Complaint through the present."

14 66. Plaintiff also seeks to represent the following Subclasses, which are defined as:

15 **The Waiting Time Penalties Subclass:**

16 "All members of the Non-Exempt Class, whose employment with
17 Defendants ended at any time from three years prior to the filing of the
18 Complaint through the present."

19 **The County Facility Subclass:**

20 "All members of the Non-Exempt Class who were assigned to work one or
21 more shifts at any facility operated by the County of Los Angeles."

22 67. **Reservation of Rights:** Pursuant to California Rule of Court 3.765(b), Plaintiff reserves
23 the right to amend or modify the Class and Subclass definitions with greater specificity, by further
24 division into subclasses, and/or limitation to particular issues.

25 68. Causes of Action One through Ten are appropriately suited for a class action pursuant to
26 § 382 of the Code of Civil Procedure because the following requirements are met:

27 **A. Numerosity**

28 69. The members of the Class and Subclasses are sufficiently numerous to render the joinder

1 of all their members impracticable. While Plaintiff has not yet determined the precise number of
2 members of the Class and Subclasses, Plaintiff is informed and believes that the Class and Subclasses
3 likely consists of over 100 individuals. Although the exact number is currently unknown to Plaintiff,
4 this information is easily ascertainable from Defendants' time and payroll records and other personnel
5 records.

6 **B. Commonality and Predominance**

7 70. Common questions of law and fact exist as to all class members and predominate over
8 any questions affecting only individual members of the Class or Subclasses. The common questions of
9 law and fact that predominate include, but are not limited to:

- 10 a. Whether Defendants failed to provide Non-Exempt Class Members with a duty-
11 free, thirty (30) minute meal period before the commencement of the sixth hour of
12 work;
- 13 b. Whether Defendants failed to authorize and permit Non-Exempt Class Members
14 to take off-duty rest periods of at least ten (10) minutes for every four (4) hours
15 worked, or major fraction thereof;
- 16 c. Whether Defendants failed to pay one additional hour of pay at the employees'
17 regular rate of compensation to Non-Exempt Class Members when they were not
18 provided with legally compliant meal and/or rest periods;
- 19 d. Whether Defendants failed to pay Non-Exempt Class Members at least minimum
20 wages and/or all regular wages owed for all hours or fractions of an hour worked
21 and under the control of Defendants;
- 22 e. Whether Defendants failed to pay Non-Exempt Class Members all overtime
23 wages for all hours, or fractions of hours, worked and under the control of
24 Defendants;
- 25 f. Whether Defendants failed to pay Non-Exempt Class Members all reporting time
26 wages;
- 27 g. Whether Defendants failed to reimburse Non-Exempt Class Members for all
28 necessary business expenses incurred in direct consequence of the discharge of

their work duties;

- h. Whether Defendants failed to provide Non-Exempt Class Members with accurate itemized wage statements showing, among other things, the correct number of hours worked and the correct amount of gross and net wages earned;
- i. Whether Defendants failed to accurately maintain records of all hours worked and wages earned by Non-Exempt Class Members; and
- j. Whether Defendants failed to pay Waiting Time Penalties Subclass Members all of their wages owed within the required time frames upon separation of employment.

C. Typicality

71. Plaintiff's claims are typical of the claims of all class members because Plaintiff and all class members' claims arise from the same event, practice and/or course of conduct of Defendants. Plaintiff and all class members sustained injuries and damages as a result of Defendants' illegal policies, practices and/or common course of conduct in violation of California wage and hour laws and/or illegal, unfair, or fraudulent business practices.

72. Furthermore, Plaintiff's claims under the Labor Code and the applicable IWC Wage Order are typical of the Class and Subclasses because Defendants' failure to comply with the provisions of California's wage and hour laws entitles Plaintiff and each class member to similar pay, benefits, and other relief. Accordingly, the legal theories underlying each cause of action are the same and the remedies sought by Plaintiff and all class members are the same.

D. Adequacy of Representation

73. Plaintiff has no fundamental conflict of interest with the Class or Subclasses she seeks to represent. Plaintiff will adequately protect the interests of all class members because it is in Plaintiff's best interest to prosecute the claims alleged herein to obtain full compensation and penalties owed to her and putative class members.

74. Plaintiff retained attorneys who are experienced employment law litigators with significant wage and hour and class action experience.

E. Superiority of Class Action

1 75. Plaintiff believes a class action is a superior method of litigation for the fair and efficient
2 adjudication of this controversy. Individual joinder of all class members is not practicable. Class action
3 treatment will allow similarly situated employees to litigate their claims in the manner that is most
4 efficient and economical for the parties and the judicial system.

5 76. Plaintiff knows of no difficulty that might be encountered in the management of this suit,
6 which would preclude maintenance as a class action.

7 **CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO PROVIDE MEAL PERIODS**

10 **[Violation of Labor Code §§ 226.7, 512, and 1198 and the “Meal Periods” section of the applicable**
11 **IWC Wage Order]**

12 **(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility**
13 **Subclass Against All Defendants)**

14 77. Plaintiff re-alleges and incorporates by reference the allegations contained in the
15 paragraphs above, as though fully set forth herein.

16 78. Labor Code § 226.7(b) states that employers, including Defendants, “shall not require an
17 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
18 applicable regulation, standard, or order of the Industrial Welfare Commission...” Labor Code §
19 226.7(c) further provides, “[i]f an employer fails to provide an employee a meal or rest or recovery
20 period in accordance with a state law... the employer shall pay the employee one additional hour of pay
21 at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period
22 is not provided.”

23 79. Labor Code § 512(a) provides, in part, that employers, including Defendants, “may not
24 employ an employee for a work period of more than five hours per day without providing an employee
25 with a meal period of not less than 30 minutes” and “may not employ an employee for a work period of
26 more than 10 hours per day without providing the employee with a second meal period of not less than
27 30 minutes.”

28 80. Labor Code § 1198 states that the “maximum hours of work and standard conditions of

1 labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor
2 for employees. The employment of any employee for longer hours than those fixed by the order or under
3 conditions of labor prohibited by the order is unlawful.”

4 81. The “Meal Periods” section of the applicable IWC Wage Order provides, in pertinent part,

5 “[n]o employer shall employ any person for a work period of more than
6 five (5) hours without a meal period of not less than 30 minutes, except
7 that when a work period of not more than six (6) hours will complete the
day’s work the meal period may be waived by mutual consent of the
employer and the employee.”

8 Furthermore, “[i]f an employer fails to provide an employee a meal period in accordance with the
9 applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the
10 employee’s regular rate of compensation for each workday that the meal period is not provided.”

11 82. The “Meal Periods” section of the applicable IWC Wage Order also states,

12 “[u]nless the employee is relieved of all duty during a 30 minute meal
13 period, the meal period shall be considered an ‘on duty’ meal period and
14 counted as time worked. An ‘on duty’ meal period shall be permitted only
15 when the nature of the work prevents an employee from being relieved of
all duty and when by written agreement between the parties an on-the-job
meal period is agreed to. The written agreement shall state that the
employee may, in writing, revoke the agreement at any time.”

16 83. A meal period generally comports with the requirements under California law if the
17 employee (1) has at least 30 minutes uninterrupted, (2) is free to leave the premises, and (3) is relieved
18 of all duty for the entire period. (See *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th
19 1004, 1036 [citing DLSE Opn. Letter No. 1996.07.12 (July 12, 1996) p. 1].) Additionally, “an employer
20 may not undermine formal policy of providing meal breaks by pressuring employees to perform their
21 duties in ways that omit breaks.” (*Id.* at 1040 [citations omitted].)

22 84. Plaintiff and the Non-Exempt Class and County Facility Subclass were subject to the
23 same policies, practices, procedures and/or guidelines governing the provision and scheduling of meal
24 periods.

25 85. Defendants have a pattern and practice of not providing Plaintiff and the Non-Exempt
26 Class and County Facility Subclass with legally compliant thirty (30) minute off-duty meal periods
27 during their shifts, even though they worked more than six (6) hours during their workday.

28 86. Plaintiff and the Non-Exempt Class and County Facility Subclass did not sign a valid on-

1 duty meal period agreement at any point during their employment with Defendants.

2 87. Plaintiff and the Non-Exempt Class and County Facility Subclass typically worked more
3 than six (6) hours per day and did not properly waive any of their meal periods.

4 88. Therefore, as a result of Defendants' conduct, including the conduct alleged herein,
5 Defendants violated Labor Code §§ 226.7, 512, and 1198, as well as the applicable IWC Wage Order
6 when Defendants failed to provide Plaintiff and other Non-Exempt Class and County Facility Subclass
7 Members a 30-minute, duty-free meal period before the commencement of their sixth hour of work.

8 89. Plaintiff asserts that Defendants knew or should have known that members of the Non-
9 Exempt Class and County Facility Subclass, including Plaintiff, were not provided with legally
10 compliant meal periods, as Plaintiff made several verbal complaints to Defendants regarding her
11 inability to take uninterrupted, off-duty thirty (30) minute meal periods before the end of her fifth (5th)
12 hour of work due to the lack of coverage provided to her.

13 90. Pursuant to Labor Code § 226.7(b) and the "Meal Periods" section of the applicable IWC
14 Wage Order, Defendants were required to pay Plaintiff and the Non-Exempt Class and County Facility
15 Subclass one (1) additional hour of pay at their regular rate of compensation for each day that
16 Defendants did not provide Plaintiff and the Non-Exempt Class and County Facility Subclass with a
17 legally compliant meal period.

18 91. Despite this obligation, Defendants failed to pay the premium wage required by
19 California law to Plaintiff and other Non-Exempt Class and County Facility Subclass Members for all
20 non-compliant meal periods. Instead, on information and belief, Defendants had a common policy and
21 practice of failing to compensate Plaintiff and the Non-Exempt Class and County Facility Subclass with
22 one (1) hour of pay at their regular rate of pay for the times that Defendants did not provide Plaintiff and
23 the Non-Exempt Class and County Facility Subclass with a 30-minute, duty-free meal period before the
24 commencement of their sixth hour of work or a second 30-minute, duty-free meal period before the
25 commencement of their eleventh hour of work, as required by Labor Code § 226.7(b) and the applicable
26 IWC Wage Order.

27 92. Thus, on information and belief, Defendants intentionally refused to perform its
28 obligations to provide meal periods and further failed to compensate Plaintiff and the Non-Exempt Class

1 and County Facility Subclass with all owed meal period premium wages as set forth by Labor Code §
2 226.7(b) and the applicable IWC Wage Order.

3 93. Plaintiff and the Non-Exempt Class and County Facility Subclass suffered and continue
4 to suffer losses related to Defendants' failure to pay an additional hour of pay for each day a legally
5 compliant meal period was not provided and the associated use and enjoyment of compensation due and
6 owing to them as a direct result of Defendants' Labor Code and applicable IWC Wage Order violations.

7 94. Plaintiff, on behalf of herself and the Non-Exempt Class and County Facility Subclass,
8 seeks all available remedies for Defendants' violations, including, but not limited to, all wages due,
9 monies, interest, and reasonable attorney's fees and costs to the extent permitted by law.

10 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO PROVIDE REST PERIODS**

13 **[Violation of Labor Code §§ 226.7, 1198, and the "Rest Periods" section of the applicable**
14 **IWC Wage Order]**

15 **(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility**
16 **Subclass Against All Defendants)**

17 95. Plaintiff re-alleges and incorporates by reference the allegations contained in the
18 paragraphs above, as though fully set forth herein.

19 96. Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work
20 during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable
21 regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) further
22 provides,

23 "if an employer fails to provide an employee a meal or rest or recovery
24 period in accordance with a state law... the employer shall pay the
25 employee one additional hour of pay at the employee's regular rate of
26 compensation for each workday that the meal or rest or recovery period is
27 not provided."

28 97. Labor Code § 1198 mandates that the "maximum hours of work and standard conditions
of labor fixed by the commission shall be the maximum hours of work and the standard conditions of

1 labor for employees. The employment of any employee for longer hours than those fixed by the order or
2 under conditions of labor prohibited by the order is unlawful.”

3 98. The “Rest Periods” section of the applicable IWC Wage Order states,

4 “[e]very employer shall authorize and permit employees to take rest
5 periods, which insofar as practicable shall be in the middle of each work
6 period. The authorized rest period time shall be based on the total hours
worked daily at the rate of ten (10) minutes net rest time per four (4) hours
or major fraction thereof.”

7 99. The “Rest Periods” section of the applicable IWC Wage Order further provides, “[i]f an
8 employer fails to provide an employee a rest period in accordance with the applicable provisions of this
9 order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
10 compensation for each workday that the rest period is not provided.”

11 100. Unless an employer relieves its employees of any and all work-related duties and also
12 relinquishes all control over how its employees spent their time during rest periods, the employer has not
13 authorized and permitted lawful off-duty rest periods. (*Augustus v. ABM Security Services, Inc.* (2016) 2
14 Cal.5th 267, 269.)

15 101. On information and belief, Plaintiff and other members of the Non-Exempt Class and
16 County Facility Subclass were subject to the same policies, practices, procedures and/or guidelines
17 governing the provision and scheduling of rest periods.

18 102. Plaintiff contends that Defendants knew or should have known that Non-Exempt Class
19 and County Facility Subclass Members, including Plaintiff, were not provided with legally compliant
20 rest periods, as Plaintiff made numerous verbal complaints to Defendants about receiving untimely
21 and/or no rest periods at all during her shifts.

22 103. Even though Plaintiff and, on information and belief, Non-Exempt Class and County
23 Facility Subclass Members were not authorized and permitted to take timely, uninterrupted, off-duty rest
24 periods that were at least ten (10) minutes in length for every four (4) hours worked, Defendants did not
25 pay Plaintiff and the Non-Exempt Class and County Facility Subclass with one (1) hour of pay at their
26 regular rate of pay for all the times Defendants did not authorize and permit Plaintiff and the Non-
27 Exempt Class and County Facility Subclass to take legally compliant rest periods, in violation of Labor
28 Code § 226.7 and the applicable IWC Wage Order.

104. On information and belief, Defendants have a common policy, pattern, and practice of failing to compensate Plaintiff and the Non-Exempt Class and County Facility Subclass the premium wage required by California law for all non-compliant rest periods.

105. Plaintiff and the Non-Exempt Class and County Facility Subclass suffered and continue to suffer losses related to Defendants' failure to pay an additional hour of pay for each day a rest period was not provided and the associated use and enjoyment of compensation due and owing to them as a direct result of Defendants' Labor Code and applicable IWC Wage Order violations.

106. Plaintiff, on behalf of herself and the Non-Exempt Class and County Facility Subclass, seeks all available remedies for Defendants' violations including, but not limited to, any and all wages due, monies, interest, and reasonable attorney's fees and costs to the extent permitted by law.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

THIRD CAUSE OF ACTION

FAILURE TO PAY MINIMUM AND REGULAR WAGES

[Violation of Labor Code §§ 1194, 1197, and 1198 and the "Minimum Wages" section of the applicable IWC Wage Order]

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility Subclass Against All Defendants)

107. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

108. Labor Code § 1197 provides, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum wage so fixed is unlawful."

109. Labor Code section 1198 mandates,

"[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

110. The "Minimum Wages" section of the applicable IWC Wage Order also provides that an employer may not pay non-exempt employees less than the applicable minimum for all hours worked.

111. The applicable IWC Wage Order defines the term “hours worked” as “the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

112. Labor Code § 1194(a) mandates,

“...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

113. Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

114. Defendants failed to timely pay Plaintiff and, on information and belief, members of the Non-Exempt Class and County Facility Subclass minimum and regular wages for all the time spent working for and under the control of Defendants. For example, Plaintiff, and on information and belief, the Non-Exempt Class were not compensated for the time that they spent undergoing security procedures before clocking in, after clocking out, and during their meal periods. Furthermore, Defendants failed to compensate the Non-Exempt Class and County Facility Subclass, including Plaintiff, for time spent reporting to Defendants via telephone two hours prior to the start of every scheduled shift and receiving instruction as to whether or not to come into work that particular day.

115. Plaintiff further alleges that Defendants had, and continues to have a policy, practice, procedure and/or guideline of compensating the Non-Exempt Class and County Facility Subclass, including Plaintiff, based on their scheduled shift instead of the hours actually worked by the employees. Plaintiff and, on information and belief, other members of the Non-Exempt Class frequently worked over eight (8) hours in a workday, but did not receive compensation for hours worked in excess of their scheduled shift. As a result, Defendants did not timely pay Plaintiff and the Non-Exempt Class all minimum, regular, and/or overtime wages when they worked in excess of eight (8) hours in a day and/or forty (40) hours in a workweek.

116. Plaintiff and the Non-Exempt Class and County Facility Subclass suffered and continue to suffer losses related to the use and enjoyment of compensation due and owing to them as a direct result of Defendants’ unlawful acts and Labor Code violations in an amount to be shown according to

1 proof at trial and within the jurisdictional limitations of this Court.

2 117. Plaintiff, on behalf on herself and the Non-Exempt Class and County Facility Subclass,
3 seeks all available remedies for Defendants' violations including, but not limited to, any and all wages
4 due, monies, interest, liquidated damages, and reasonable attorney's fees and costs to the extent
5 permitted by law.

6 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

7 **FOURTH CAUSE OF ACTION**

8 **FAILURE TO PAY ALL OVERTIME WAGES**

9 **[Violation of Labor Code §§ 510, 1194, 1198 and the "Hours and Days of Work" section of the**
10 **applicable IWC Wage Order]**

11 **(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility**
12 **Subclass Against All Defendants)**

13 118. Plaintiff re-alleges and incorporates by reference the allegations contained in the
14 paragraphs above, as though fully set forth herein.

15 119. Labor Code § 510 provides:

16 "[e]ight hours of labor constitutes a day's work. Any work in excess of
17 eight hours in one workday and any work in excess of 40 hours in any one
18 workweek and the first eight hours worked on the seventh day of work in
19 any one workweek shall be compensated at the rate of no less than one and
20 one-half times the regular rate of pay for an employee. Any work in excess
of 12 hours in one day shall be compensated at the rate of no less than twice
the regular rate of pay for an employee. In addition, any work in excess of
eight hours on any seventh day of a workweek shall be compensated at the
rate of no less than twice the regular rate of pay of an employee."

21 120. The "Hours and Days of Work" and "Minimum Wages" sections of the applicable IWC
22 Wage Order mandate the same requirements as Labor Code § 510.

23 121. Labor Code § 1194 provides that any employee receiving less than the legal overtime
24 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the
25 full amount of this overtime compensation, including interest thereon, reasonable attorney's fees, and
26 costs of suit.

27 ///

122. Furthermore, pursuant to Labor Code § 1198, “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

123. The applicable IWC Wage Order defines the term “hours worked” as “the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

124. Plaintiff and, on information and belief, the Non-Exempt Class and County Facility Subclass, regularly worked over eight hours per day and over 40 hours per week while employed by Defendants. Plaintiff and, on information and belief, the Non-Exempt Class and County Facility Subclass, did not receive all overtime compensation owed for all overtime hours worked over eight hours per day and/or 40 hours per week during their employment with Defendants. For example, Defendants had, and continue to have a policy, practice, procedure and/or guideline of compensating the Non-Exempt Class and County Facility Subclass, including Plaintiff, based on their scheduled shift instead of the hours actually worked by the employees. Plaintiff and, on information and belief, other members of the Non-Exempt Class and County Facility Subclass frequently worked over eight (8) hours in a workday, but did not receive compensation for hours worked in excess of their scheduled shift. As a result, Defendants did not timely pay Plaintiff and the Non-Exempt Class and County Facility Subclass all minimum, regular, and/or overtime wages when they worked in excess of eight (8) hours in a day and/or forty (40) hours in a workweek.

125. Plaintiff and the Non-Exempt Class and County Facility Subclass suffered and continue to suffer losses related to the use and enjoyment of compensation due and owing to them as a direct result of Defendants’ unlawful acts and Labor Code violations in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

126. Plaintiff, on behalf on herself and the Non-Exempt Class and County Facility Subclass, seeks all available remedies for Defendants’ violations including, but not limited to, any and all wages due, monies, interest, liquidated damages, and reasonable attorney’s fees and costs to the extent permitted by law.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

FIFTH CAUSE OF ACTION

FAILURE TO PAY REPORTING TIME PAY

**[Violation of Labor Code §§ 558, 1198, and the “Reporting Time Pay” section of
the applicable IWC Wage Order]**

**(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility
Subclass Against All Defendants)**

127. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

128. The “Reporting Time Pay” section of the applicable IWC Wage Order states:

“[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

129. Labor Code § 558 states that “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated...any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty...”

130. Labor Code § 1199 makes it unlawful for any employer “or other person acting either individually or as an officer, agent, or employee of another person” to require or cause “any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission,” pay or cause “to be paid to any employee a wage less than the minimum fixed by an order of the commission” or violate or refuse or neglect “to comply with any provision of this chapter or any order or ruling of the commission.”

131. Defendants had, and continue to have, a policy, practice, procedure and/or guideline of requiring Plaintiff and, on information and belief, the Non-Exempt Class and County Facility Subclass to report for work prior to the start of every scheduled shift. Defendants required Plaintiff and, on information and belief, the Non-Exempt Class and County Facility Subclass to be available two hours prior to the start of their scheduled shifts in order to call Defendants and confirm whether they needed to

1 come in to work that day, thereby precluding Plaintiff and the Non-Exempt Class and County Facility
2 Subclass from making other plans or arrangements for the day. Moreover, upon contacting Defendants,
3 Plaintiff and the Non-Exempt Class and County Facility Subclass were sometimes instructed not to
4 report for their scheduled shift, but were not paid any reporting time wages in violation of California
5 law.

6 132. As a direct and proximate result of Defendants' actions set forth herein, Plaintiff and, on
7 information and belief, the Non-Exempt Class and County Facility Subclass have been damaged in that
8 they have not been paid all required reporting time pay.

9 133. Plaintiff and the Non-Exempt Class and County Facility Subclass suffered and continue
10 to suffer losses related to the use and enjoyment of compensation due and owing to them as a direct
11 result of Defendants' unlawful acts and Labor Code violations in an amount to be shown according to
12 proof at trial and within the jurisdictional limitations of this Court.

13 134. Plaintiff, on behalf of herself and the Non-Exempt Class and County Facility Subclass,
14 seeks all available remedies for Defendants' violations including, but not limited to, any and all wages
15 due, monies, interest, and reasonable attorney's fees and costs to the extent permitted by law.

16 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

17 **SIXTH CAUSE OF ACTION**

18 **FAILURE TO TIMELY PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

19 **[Violations of Labor Code §§ 201, 202, and 203]**

20 **(Alleged By Plaintiff Individually and On Behalf of the Waiting Time Penalties Subclass**
21 **Against All Defendants)**

22 135. Plaintiff re-alleges and incorporates by reference the allegations contained in the
23 paragraphs above, as though fully set forth herein.

24 136. Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the
25 wages earned and unpaid at the time of discharge are due and payable immediately."

26 137. Labor Code § 202 requires Defendants to pay any and all wages due and owing to an
27 employee not having a written contract for a definite period, who quits his or her employment, within 72
28 hours of the employee quitting his or her employment, unless the employee has given 72 hours previous

1 notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the
2 time of quitting.

3 138. Labor Code § 202 further mandates,

4 “[i]f an employee not having a written contract for a definite period quits
5 his or her employment, his or her wages shall become due and payable not
6 later than 72 hours thereafter, unless the employee has given 72 hours
7 previous notice of his or her intention to quit, in which case the employee
8 is entitled to his or her wages at the time of quitting.”

9 139. Labor Code § 203(a) provides, in pertinent part,

10 “[i]f an employer willfully fails to pay, without abatement or reduction, in
11 accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any
12 wages of an employee who is discharged or who quits, the wages of the
13 employee shall continue as a penalty from the due date thereof at the same
14 rate until paid or until an action therefore is commenced; but the wages
15 shall not continue for more than 30 days.”

16 140. As a result of Defendants’ conduct during the applicable statutory period, Defendants
17 willfully failed to pay Plaintiff and, on information and belief, the Waiting Time Penalties Subclass all
18 wages due and owing to them, including minimum wages, overtime wages, and regular wages for all the
19 time they were suffered or permitted to work or were engaged in work under Defendants’ control, as
20 well as all reporting time wages, and all meal period and/or rest period premiums owed within the time
21 required by Labor Code § 201 and 202, as applicable.

22 141. To date, Plaintiff has not yet received all wages due and payable, including, but not
23 limited to, minimum wages, overtime wages, regular wages, reporting time wages, and meal and rest
24 period premium wages owing to her. On information and belief, members of the Waiting Time Penalties
25 Subclass have not yet received all minimum wages, overtime wages, regular wages, reporting time
26 wages, and meal and rest premium wages due and owing to them.

27 142. As a direct result of Defendants’ violations alleged herein, Plaintiff and the Waiting Time
28 Penalties Subclass members suffered and continue to suffer losses related to the use and enjoyment of
wages due and owing to them, all to their respective damage in an amount to be shown according to
proof at trial and within the jurisdictional limitations of this Court.

143. Plaintiff, on behalf of herself and the Waiting Time Penalties Subclass, seeks all available
remedies for Defendants’ violations to the fullest extent permissible.

1 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

2 **SEVENTH CAUSE OF ACTION**

3 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES**

4 **[Violation of Labor Code § 2802]**

5 **(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against All**
6 **Defendants)**

7 144. Plaintiff re-alleges and incorporates by reference the allegations contained in the
8 paragraphs above, as though fully set forth herein.

9 145. Labor Code § 2802(a) provides in pertinent part, “[a]n employer shall indemnify his or
10 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
11 the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

12 146. Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor
13 Standards Enforcement for reimbursement of necessary expenditures under this section shall carry
14 interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the
15 employee incurred the necessary expenditure or loss.” The exact amount of the necessary expenditures
16 or losses is in an amount to be proven at time of trial.

17 147. Furthermore, Labor Code § 2802(c) states, “[f]or the purposes of this section, the term
18 ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to,
19 attorney’s fees incurred by the employee enforcing the rights granted by this section.”

20 148. Plaintiff and, on information and belief, members of the Non-Exempt Class incurred
21 business expenses in direct consequence of their job duties through the use of their personal cell phones.
22 On information and belief, Plaintiff and the Non-Exempt Class were required to use their personal cell
23 phones to report to Defendants and confirm whether they would be working for their scheduled shift.
24 Despite Defendants’ knowledge that Plaintiff and members of the Non-Exempt Class were using their
25 personal cell phones for work-related purposes, Defendants failed to provide appropriate reimbursement
26 for these expenses, in violation of Labor Code § 2802.

27 149. As a direct result of Defendants’ violations alleged herein, Plaintiff and members of the
28 Non-Exempt Class suffered and continue to suffer, substantial losses related to Defendants’ failure to

1 indemnify them for the expenses and losses, including the use and enjoyment of such monies, lost
2 interest on such monies and expenses, and attorney's fees and costs in seeking to compel Defendants to
3 fully perform its obligations under state law, all to their respective damage in amounts according to
4 proof at trial and within the jurisdictional limitations of this Court.

5 150. Plaintiff, on behalf of herself and the Non-Exempt Class, seeks to recover in a civil action
6 to the fullest extent permissible all available remedies including, but not limited to, the unpaid balance
7 of the indemnification from Defendants' violations, interest thereon permitted by Labor Code § 2802(b),
8 reasonable attorney's fees and costs of suit, declaratory relief, and any other permitted remedies
9 including those permitted pursuant to Labor Code § 2802 and Code of Civil Procedure § 1021.5. The
10 exact amount of reimbursements, interest, costs and attorney's fees will be in an amount to be proved at
11 time of trial.

12 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

13 **EIGHTH CAUSE OF ACTION**

14 **FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**

15 **[Violation of Labor Code §§ 226 and 1198, and the "Records" section of the applicable**
16 **IWC Wage Order]**

17 **(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility**
18 **Subclass Against All Defendants)**

19 151. Plaintiff re-alleges and incorporates by reference the allegations contained in the
20 paragraphs above, as though fully set forth herein.

21 152. Labor Code § 226(a) requires that employers, including Defendants, furnish their
22 employees with each wage payment an accurate and itemized writing that shows gross wages earned,
23 total hours worked, all deductions, net wages earned, the inclusive dates of the period for which the
24 employee is paid, the name of the employee and the portion of his or her social security number, the
25 name and address of the legal entity that is the employer, and all applicable hourly rates in effect during
26 the pay period and the corresponding number of hours worked at each hourly rate by the employee.

27 153. Labor Code § 226(e)(2)(B) states, in pertinent part,

28 "an employee is deemed to suffer injury for purposes of this subdivision if

the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following: (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).”

154. Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000.

155. According to Labor Code § 226(h), “an employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.”

156. Defendants knowingly and intentionally failed to provide Plaintiff and the Non-Exempt Class and County Facility Subclass an accurate itemized wage statement with each wage payment as required by Labor Code § 226(a). Defendants knowingly and intentionally failed to provide Plaintiff and members of the Non-Exempt Class and County Facility Subclass with each wage payment an accurate wage statement showing, among other things, the total regular and overtime hours worked during the pay period, the corresponding gross and net wages earned, and all applicable hourly rates and the corresponding number of hours worked at each hourly rate.

157. Defendants’ failure to provide accurate itemized wage statements deprived Plaintiff and members of the Non-Exempt Class and County Facility Subclass of the ability to promptly and easily understand and question the calculation and rate of pay and hours used to calculate the wages paid by Defendants. Plaintiff and members of the Non-Exempt Class and County Facility Subclass, therefore, had no way to dispute any error in the payment or calculation of their wages, all of which resulted in an unjustified economic enrichment to Defendants, and Plaintiff and members of the Non-Exempt Class and County Facility Subclass suffered actual damages as a result.

158. Defendants’ failure to provide accurate itemized wage statements constitutes an injury as defined under Labor Code § 226(e)(2)(B). Therefore, Plaintiff and members of the Non-Exempt Class and County Facility Subclass have suffered an injury for purposes of Labor Code § 226 and are entitled

1 to recover the greater of all actual damages or the amount specified in Labor Code § 226 per violation.

2 159. Plaintiff and Non-Exempt Class Members and County Facility Subclass suffered and
3 continue to suffer injuries, losses and actual damages as a direct result of Defendants' Labor Code
4 violations, including lost interest on such wages, and expenses and attorney's fees in seeking to compel
5 Defendants to fully perform its obligations, in an amount to be shown according to proof at trial.

6 160. Plaintiff, on behalf of herself and the Non-Exempt Class and County Facility Subclass,
7 seeks to recover all available remedies including, but not limited to damages, penalties, reasonable
8 attorney's fees and costs, and injunctive relief to the fullest extent permitted by law.

9 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

10 **NINTH CAUSE OF ACTION**

11 **FAILURE TO MAINTAIN ACCURATE RECORDS**

12 **[Violation of Labor Code §§ 1174, 1198 and the "Records" section of the applicable**

13 **IWC Wage Order]**

14 **(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility**

15 **Subclass Against All Defendants)**

16 161. Plaintiff re-alleges and incorporates by reference the allegations contained in the
17 paragraphs above, as though fully set forth herein.

18 162. Labor Code § 1174(d) mandates, in pertinent part, "[e]very person employing labor in
19 this state shall... [k]eep, 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, ...,
21 employees employed at the respective plants or establishments."

22 163. The "Records" section of the applicable IWC Wage Order states that every employer
23 shall keep accurate information with respect to each one of its employees, including time records
24 showing when the employee begins and ends each work period, meal periods, total daily hours worked,
25 total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of
26 pay.

27 164. Plaintiff alleges that Defendants, as described herein, had, and continues to have a policy,
28 practice, procedure, and/or guideline of intentionally and willfully failing to maintain accurate payroll,

1 time, and/or employee records that properly show the total number of hours worked, the applicable rates
2 of pay, the proper beginning and end of each work period, the beginning and end of each meal period,
3 and all wages earned and paid to Plaintiff and the Non-Exempt Class and County Facility Subclass.

4 165. Plaintiff and the Non-Exempt Class and County Facility Subclass have suffered, and
5 continue to suffer injuries and damages as a consequence of Defendants' deliberate failure to maintain
6 accurate records as required by the Labor Code. Specifically, Plaintiff and members of the Non-Exempt
7 Class and County Facility Subclass were denied their legal right and protected interest in having
8 accurate and complete records available to them.

9 166. Plaintiff, on behalf of herself and the Non-Exempt Class and County Facility Subclass,
10 seeks to recover all available remedies including, but not limited to damages, penalties, and reasonable
11 attorney's fees and costs to the fullest extent permitted by law.

12 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

13 **TENTH CAUSE OF ACTION**

14 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, ET SEQ.**

15 **(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class and County Facility**
16 **Subclass Against All Defendants)**

17 167. Plaintiff re-alleges and incorporates by reference the allegations contained in the
18 paragraphs above, as though fully set forth herein.

19 168. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
20 competition, which includes any "unlawful, unfair or fraudulent business act or practice..."

21 169. Defendants' Labor Code and IWC Wage Order violations alleged herein constitute
22 "unlawful, unfair or fraudulent business act or practices," which are prohibited by Business and
23 Professions Code § 17200-17208 and include, but are not limited to: (i) failure to provide proper meal
24 and rest periods and pay Plaintiff and the Non-Exempt Class and County Facility Subclass premium
25 wages for failure to provide compliant meal and rest periods; (ii) failure to pay Plaintiff and the Non-
26 Exempt Class and County Facility Subclass all regular, minimum, and overtime wages for all hours
27 suffered or permitted to work and under the control of Defendants; (iii) failure to pay Plaintiff and the
28 Non-Exempt Class all reporting time wages; (iv) failure to indemnify Plaintiff and the Non-Exempt

1 Class for necessary business expenses incurred in direct consequence of the discharge of their duties and
2 under the direction of Defendants; (v) failure to provide Plaintiff and the Non-Exempt Class and County
3 Facility Subclass with accurate itemized wage statements; (vi) failure to maintain accurate records of the
4 hours that Plaintiff and the Non-Exempt Class and County Facility Subclass worked while employed by
5 Defendants; and (vii) failure to timely pay Plaintiff and members of the Waiting Time Penalties
6 Subclass all wages owed upon separation of their employment with Defendants.

7 170. Defendants intentionally avoided paying Plaintiff and the Non-Exempt Class and County
8 Facility Subclass all wages and/or monies, and other financial obligations attached thereto, to create for
9 Defendants an artificially lower cost of doing business, and thus, undercut its competitors.

10 171. Defendants lowered its costs of doing business by paying Plaintiff and the Non-Exempt
11 Class and County Facility Subclass an amount less than what is required by the California Labor Code
12 and the applicable IWC Wage Order, thereby unfairly forcing Plaintiff and other similarly situated
13 and/or aggrieved employees to perform work without fair compensation and benefits.

14 172. Defendants held itself out to Plaintiff and the Non-Exempt Class and County Facility
15 Subclass as being knowledgeable about, and adhering to, the employment laws of California at all times
16 relevant herein. Plaintiff and the Non-Exempt Class and County Facility Subclass relied on and
17 believed in Defendants' representation concerning Defendants' adherence to the California laws, all to
18 their detriment.

19 173. Defendants' scheme to lower its payroll and operation costs and thus profit, by
20 withholding money owed to the class and withholding wages, compensation and benefits, which are all
21 the property of Plaintiff and the Non-Exempt Class and County Facility Subclass, in violation of the
22 California Labor Code and the IWC Wage Orders, as alleged herein, constitutes an "unlawful, unfair or
23 fraudulent business act or practice," under California Business and Professions Code § 17200, *et seq.*
24 As a result of Defendants' unfair competition, Plaintiff and the Non-Exempt Class and County Facility
25 Subclass suffered injury in fact by losing money and/or property.

26 174. Business and Professions Code § 17204, states, in relevant part, "[a]ctions for relief
27 pursuant to this chapter shall be prosecuted...by...a person who has suffered injury in fact and has lost
28 money or property as a result of the unfair competition."

176. Plaintiff and the Non-Exempt Class and County Facility Subclass are persons in interest under Business and Professions Code § 17203 to whom money and property should be restored. Business and Professions Code § 17203 states, in relevant part, that “any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204.”

177. Plaintiff is a person who suffered injury in fact and lost money, wages, compensation, and benefits, as a result of Defendants' unfair competition. Thus, pursuant to Business and Professions Code § 17203 and 17204, Plaintiff may pursue representative claims and relief on behalf of herself and the putative classes.

178. Pursuant to Business and Professions Code § 17203, “[t]he court may make such orders or judgments, as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.”

179. Defendants reaped unfair benefits and illegal profits at the expense of Plaintiff and the Non-Exempt Class and County Facility Subclass by committing the unlawful acts alleged herein. Thus, Defendants must make restitution and/or be subject to other equitable relief pursuant to Business & Professions Code § 17203, and restore all unpaid wages to Plaintiff and the Non-Exempt Class.

180. Plaintiff and the Non-Exempt Class and County Facility Subclass suffered and continue to suffer loss of wages and monies, all in an amount to be shown according to proof at trial and within the jurisdiction of this Court.

181. Plaintiff seeks all available remedies on behalf of herself and the Non-Exempt Class and County Facility Subclass, including, but not limited to, restitution of all wages and all monies owed, all in an amount to be shown according to proof at trial. All such remedies are cumulative of relief available under other laws, pursuant to Business & Professions Code § 17205.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

ELEVENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT OF 2004 CLAIMS FOR CIVIL PENALTIES

(Violation of Labor Code §§ 2698, *et seq.*)

(Alleged by Plaintiff on behalf of all Aggrieved Employees of Defendants against all Defendants)

182. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

183. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that 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 violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

184. This cause of action involves alleged violations of Labor Code §§ 201, 202, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, and 2802, which, pursuant to Labor Code § 2699.5, provide for a civil penalty to be assessed and collected by the LWDA or recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

185. Defendants employed Plaintiff, and Plaintiff had one or more of the alleged violations committed against her. Therefore, Plaintiff is an “aggrieved employee” under PAGA because the alleged violator employed her and she had one or more of the alleged violations committed against her. As such, Plaintiff is properly suited to represent the interests of other aggrieved employees in a PAGA Representative action.

186. Plaintiff seeks to recover civil penalties on behalf of herself and other aggrieved employees for Defendants’ violations of the Labor Code.

187. For all provisions of the Labor Code for which a civil penalty is not specifically provided, Labor Code § 2699(f) imposes upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

188. Defendants violated Labor Code §§ 226.7, 512, and 1198 by failing to authorize and permit Plaintiff and aggrieved employees to take duty-free meal and rest periods and by failing to pay

1 them meal and rest period premium wages for each day a meal and/or rest period was not provided.
2 Under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved
3 employee per pay period for the initial violation of Labor Code § 226.7 and 1198, and \$200 for each
4 aggrieved employee per pay period for each subsequent violation.

5 189. Defendants violated Labor Code §§ 201, 202, and 1198 by not paying Plaintiff and
6 aggrieved employees all minimum, regular, and overtime wages owed, and meal and rest premium
7 wages owed by the time set forth by law upon their separation of employment, as alleged herein. Thus,
8 under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved
9 employee per pay period for the initial violation of Labor Code §§ 201, 202, and 1198, and \$200 for
10 each aggrieved employee per pay period for each subsequent violation.

11 190. Defendants violated Labor Code §§ 204 and 1198 by not paying Plaintiff and aggrieved
12 employees all regular and overtime wages and meal and rest premium wages owed by the time set forth
13 by law during their employment, as alleged herein. Thus, under Labor Code § 2699(f)(2), Defendants
14 are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation
15 of Labor Code §§ 204 and 1198, and \$200 for each aggrieved employee per pay period for each
16 subsequent violation.

17 191. Under Labor Code § 210(a), Defendants, in addition to, and entirely independent and
18 apart from any other penalty, is subject to a civil penalty for failing to pay the wages of each aggrieved
19 employee as provided in Labor Code § 204, as follows: (1) For any initial violation, one hundred dollars
20 (\$100) for each failure to pay each aggrieved employee. (2) For each subsequent violation, or any willful
21 or intentional violation, two hundred dollars (\$200) for each failure to pay each aggrieved employee,
22 plus 25 percent of the amount unlawfully withheld. This amount shall be recovered on behalf of the
23 Labor Commissioner.

24 192. Defendants violated Labor Code §§ 1194, 1197, and 1198 by not paying Plaintiff and
25 other aggrieved employees at least minimum and regular wages for all the time they were suffered or
26 permitted to work, engaged in work and/or under Defendants' control, as alleged herein. Thus, under
27 Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee
28 per pay period for the initial violation of Labor Code §§ 1194, 1197, and 1198, and \$200 for each

1 aggrieved employee per pay period for each subsequent violation.

2 193. Defendants violated Labor Code §§ 510, 1194, and 1198, by not paying Plaintiff and
3 other aggrieved employees all overtime wages earned for all the time they were suffered or permitted to
4 work, engaged in work and/or under Defendants' control, as alleged herein. At all relevant times,
5 Plaintiff and, on information and belief, other aggrieved employees were not paid all overtime at the
6 proper rate of pay when they worked in excess of eight hours a workday or forty hours in a workweek.
7 Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each
8 aggrieved employee per pay period for the initial violation of Labor Code §§ 510, 1194, and 1198, and
9 \$200 for each aggrieved employee per pay period for each subsequent violation.

10 194. Defendants violated Labor Code §§ 226(a) by knowingly and intentionally failing to
11 maintain and provide Plaintiff and other aggrieved employees of Defendants with wage statements
12 itemizing accurately all information required by Labor Code § 226(a), as alleged herein, because the
13 wage statements not include the correct amount of gross and net wages earned. Thus, under Labor Code
14 § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay
15 period for the initial violation of Labor Code §§ 226(a) and 1198, and \$200 for each aggrieved employee
16 per pay period for each subsequent violation.

17 195. Defendant violated Labor Code §§ 226(a), 1174(d), and 1198 by failing to maintain
18 records detailing the start and end times of work shifts and meal periods, and knowingly and
19 intentionally failing to maintain and provide Plaintiff and other aggrieved employees of Defendant with
20 wage statements itemizing accurately all information required by Labor Code § 226(a), as alleged
21 herein, including the total hours worked, all regular hours worked, all overtime hours worked, the
22 corresponding gross and net wages earned, the applicable hourly rate per hour worked, the
23 corresponding number of hours worked at each hourly rate, and the name of the legal entity that is the
24 employer. Thus, under Labor Code § 2699(f)(2), Defendant is subject to a civil penalty of \$100 for each
25 aggrieved employee per pay period for the initial violation of Labor Code §§ 226(a) and 1198, and \$200
26 for each aggrieved employee per pay period for each subsequent violation.

27 196. Alternatively, Labor Code § 226.3 provides for a civil penalty in the amount of \$250 per
28 violation in an initial citation and \$1,000 for each violation in a subsequent citation, for which the

1 employer fails to provide the employee a wage deduction statement or fails to keep the records required
2 in subdivision (a) of § 226.

3 197. Labor Code § 1174.5 provides for a civil penalty of \$500 for any person employing labor
4 who willfully fails to maintain accurate and complete records required by subdivision (d) of § 1174.

5 198. Defendants are and were Plaintiff's and other aggrieved employees' employers, or
6 persons acting on their behalf, within the meaning of Labor Code § 558, who violated or caused to be
7 violated, a section of Part 2, Chapter 1 of the Labor Code or any provision regulating hours and days of
8 work in any IWC Wage Order and, as such, is subject to civil penalties for each underpaid employee as
9 set forth in Labor Code § 558.

10 199. Labor Code § 558 also imposes upon Defendants for each initial violation of the Hours
11 and Days of Work section of the applicable IWC Wage Order a civil penalty of \$50.00 for each
12 aggrieved employee for each pay period for which the aggrieved employee was not provided with a paid
13 uninterrupted 10-minute rest period and/or required to work off the clock, as alleged herein.
14 Furthermore, Labor Code § 558 imposes upon Defendants for each subsequent violation of the Hours
15 and Days of Work section of the applicable IWC Wage Order a civil penalty of \$100.00 for each
16 aggrieved employee for each pay period for which the aggrieved employee was not provided with a paid
17 uninterrupted 10-minute rest period and/or required to work off the clock, as alleged herein. As set forth
18 in *Thurman v. Bayshore Transit Management*, 203 Cal.App.4th 1112, 1153 (2012), the Hours and Days
19 of Work section of the Wage Order also covers failure to provide rest periods and Plaintiff may
20 therefore recover civil penalties, including the underpaid wages, under Labor Code § 558 for each such
21 violation.

22 200. Defendants are and were Plaintiff's and aggrieved employees' employers or other
23 person(s) acting either individually or as an officer, agent, or employee of another person(s), who pays
24 or causes to be paid to any employee a wage less than the minimum fixed by an order of the
25 Commission, and, as such, are subject to civil penalties for each underpaid employee pursuant to Labor
26 Code § 1197.1.

27 201. Labor Code § 1197.1 imposes upon Defendants for each initial violation of Labor Code §
28 1197 by paying or causing an employee to be paid less than the minimum wage, a civil penalty of

1 \$100.00 for each underpaid employee for each pay period for which the employee is underpaid.
2 Furthermore, Labor Code § 1197.1 imposes upon Defendant for each subsequent violation a civil
3 penalty of \$250.00 for each underpaid employee for each pay period for which the employee was
4 underpaid.

5 202. Defendants violated Labor Code § 2802 because Defendant required Plaintiff and other
6 aggrieved employees to use their personal cell phones for work purposes. Thus, under Labor Code §
7 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period
8 for the initial violation of this section, and \$200 for each aggrieved employee per pay period for each
9 subsequent violation.

10 203. Labor Code § 1199 imposes a fine of not less than \$100 on any employer or other person
11 acting either individually or as an officer, agent, or employee of another person to require or cause any
12 employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order
13 of the commission, pay or cause to be paid to any employee a wage less than the minimum fixed by an
14 order of the commission or violate or refuse or neglect to comply with any provision of this chapter or
15 any order or ruling of the commission.

16 204. For bringing this action, Plaintiff is additionally entitled to attorney's fees and costs
17 incurred herein.

18 205. Plaintiff seeks to recover civil penalties on behalf of herself and other aggrieved
19 employees for Defendants' violations of the Labor Code, including but not limited to Defendants'
20 violations of Labor Code §§ 201, 202, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, and
21 2802, pursuant to Labor Code § 2698, *et seq.* The exact amount of the applicable penalties is in an
22 amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

23 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 26 a. For general damages;
27 b. For special damages;
28 c. For an award of liquidated damages to the extent permissible by Labor Code §

- 1194.2;
- d. For an award of the greater of actual damages or the liquidated damage amounts provided by Labor Code § 226(e) for Defendants' failure to provide accurate itemized wage statements, pursuant to Labor Code § 226(a);
 - e. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 218.5, 218.6, 226, 1194, 2802, and 2699 *et seq.*;
 - f. For civil and statutory penalties to the extent permitted by law, including those pursuant to the Labor Code, the Private Attorneys General Act, and the Orders of the Industrial Welfare Commission;
 - g. For waiting time penalties under Labor Code § 203;
 - h. For a reimbursement of all work-related expenses pursuant to Labor Code § 2802;
 - i. For restitution as provided by Business and Professions Code § 17200 *et seq.*;
 - j. For injunctive relief as provided by the Labor Code including but not limited to Labor Code § 226(h), and Business and Professions Code § 17200, *et seq.*
 - k. For an order requiring Defendants to restore and disgorge all funds to Plaintiff acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions Code § 17200 *et seq.*;
 - l. For an award of damages in the amount of unpaid compensation and monies including, but not limited to actual damages, unpaid wages, minimum wages, regular wages, overtime wages, reporting time pay, waiting time penalties and other penalties according to proof, including interest thereon, to the extent permissible by law;
 - m. For an award of an additional hour of pay at the regular rate of compensation for each non-compliant meal and rest period, pursuant to Labor Code § 226.7(b) and the applicable Order of the Industrial Welfare Commission;
 - n. For civil penalties for each initial and subsequent violation for each underpaid employee for each pay period for which the employee was underpaid pursuant to

- 1 Labor Code §§ 558, 558.1, and 1197.1;
- 2 o. For pre- and post-judgment interest to the extent permitted by law including, but not
- 3 limited to, Labor Code §§ 218.6 and 1194;
- 4 p. For an order imposing a constructive trust upon the Defendants to compel them to
- 5 transfer wages that have been wrongfully obtained and held by Defendants to unpaid
- 6 employees;
- 7 q. For an accounting to determine all money wrongfully obtained and held by
- 8 Defendants;
- 9 r. For a declaratory judgment that Defendants have violated Labor Code §§ 201, 202,
- 10 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, and 2802, as well as the
- 11 “Hours and Days of Work,” “Minimum Wages,” “Records,” “Reporting Time Pay,”
- 12 “Meal Periods,” and “Rest Periods” sections of the Wage Order of the Industrial
- 13 Welfare Commission; and
- 14 s. For such other relief as this Court deems just and proper.

15 **JURY TRIAL DEMAND**

16 Please take notice that Plaintiff demands trial by jury on all Causes of Action.

17 Dated: March 9, 2021

18 GRAHAMHOLLIS APC

19 By: 
20 Graham S.P. Hollis
21 Vilmarie Cordero
22 Nathan Reese
23 Attorneys for Plaintiff Carmen Munoz
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