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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

KRISTEN SOLANO, an individual,

Plaintiff,

v.

J & T EMPIRE, INC. dba INFINITY
MEDSPA, a California corporation; VELOSO
PROFESSIONAL MEDICAL
CORPORATION, A PROFESSIONAL
CORPORATION, a California corporation;
JEFF ROBBINS, individually; TIM MALAN,
individually; and DOES 1-50 inclusive,

Defendants.

Case No.: **21STCV11503**

**COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004 (CAL. LAB. CODE §§
2690, ET SEQ.)**

[DEMAND FOR JURY TRIAL]

Plaintiff KRISTEN SOLANO, on behalf of herself and all aggrieved employees, alleges
as follows:

NATURE OF ACTION AND INTRODUCTORY STATEMENT

1. Plaintiff KRISTEN SOLANO (hereinafter referred to as "Plaintiff"), brings this
representative action against Defendants, J & T EMPIRE, INC. dba INFINITY MEDSPA, a
California corporation; VELOSO PROFESSIONAL MEDICAL CORPORATION, A
PROFESSIONAL CORPORATION, a California corporation; JEFF ROBBINS, individually;
TIM MALAN, individually; and Does 1 through 50, inclusive (collectively, "Defendants"), on
behalf of herself and all other aggrieved employees employed by Defendants throughout
California.

1 2. Through this action, Plaintiff alleges that Defendants engaged in a systematic
2 pattern of wage and hour violations under the California Labor Code ("Labor Code") and
3 Industrial Welfare Commission ("IWC") Wage Orders.

4 3. Plaintiff is informed and believes, and thereon alleges, that Defendants have
5 increased their profits by violating state wage and hour laws by, among other things:

6 (a) Failing to maintain legally compliant personnel records;

7 (b) Failing to pay all wages, including overtime wages, earned by employees,
8 including for off the clock work;

9 (c) Failing to provide its non-exempt employees with a meal period within five
10 (5) hours of commencing work and a second meal period within ten (10) hours of commencing
11 work, as required by California law;

12 (d) Failing to provide its non-exempt employees with legally compliant ten (10)
13 minute off-duty rest periods for every four (4) hours of work or major fraction thereof, as required
14 by California law;

15 (e) Failure to reimburse for all business expenses;

16 (f) Failing to provide accurate itemized wage statements to employees; and

17 (d) Failing to pay all wages due within the required time and upon separation
18 of employment.

19 (e) Plaintiff brings this representative action against Defendants on behalf of
20 aggrieved employees to recover, among other things, civil penalties, attorney's fees and costs and
21 expenses pursuant to the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
22 ("PAGA").

23 **JURISDICTION AND VENUE**

24 4. This is a representative action, pursuant to PAGA. The civil penalties sought by
25 Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established
26 according to proof at trial.

27 5. This Court has jurisdiction over this action pursuant to the California
28 Constitution, Article VI, 1.0, which grants the Superior Court original jurisdiction in all causes

1 except those given by statutes to other courts. The statutes under which this action is brought do
2 not specify any other basis for jurisdiction.

3 6. This Court has jurisdiction over all Defendants because, upon information and
4 belief, they are citizens of California, have sufficient minimum contacts in California or
5 otherwise intentionally avail themselves of the California market so as to render the exercise of
6 jurisdiction over them by the California courts consistent with traditional notions of fair play
7 and substantial justice.

8 7. Venue is proper in this Court because, upon information and belief, Defendants
9 reside, transact business or have at least one office in Los Angeles County, and the acts and
10 omissions alleged herein took place in this county.

11 **THE PARTIES**

12 8. Plaintiff KRISTEN SOLANO, an individual, is a resident of the County of Los
13 Angeles, State of California.

14 9. J & T EMPIRE, INC. dba INFINITY MEDSPA, a California corporation, is a
15 company doing business in the County of Los Angeles and Plaintiff's employer.

16 10. VELOSO PROFESSIONAL MEDICAL CORPORATION, A PROFESSIONAL
17 CORPORATION, a California corporation, is a company doing business in the County of Los
18 Angeles and Plaintiff's employer.

19 11. JEFF ROBBINS, individually, is a resident of the County of Los Angeles, State
20 of California and owns, operates and is the authorized agent for J & T EMPIRE, INC. dba
21 INFINITY MEDSPA and VELOSO PROFESSIONAL MEDICAL CORPORATION, A
22 PROFESSIONAL CORPORATION.

23 12. TIM MALAN, individually, is a resident of the County of Los Angeles, State of
24 California and owns and operates J & T EMPIRE, INC. dba INFINITY MEDSPA and
25 VELOSO PROFESSIONAL MEDICAL CORPORATION, A PROFESSIONAL
26 CORPORATION.

27 13. Plaintiff is informed and believes, and thereon alleges, that Defendants at all
28 times hereinafter mentioned, were and are employers as defined in and subject to the Labor

1 Code and IWC Wage Orders, whose employees are engaged in the County of Los Angeles and
2 the State of California.

3 14. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
4 under fictitious names DOES I through 50, but will seek leave of Court to amend this Complaint
5 and serve such fictitiously named Defendants once their names and capacities become known.

6 15. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 50
7 are or were the partners, agents, owners, shareholders, managers or employees of Defendants, at
8 all relevant times.

9 16. Plaintiff is informed and believes, and thereon alleges, that each and all of the
10 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
11 DOES 1 through 50, acting as the agent or alter ego for the other, with legal authority to act on
12 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,
13 the official policy of Defendants.

14 17. At all relevant times, Defendants, acted within the scope of such agency or
15 employment, or ratified each and every act or omission complained of herein. At all relevant
16 times, Defendants, and each of them, aided and abetted the acts and omissions of each and all
17 the other Defendants in proximately causing the damages herein alleged.

18 18. Plaintiff is informed and believes, and thereon alleges, that each of said
19 Defendants is in some manner intentionally, negligently or otherwise responsible for the acts,
20 omissions, occurrences and transactions alleged herein.

21 **GENERAL ALLEGATIONS**

22 19. At all relevant times mentioned herein, Defendants employed Plaintiff and other
23 aggrieved persons.

24 20. Defendants continue to employ employees in functionally equivalent positions at
25 their offices.

26 21. Plaintiff is informed and believes, and thereon alleges, that at all times herein
27 mentioned, Defendants were advised by skilled lawyers, employees and other professionals who
28 were knowledgeable about California's wage and hour laws, employment and personnel

1 practices and the requirements of California law.

2 22. At all relevant times, Defendants hired Plaintiff as a non-exempt hourly
3 employee. Plaintiff worked for Defendants from July 7, 2017 through January 28, 2020 as a
4 Massage Therapist earning an hourly rate of \$25.00. In May 2019, Plaintiff was promoted to a
5 staff lead and was earning \$28.00 an hour. During her employment, Plaintiff, and other
6 aggrieved employees, had to use their personal cellphone for scheduling and employee group
7 chats without reimbursement. Further, Plaintiff and other employees did not receive any notice
8 regarding their compensation during their employment.

9 23. From the outset, Defendants failed to keep track of employee times and the
10 Massage Therapists had no ability to clock in and out. Instead, Plaintiff's paycheck would
11 indicate times of "0.00" or "86.67," never any true hours worked. Consequently, Plaintiff had
12 difficulties in determining her correct compensation during her employment at Defendants.
13 Consequently, Plaintiff was not compensated for all hours worked.

14 24. Further, instead of paying Plaintiff and other aggrieved employees legally,
15 Defendants paid employees based on a piece rate plus additional compensation for added
16 services without regard to nonproductive time, rest/recovery time or overtime. Moreover,
17 Plaintiff would not be compensated if she was present for a service but the client cancelled. On
18 occasions, Plaintiff would be present for an entire day, but due to cancellations, not receive any
19 compensation. Defendants' pay structure simply failed to compensate employees for
20 rest/recovery time, non-productive time, or overtime. Consequently, Defendants' employees
21 including Plaintiff were illegally and drastically underpaid.

22 25. Moreover, due to the time constraints of the massages and scheduling, on most
23 occasions, Plaintiff did not receive a rest break and on many occasions, no lunch break at all.

24 26. Plaintiff informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and aggrieved employees were entitled to all earned wages
26 including minimum wage and overtime wages. In violation of the California Labor Code,
27 Defendants failed to pay Plaintiff and all aggrieved employees their proper compensation in
28

1 terms of minimum and overtime wages, in violation of California law.

2 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and aggrieved employees were entitled to legally required
4 timely meal periods and rest periods which were not provided to them, in violation of California
5 law.

6 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and aggrieved employees were entitled to receive itemized
8 wage statements that accurately showed their gross and net wages earned, all deductions, name
9 and address of the legal entity that is the employer, total hours worked and all applicable hourly
10 rates in effect and the number of hours worked at each hourly rate in accordance with California
11 law. In violation of the Labor Code, Plaintiff and aggrieved employees were not provided with
12 accurate itemized wage statements.

13 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that aggrieved employees were entitled to timely payment of wages due
15 upon separation of employment. In violation of the Labor Code, aggrieved employees did not
16 receive payment of all wages including, but not limited to, unpaid overtime.

17 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known they had a duty to compensate Plaintiff and aggrieved employees, and
19 Defendants had the financial ability to pay such compensation but willfully, knowingly and
20 intentionally failed to do so all in order to increase Defendants' profits.

21 **FIRST CAUSE OF ACTION**

22 **VIOLATION OF THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**

23 **(California Labor Code §§ 2698, *et seq.*)**

24 31. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
25 though fully set forth herein.

26 32. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
27 for a civil penalty to be assessed and collected by the Labor and Workforce Development
28 Agency ("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 and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

33. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code § 2699(f) imposes upon Defendants 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 pay period in which Defendants violated these provisions of the Labor Code.

34. Defendants' conduct violates numerous Labor Code sections including, but not limited to, the following;

(a) Failing to maintain complete and accurate pay records in violation of Labor Code Sections §§ 1174, 1198, and 1199;

(b) Failing to pay Plaintiff and aggrieved employees with minimum wage in violation of Labor Code Sections §§ 1194, 1197, 1197.1, and 1198;

(c) Failing to pay Plaintiff and aggrieved employees with overtime in violation of Labor Code §§ 510 and 1198-1199;

(d) Failure to provide timely meal periods in violation of Labor Code §§ 226.7, 512, 1198 and 1199;

(e) Failure to provide compliant rest periods in violation of Labor Code §§ 226.7, 1198 and 1199;

(f) Failing to reimburse business expenses in violation of Industrial Welfare Commission Order No. 4-2001, section 9(b) and California Labor Code Sections 1182.12, 1194, 1194.2, 1197 and 2802 (a)-(d);

(g) Failing to provide Plaintiff and aggrieved employees with accurate itemized wage statements in violation of Labor Code § 226; and

(h) Failing to timely pay all earned wages to aggrieved employees upon separation of employment in violation of Labor Code §§ 201, 202 203, among other claims.

35. Further, Labor Code § 558(a) provides "any employer or other person acting on

1 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
2 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
3 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
4 pay period for which the employee was underpaid in addition to an amount sufficient to recover
5 underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
6 employee for each pay period for which the employee was underpaid in addition to an amount
7 sufficient to recover underpaid wages; (3) Wages recovered pursuant to this section shall be paid to
8 the affected employee." Labor Code § 558(c) provides "the civil penalties provided for in this
9 section are in addition to any other civil or criminal penalty provided by law." Plaintiff seeks to
10 recover these penalties (including the unpaid wages) pursuant to PAGA, on her own behalf and on
11 behalf of aggrieved employees.

12 36. Plaintiff is an "aggrieved employee" because she was employed by the alleged
13 violator and had one or more of the alleged violations committed against her, and therefore is
14 properly suited to represent the interests of all other aggrieved employees.

15 37. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3
16 and is therefore able to pursue a claim for penalties on behalf of herself and all other aggrieved
17 employees under PAGA as she submitted a letter to the California Labor & Workforce
18 Development Agency on December 24, 2020.

19 38. Pursuant to Labor Code §§ 2699(a) and (f), 2699.3 and 2699.5, Plaintiff and all
20 other aggrieved employees are entitled to recover civil penalties against Defendants for
21 violations of the above-cited sections of the Labor Code.

22 39. Defendants' conduct, as alleged herein, has been and continues to be unfair,
23 unlawful and harmful to Plaintiff and the general public. Plaintiff therefore seeks to enforce
24 important rights affecting the public interest within the meaning of Code of Civil Procedure §
25 1021.5.

26 **PRAYER FOR RELIEF**

27 Plaintiff KRISTEN SOLANO, on her own behalf, and on behalf of all other aggrieved
28 employees, prays for relief and judgment against Defendants as follows:

1 1. For civil and statutory penalties against Defendants on behalf of all aggrieved
2 employees pursuant to Labor Code §§ 2698, *et seq.* and other Sections allowing for Civil
3 penalties;

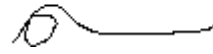
4 2. For reasonable attorney's fees and costs of suit to the extent permitted by law,
5 including pursuant to Code of Civil Procedure § 1021.5 and Labor Code §§ 2698, *et seq.*; and

6 3. For such other relief as the Court deems just and proper.

7 DATED: March 25, 2020

K2 Employment Law Group, LLP

8
9 By:



Douglas H. Hoang
Matthew T. Kramer
John L. Lin
Attorneys for Plaintiff KRISTEN SOLANO

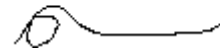
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DEMAND FOR JURY TRIAL

Plaintiff KRISTEN SOLANO hereby demands a trial by jury to the extent authorized by law.

DATED: March 25, 2020

K2 Employment Law Group, LLP



By:

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Matthew T. Kramer
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Attorneys for Plaintiff KRISTEN SOLANO