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Attorneys for Plaintiff CHEYANNE MALLAS, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of herself and other current and former employees.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHEYANNE MALLAS, on behalf of
herself and all others aggrieved employees.

Plaintiff,

v.

ALEXANDER RIVKIN, MD, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendant.

Case No.: **21STCV21726**

**REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL FINES**

1. Civil Penalties under the Private Attorneys General Act (PAGA)

DEMAND FOR JURY TRIAL

1 Plaintiff Cheyanne Mallas as a representative of the State of California and the Labor and
2 Workforce Development Agency (LWDA), and on behalf of Plaintiff and other current and
3 former employees, complains and alleges as follows:

4 **INTRODUCTION**

5 1. This is a representative action brought by Plaintiff, as a representative of the State
6 of California and the LWDA, and on behalf of Plaintiff and other aggrieved employees, to collect
7 civil penalties for Defendant's Labor Code violations.

8 2. Defendant and employer, ALEXANDER RIVKIN, MD, INC., violated numerous
9 wage and hour laws with respect to Plaintiff and other aggrieved employees by failing to provide,
10 for example: accurate and itemized wages statements, payment for all hours worked (including
11 regular wages and overtime), failure to provide a minimum wage lawful meal periods, lawful rest
12 periods, timely payment during employment, failure to reimburse for expenses incurred during
13 the course and scope of employment, and payment upon separation of employment.

14 **PARTIES**

15 **The Plaintiff**

16 3. Plaintiff is, and at all times herein mentioned was, a resident of the County of Los
17 Angeles.

18 **The Defendant**

19 4. Defendant ALEXANDER RIVKIN, MD, INC. is a limited liability corporation
20 which, at all-time relevant hereto, existing, doing business and employing individuals in the
21 County of Los Angeles, State of California.

22 5. The true names and capacities, whether individual, corporate, associate, or
23 otherwise of Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at this
24 time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave to
25 amend this Complaint to insert the true names and capacities of said Defendants when the same
26 become known to Plaintiff. Plaintiff is informed and believes and thereupon alleges that each of
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1 the fictitiously named Defendants are responsible for the wrongful acts alleged herein and is
2 therefore liable to Plaintiff as alleged hereinafter.

3 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times
4 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,
5 supervisors, conspirators, parent corporation, joint employers, alter ego, and/or joint ventures of
6 the other Defendants, and each of them, and in doing the things alleged herein, were acting at least
7 in part within the course and scope of said agency, employment, conspiracy, joint employment,
8 alter ego status, and/or joint venture and with the permission and consent of each of the other
9 Defendants.

10 7. Plaintiff is informed and believes, and based thereupon alleges, that Defendants,
11 and each of them, including those Defendants named DOES 1-50, acted in concert with one
12 another to commit the wrongful acts alleged therein, and aided, abetted, incited, compelled, and/or
13 coerced one another in the wrongful acts alleged herein, and/or attempted to do so. Plaintiff is
14 further informed and believes, and based thereupon alleges, that the Defendants, and each of them,
15 including those Defendants named as DOES 1-50, formed and executed a conspiracy or common
16 plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts
17 alleged herein done as part of and pursuant to said conspiracy, intended to and actually causing
18 Plaintiff harm.

19 8. Whenever and wherever reference is made in this Complaint to any act or failure
20 to act by a defendant or co-defendant, such allegations and references shall also be deemed to mean
21 the acts and/or failures to act by each defendant acting individually, jointly and severally.
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23 **JURISDICTION AND VENUE**

24 9. Venue is proper in Los Angeles County, because Defendants maintain its locations
25 and transacts business in this county, the obligations and liability primarily arise in this county,
26 and work was primarily performed by Plaintiff and other aggrieved employees in this county.

27 10. The California Superior Court has jurisdiction over this matter. The individual
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1 claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for federal
2 court and PAGA penalties cannot be aggregated to meet the minimum jurisdictional amount
3 required for diversity removal. Further, there is no federal question at issue as the issues herein
4 are based solely on California statutes and law, including, but not limited to, the California Labor
5 Code, Industrial Welfare Commission Wage Orders, California Code of Civil Procedure, and
6 California Rules of Court.

7 **GENERAL ALLEGATIONS**

8
9 11. In or around May 2020 Defendants hired Plaintiff and classified her as an
10 independent contractor. Plaintiff was terminated on or about December 2020. Throughout the
11 PAGA period, Plaintiff's title was "Physician Assistant".

12 12. Plaintiff was misclassified as an independent contractor when she should have
13 been classified as an employee. Plaintiff was paid according to a portion of the fees she earned
14 from caring for Defendant's patients. Plaintiff's compensation was also reduced by deducting her
15 pay for supplies she was required to use to care for Defendant's patients.

16 13. At all relevant times herein, Defendant employed Plaintiff and other aggrieved employees
17 as non-exempt employees. Aggrieved employees mean and refers to all persons who worked for
18 Defendants as all non-exempt employees who worked for Defendant at any time during the
19 specified relevant time period and were subject to the same wage and hour practices and policies
20 as Plaintiff, including but not limited to those workers treated as independent contractors by
21 Defendant in California.

22 14. On many occasions, Plaintiff and aggrieved employees would work more than 8
23 hours per day or 40 hours per week without overtime pay.

24 15. Employer regularly did not have enough employees to provide sufficient coverage
25 to maintain their business operations so Complainant and similarly aggrieved employees could not
26 take complete, timely and uninterrupted meal and rest breaks.
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1 16. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor
2 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its
3 departments, divisions, commissions, boards, agencies or employees for violation of the code
4 may, as an alternative, be recovered through a civil action brought by an aggrieved employee on
5 behalf of herself or herself and other current or former employees pursuant to the procedures
6 specified in Labor Code section 2699.3.

7 17. For all provisions of the Labor Code except those for which a civil penalty is
8 specifically provided, Labor Code section 2699, subdivision (f) imposes upon Defendant a
9 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the
10 initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period
11 for each subsequent pay period in which Defendant violated these provisions of the Labor Code.

12 18. Defendant's conduct during the PAGA period with respect to Plaintiff and the
13 aggrieved employees violates numerous Labor Code sections as detailed herein.

14 19. Plaintiff alleges that Defendant has engaged in a systematic pattern of wage and
15 hour violations under the California Labor Code and IWC Wage Orders.

16 20. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
17 or should have known that Plaintiff and aggrieved employees were entitled to receive wages for
18 all hours worked, including the applicable minimum, regular, and overtime wages, and that they
19 were not receiving all wages earned for work that was required to be performed. In violation of
20 the Labor Code and IWC Wage Orders, Defendant failed to pay Plaintiff and aggrieved
21 employees for all hours worked, specifically for time spent driving to their first location in the
22 morning and time spent driving from their last location of the day to its benefit. Accordingly,
23 Defendant failed to pay Plaintiff and aggrieved employees all earned minimum, regular, and/or
24 overtime compensation.

25 21. Plaintiff is informed and believes, and based thereon alleges, that Defendant
26 knew or should have known that Plaintiff and aggrieved employees were entitled to receive all
27 required meal periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved
28 employees' regular rate of pay when they did not receive a timely, uninterrupted off-duty meal

period. In violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy of not providing timely meal periods. Defendant failed to pay an additional hour of pay to Plaintiff and aggrieved employees for late meal periods. As a result of Defendant's unlawful policy and practice, Plaintiff and aggrieved employees did not receive all meal periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted 30 minute off-duty meal period.

22. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known that Plaintiff and aggrieved employees were entitled to receive all required rest periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted off-duty rest period. In violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy of not providing timely rest periods. Defendant failed to pay an additional hour of pay to Plaintiff and aggrieved employees for each rest periods was not provided or was interrupted. As a result of Defendant's unlawful policy and practice, Plaintiff and aggrieved employees did not receive all required rest periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted 10 minute off-duty rest period.

23. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known that Plaintiff and certain aggrieved employees were entitled to timely payment of wages due upon separation of employment. In violation of the Labor Code, Plaintiff and certain aggrieved employees did not receive payment of all wages due, within permissible time periods, upon separation of employment.

24. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known that Plaintiff and aggrieved employees were entitled to receive itemized wage statements that accurately showed their actual hours worked, total hours worked, number of hours worked at each hourly rate, gross and net wages earned, and correct employer information in accordance with California law. In violation of the Labor Code, Plaintiff and aggrieved employees were not provided with accurate itemized wage statements that accurately reported their gross and net wages earned, total hours worked, each applicable rate of pay in

1 effect during the pay period with the corresponding number of hours worked, and the address of
2 the legal entity that is the employer, among other things.

3 25. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
4 should have known that Defendant was required to maintain accurate records of the hours
5 worked by Plaintiff and aggrieved employees. In violation of the Labor Code, Defendant failed
6 to maintain accurate records of hours worked by Plaintiff and aggrieved employees due to its
7 unfair rounding practices, among other things.

8 **FIRST CAUSE OF ACTION**

9 **(Civil Penalties Under the Private Attorneys General Act,**

10 **Labor Code § 2699 et seq., For Violations of the Labor Code)**

11 26. By this complaint, Plaintiff brings this case as a representative action seeking
12 penalties for herself, the aggrieved employees, and the State of California in a representative
13 capacity, as provided by the PAGA, Labor Code sections 2698 et seq. Plaintiff is an aggrieved
14 employee who was employed by Defendant and subject to at least one of the Labor Code
15 violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in
16 his notice to the LWDA and Defendants: violation of Labor Code sections 201, 202, 203, 204,
17 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

18 27. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause
19 of action under PAGA only after giving the LWDA and the employer notice of the Labor Code
20 sections alleged to have been violated, and after receiving notice from the LWDA of its intention
21 not to investigate, or after 65 days have passed without notice from the LWDA.

22 28. Prior to filing this complaint, on March 9, 2021, Plaintiff gave written notice of
23 the specific provisions alleged to have been violated, including the facts and theories to support
24 the alleged violations, as required by Labor Code section 2699.3. The written notice was given
25 via certified mail to Defendants, and the LWDA by electronically filing the notice via the
26 Department of Industrial Relations website. Plaintiff was given an LWDA case number of
27 LWDA-CM-824914-21. A true and correct copy of Plaintiff's notice to the LWDA and
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Defendant(s), dated March 9, 2021, is attached hereto as Exhibit A.

29. The LWDA has not provided Plaintiff with any notice that it intends to investigate the violations as alleged in Plaintiff's March 9, 2021 notice, and more than 65 calendar days have elapsed since the postmark date on the notice.

30. California Labor Code §§2698-2699.5, in relevant part provides, "any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency...for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3."

31. As an aggrieved employee, Plaintiff brings this civil action to recover civil penalties for Defendant's Labor Code violations.

FIRST VIOLATION

(Failure to Provide Meal Periods, in Violation of Labor Code Section 512)

32. Under California Labor Code §512(a), "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee."

33. Defendant violated Labor Code § 512 by failing to provide Plaintiff, and other qualifying employees who worked shifts of greater than five hours, meal periods within the first five hours of the shifts worked. Defendant failed to pay Plaintiff one hour's pay at Plaintiff's regular rate of pay for each day Defendant failed to provide a meal period in compliance with section 512.

SECOND VIOLATION

(Failure to Provide Rest Periods, in Violation of Labor Code Section 226.7)

34. Under California Labor Code §226.7(b), "An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable

statute, or applicable regulation, standard, or order of the Industrial Welfare Commission”

35. Industrial Welfare Commission (IWC) provides, “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work 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.”

36. Defendant failed to authorize and permit Plaintiff and other employee to take rest periods and mandated by the Wage Order.

37. Under §226.7(c), an employer who violates §226.7(b), “...shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”

38. Defendant failed to pay Plaintiff and other employees who were not provided rest periods one hour of pay at their regular rate of pay.

THIRD VIOLATION

(Failure to Provide Complete and Accurate Wage Statements, in Violation of Labor Code Section 226)

39. Under California Labor Code §226(a), an employer is legally obligated to provide its employees, semi-monthly or at the time of payment of wages, “an accurate itemized statement in writing...”

40. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties for Defendant’s Labor Code violations alleged herein, as well as attorney’s fees and costs, under Labor Code § 2699.

FOURTH VIOLATION

(Failure to Pay Overtime Wages)

41. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Orders, an employer is required to compensate employees for all overtime, which is calculated at one and one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive

workday, with double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

42. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under Labor Code § 2699.

FIFTH VIOLATION

(Failure to Pay Minimum Wages)

43. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Orders, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

44. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under Labor Code § 2699.

SIXTH VIOLATION

(Failure to Timely Pay Wages During Employment)

45. Pursuant to California Labor Code § 204, for all labor performed between the 1st and 15th days of any calendar month, an employer is required to pay its employees between the 16th and 26th day of the month during which the labor was performed. California Labor Code § 204 also provides that for all labor performed between the 16th and 26th days of any calendar month, Defendants are required to pay their employees between the 1st and 15th day of the following calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday of the next regular payroll period.

46. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under Labor Code § 2699.

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SEVENTH VIOLATION

(Failure to Pay All Wages Due to Discharged and Quitting Employees)

47. Pursuant to California Labor Code § 201, 202, and 203, Defendants are required to pay all earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately.

48. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under Labor Code § 2699.

EIGHTH CAUSE OF ACTION

(Failure to Reimburse Business Expenses)

(Plaintiff realleges and incorporates by reference the allegations in paragraphs 1 through 68.)

49. Labor Code section 2802 provides that an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

50. Defendant failed to indemnify Plaintiff and aggrieved employees for all necessary expenditures or losses incurred by Plaintiff and aggrieved employees in direct consequence of the discharge of their duties. Specifically, Defendant failed to indemnify Plaintiff and aggrieved employees for expenditures they incurred on their behalf, including, but not limited to, high speed computer processors, sound mics, lighting supplies, and studio backdrops to fulfill their job functions. In violation of the Labor Code, Defendant failed to reimburse Plaintiff and aggrieved employees for these business-related expenditures.

51. Furthermore, Plaintiff and aggrieved employees were required to use their personal cellphones in the course and scope of their employment to carry out their employment

1 duties, including without limitation contacting clients and communicating with their supervisors
2 for instructions or to provide status reports. Plaintiff and aggrieved employees were not provided
3 reimbursement for the reasonable usage of their personal cellphone by Defendant.

4 52. By virtue of Defendant's unlawful actions, Plaintiff and the aggrieved employees
5 have suffered, and will continue to suffer, damages in amounts which are presently unknown, but
6 will be ascertained according to proof at trial.

7 53. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved
8 employees and the State of California for violations of Labor Code section 2802 during the PAGA
9 period, in a sum as provided by the Labor Code and/or other statutes.

10 54. Plaintiff, individually and on behalf of the aggrieved employees and the State of
11 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699, subdivision
12 (g) and Code of Civil Procedure section 1021.5.

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15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, Plaintiff prays for the following relief:

- 17 1. For penalties in an amount according to proof;
18 2. For reasonable attorney's fees and costs pursuant to the PAGA; and
19 3. For such other and further relief as this Court may deem just and proper.

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21 Respectfully Submitted,

22 Dated: June 10, 2021

WORK LAWYERS, PC

23
24 By: 
25 Justin Lo
26 Attorney for Plaintiff
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Exhibit A



NOTICE OF LABOR CODE VIOLATIONS - PAGA
(Lab. Code, § 2699.3)

DATE March 9, 2021

DELIVERY Online Filing and Certified U.S. Mail

RECIPIENTS California Labor &
Workforce Development Agency
PAGAFilings@dir.ca.gov

Jeanne Johns
Agent for Service of Process
11645 Wilshire Blvd. Suite 800
Los Angeles, CA 90025

Alexander Rivkin, MD, Inc.
Human Resources/Legal Dept.
11645 Wilshire Blvd. Suite 800
Los Angeles, CA 90025

SUBJECT CHEYANNE MALLAS V. ALEXANDER RIVKIN, MD, INC. – NOTICE
OF LABOR CODE VIOLATIONS UNDER CAL. LABOR CODE 2699.3

Dear PAGA Administrator:

This office represents Cheyanne Mallas (“Complainant”) in connection with claims under the California Labor Code. Complainant is a former employee of Alexander Rivkin, MD, Inc. (“Employer”). Pursuant to Labor Code section 2699.3, subdivision (a), we are providing written notice that Employer is in violation of various provisions of the California Labor Code.

Office: (424) 355-8535
E-Mail: Justin@WorkLawyers.com
22939 Hawthorne Boulevard, Suite 202
Torrance, California 90505

Complainant intends to file a complaint against Employer in California Superior Court pursuant to Labor Code section 2699 on behalf of themselves and all aggrieved employees within the one year prior to the filing of the complaint (“Aggrieved Employees”).

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Complainant reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, employer is on notice that Complainant continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

If Employer intends to cure the alleged violations within the statutory time period set forth in Labor Code sections 2699 and 2699.3, subdivision (a), the employer shall provide notice including a description of actions taken to cure. If the alleged violation is not cured within the statutory time period, employee will commence a civil action pursuant to Section 2699.

The Named Entities Are Joint Employers of Complainant and Aggrieved Employees

California courts have recognized that the definition of “employer” for the purpose of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California’s labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35,65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers or permits any person to work or exercises control over the wages, hours, working conditions or any person, may be liable for violations of the California Labor Code as to that person.

Complainant believes and asserts that Alexander Rivkin must be classified as joint employers of Complainant for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered, and permitted Complainant to perform services from which they benefitted, and furthermore the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of Complainant at all relevant times, so as to be considered the joint employers of Complainant. By reason of their status as joint employers of Complainant, they are each liable for civil penalties for violation of the California Labor Code as to the Complainant and other aggrieved employees.

Managing Agent

Alexander Rivkin (hereinafter “managing agents”) were and are officers, corporate agents, executives, directors, and/or owners of respectfully Alexander Rivkin, MD, Inc. Among other things, this managing agent operated and controlled Alexander Rivkin, MD, Inc., personally and specifically established and enforced the employee and other policies for Alexander Rivkin, MD, Inc., and otherwise, continues to cause the wage and hourly violations and other wrongs alleged. The managing agent is responsible for all wage and hourly violations and other wrongs perpetrated upon Complainant and other aggrieved employees.

On information and belief, the managing agent has control over the disbursement, maintenance, and accounting for all unpaid wages due and owing to its employees, and thus caused and/or ratified the under paying of employer’s employees. Employer and managing agent caused and/or ratified the violations pursuant to Labor Code Sections 558, 558.1, and 1197.1, making them jointly and severally liable as individuals with the corporate entities.

Individual Liability of Managing Agent Under Labor Code Section 558 and 558.1

California Labor Code section 558(a) provides “any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: 1) For any initial violation, fifty dollars (\$50.00) for each underpaid employer for each pay period for which the employer was underpaid in addition to

an amount sufficient to recover underpaid wages 2)for each subsequent violation, one hundred dollars (\$100.00) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient recover underpaid wages 3) wages recovered pursuant to this section shall be paid to the affected employee. Labor Code section 558(c) provides that the civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

For the reasons set forth, the managing agent meets the criteria of managing agents under California law, and therefore may be held liable under California Labor Code Section 558.1, 203, 226, 226.7, 1194 and 2802.

The Employer

Employer and its agents own, operate, or otherwise manage a business known as Alexander Rivkin, MD, Inc. According to the California Secretary of State's website, Employer is a business registered in California on July 8, 2003.

Employer may be contacted directly through its agent for service of process at:

Jeanne Johns
Agent for Service of Process
11645 Wilshire Blvd. Suite 800
Los Angeles, CA 90025

The business and mailing address listed for Employer with the California Secretary of State is as follows:

Alexander Rivkin, MD, Inc.
Human Resources/Legal Dept.
11645 Wilshire Blvd. Suite 800
Los Angeles, CA 90025

Complainant believes and hereon alleges that Employer employs, at a minimum, 25 or more aggrieved employees who are non-exempt employees at its California locations at any given

time. Specifically, it is believed that at any given time Employer has approximately 25 or more persons employed and working as a Physician Assistant within California, with additional employees in other positions within California.

Factual Background

Employer employed Complainant and aggrieved employees as a Physician Assistant or other like positions in California. Complainant began working on or about May 29, 2020 and her last day of employment was on or about December 4, 2020. Complainant's duties primarily consisted of caring for Defendant's patients. For more than half of her working time, Complainant did not perform duties with discretion and judgment. Complainant did not have the authority to hire or fire employees. Complainant did not supervise or manage any other employees.

The position required Complainant to work more than 8 hours a day and/or 40 hours per week without lawful compensation. Complainant and aggrieved employees were compensated entirely on a commission basis. Not all of Complainant and aggrieved employees compensable work time spent under the control of Employer was accounted for and compensated.

Complainant and aggrieved employees were regularly not paid for minimum wages and overtime for compensable work time spent under the control of Employer.

Complainant and aggrieved employees were subject to an unlawful deduction from their pay in the form of deductions for medical supplies, skin rejuvenation products, hygiene supplies and tools used to perform their job duties.

Employer failed to authorize and permit all required rest periods for Complainant and aggrieved employees because, upon information and belief, employer maintained unlawful rest period policies/practices. Employer regularly did not have enough employees to provide sufficient coverage to maintain their business operations so Complainant and aggrieved employees could not take complete, timely and uninterrupted meal and rest breaks. Employer failed to provide Complainant and aggrieved employees with an additional hour of premium pay at the regular rate of pay for each rest period violation, as required by Labor Code section 226.7.

Defendants failed to provide Complainant and aggrieved employees accurate itemized wage statements in writing.

Legal Violations

At all relevant times, Complainant and Aggrieved Employees were non-exempt employees working for Employer. At all relevant times, Complainant was an aggrieved employee as defined in Labor Code section 2699, subdivision (c). (Lab. Code, § 2699, subd. (c) [“any person who was employed by the alleged violator who was employed by the alleged violator and against whom one or more of the violations was committed”].)

Complainants employment resulted in numerous violations of the California Labor Code, including the following:

- Employer failed to keep accurate and complete time records for Complainant and Aggrieved Employees. (Lab. Code, §§ 1174, 1198, 1199; Cal. Code Regs., tit. 8, § 11040, subd. 7(A)(3) [“Every employer shall keep accurate information with respect to each employee including the following: . . . Time records showing when the employee begins and ends each work period.”].)
- Employer failed to pay Complainant and Aggrieved Employees for all hours worked. (Lab. Code, § 1197; *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324 [an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage].)
- Employer failed to pay Complainant and Aggrieved Employees at least minimum wage for all hours worked or overtime rates for overtime work. (Lab. Code, §§ 1194, 1197, 1197.1.)
- Employer failed to pay Complainant and Aggrieved Employees overtime equal to one and one-half times their regular hourly rate of pay for each hour worked beyond eight

(8) hours per workday and each hour worked beyond forty (40) hours per work week. (Lab. Code §§ 510, 1198–1199; Cal. Code Regs., tit. 8, § 11040, subd. 3.)

- ☐ Employer failed to pay Complainant and Aggrieved Employees overtime equal to double their regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day or work in a work week. (Lab. Code §§ 510, 1198–1199; Cal. Code Regs., tit. 8, § 11040, subd. 3.)
- ☐ Employer failed to maintain a company meal period policy compliant with California law and failed to provide Complainant and other Aggrieved Employees with proper meal periods. (Lab. Code, §§ 226.7, 512, subd. (a); Cal. Code Regs., tit. 8, § 11040 , subd. 11.)
- ☐ Employer failed to properly compensate Complainant and Aggrieved Employees with an additional hour of premium pay for missed or improper meal periods. (Lab. Code, §§ 226.7, 512, subd. (a); Cal. Code Regs., tit. 8, § 11040, subd. 11.)
- ☐ Employer failed to maintain a company rest break policy compliant with California law and failed to provide Complainant and other Aggrieved Employees with proper rest breaks. (Lab. Code, § 226.7; Cal. Code Regs., tit. 8, § 11040, subd. 12.)
- ☐ Employer failed to properly compensate Complainant and Aggrieved Employees with an additional hour of premium pay for missed or improper rest breaks. (Lab. Code, § 226.7; Cal. Code Regs., tit. 8, § 11040, subd. 12.)
- ☐ Employer failed to properly record Complainant and Aggrieved Employees' meal periods as required by Labor Code section 1198 and applicable IWC Wage Orders (Lab.

Code, § 1198; Cal. Code Regs., tit. 8, § 11040, subd. 7(A)(3) [“Meal periods, split shift intervals and total daily hours worked shall also be recorded.”].)

- ☐ Employer failed to pay Complainant and Aggrieved Employees all wages earned by Complainant and Aggrieved Employees on at least semimonthly paydays . (Labor Code, §§ 204, subd. (a), 207.)
- ☐ Employer took improper deductions from the pay of Complainant and Aggrieved Employees. (Lab. Code, § 221–224, 2802.)
- ☐ Employer refused to make and/or falsely denied the amount of payments due to Complainant and Aggrieved Employees. (Lab. Code, § 216; see also Lab. Code, §§ 1174, 1197, 1197.1, 1198, 1199, 2699.)
- ☐ Employer intentionally and willfully failed to provide proper and accurate wage statements to employees Complainant and Aggrieved Employees. (Lab. Code, § § 226, subd. (a), 226.3, 226.6.) The deficiencies include, among other things, the failure to correctly identify the total hours worked, the gross wages, and correct hourly rate earned by Complainant and Aggrieved Employees.
- ☐ Employer failed to provide proper notices regarding employee payto Complainant and Aggrieved Employees. (Lab. Code, § 2810.5.)
- ☐ Employer failed to pay employees all earned and unpaid wages when they separated/separate from employment. (Lab. Code, §§ 201, 202, 203, 210.)
- ☐ Employer refused to reimburse Complainant and Aggrieved Employees for all expenses incurred during the course and scope of their employment(Lab. Code, § 2802.)

Employer has violated the above-referenced California Labor Code provisions, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. Complainant and other Aggrieved Employees seek to recover those amounts.

Conclusion

Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in question and to the Labor Workforce Development Agency ("LWDA") setting forth the claims and the basis for the claims, thereby giving the Labor Workforce Development Agency an opportunity to investigate the claims or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by Labor Code sections 2699 and 2699.3, subdivision (a), prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the Labor Workforce Development Agency intends to take any action in reference to these claims. We kindly ask that you respond to this notice according to the time frame contemplated by the code.

If the Labor Commissioner or LWDA elects not to take any action with respect to any of the foregoing claims, Complainant will seek these penalties in a civil action, on behalf of herself and all other California-based non-exempt aggrieved employees of Employer within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within **sixty (60) days** of this notice to our office and to that of other charged parties.

If you have any questions, please contact me at the phone number or address below:

Justin Lo
Work Lawyers PC
22939 Hawthorne Boulevard, Suite 202
Torrance, California 90505

Tel: (855) 670-1267

Email: Justin@WorkLawyers.com

Thank you for your attention to this matter. I look forward to hearing from you at your earliest convenience.

Sincerely,

A handwritten signature in blue ink that reads "Justin Lo". The signature is fluid and cursive, with the first name "Justin" and the last name "Lo" clearly visible.

JUSTIN LO

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