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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CHRISTINE ELIAZO, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

NORTHERN CALIFORNIA RETINA
VITREOUS ASSOCIATES MEDICAL
GROUP, INC., an unknown business entity;
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 21CV380823

Honorable Charles F. Adams
Department 7

CLASS ACTION

**DECLARATION OF YASMIN HOSSEINI
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Plaintiff's Motion for Preliminary Approval of
Class Action Settlement; Declaration of
Proposed Class Representative (Christine
Eliazo); and [Proposed] Order filed
concurrently herewith]

Date: May 23, 2024
Time: 1:30 p.m.
Department: 7

Complaint Filed: April 28, 2021
Trial Date: None Set

DECLARATION OF YASMIN HOSSEINI

I, Yasmin Hosseini, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Christine Eliazo (“Plaintiff”). The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EXPERIENCE AND ADEQUACY OF LAWYERS *for* JUSTICE, PC

2. Since October 2008, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, the firm is attorney of record in over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. The firm has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California. Below is a summary of the experience and qualifications of the attorneys at Lawyers *for* Justice, PC who most recently and primarily have been responsible for the representation of Plaintiff in connection with the resolution of above-captioned matter. Additional attorney and non-attorney staff have also worked on the above-captioned matter.

3. Edwin Aiwazian is the Managing Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA

1 Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University.
2 From approximately September 2002 to approximately December 2002, he served as a Judicial
3 Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals for the
4 Ninth Circuit. From approximately June 2002 to approximately August 2002, he served as a
5 Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second
6 Appellate District. In December of 2004, he obtained a license to practice law from the California
7 State Bar. Since in or around October of 2008, through his work at Lawyers *for* Justice, PC, he
8 has almost exclusively focused on the prosecution of consumer and employment class actions,
9 involving wage-and-hour claims, race discrimination, unfair business practices, or consumer
10 fraud. While employed by Lawyers *for* Justice PC, he has argued over one hundred (100) motions,
11 taken or defended over one hundred fifty (150) depositions, prepared dozens of expert witnesses
12 for deposition or trial, and attended over one hundred seventy-five (175) mediations. Together
13 with other attorneys at the firm, and in many cases in conjunction with co-counsel, he has
14 successfully litigated cases involving the executive, administrative, and other overtime exemptions
15 to the State of California and federal overtime compensation requirements. Under his supervision,
16 Lawyers *for* Justice, PC has successfully obtained class certification by contested motion practice
17 in approximately fifteen (15) cases in the last decade, and litigated over 1,000 class action or
18 representative action cases.

19 4. Arby Aiwarzian is a Member and Shareholder of Lawyers *for* Justice, PC. He
20 received his Bachelor of Arts degree from University of California, Los Angeles and graduated
21 magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School.
22 From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to the
23 Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District.
24 From approximately August 2008 to approximately December 2008 he served as a Judicial Extern
25 to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit.
26 He was admitted to practice law in California in 2010. He is admitted to practice before all courts
27 of the State of California and all United States District Courts in the State of California. He has
28 worked on many wage-and-hour class action and representative action cases, taking the lead in

1 taking and defending depositions, arguing motions, and attending mediations. He has played an
2 integral role in preparing matters for class certification, including and not limited to, successful
3 certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior Court Case No.
4 BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No.
5 BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County Superior Court Case No.
6 RG13680477). He has worked on over one hundred (100) class action or representative action
7 cases which have resulted in settlement, including, but not limited to, those listed in paragraph 7
8 herein.

9 5. Joanna Ghosh is a Senior Member of Lawyers for Justice, PC. She received a
10 Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of
11 Science degree from the London School of Economics in 2007, and a Juris Doctor degree from
12 Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010)
13 and in New York (since 2013) and is also admitted to practice in all U.S. District Courts in
14 California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme
15 Court. She has taken and defended dozens of depositions and successfully handled motion practice
16 in class action cases regarding discovery (including and not limited to, regarding class contact
17 information), class certification (both contested class certification and stipulated class
18 certification), arbitration agreements, coordination, intervention. She has successfully handled
19 briefing and oral argument on appeal, and obtained notable decisions regarding the Private
20 Attorneys General Act and employer efforts to compel arbitration, e.g., *Betancourt v. Prudential*
21 *Overall Supply*, 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal., May 24, 2017),
22 cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019). She also
23 has extensive experience with class action and/or representative action settlements. Under her,
24 Edwin Aiwazian, and Arby Aiwazian's supervision, the firm has handled the class certification
25 and court approval process for hundreds of class action and/or representative action matters that
26 have successfully resolved. She is a member of the California Employment Lawyers Association.

27 6. I am a Member of Lawyers for Justice, PC. I received my Bachelor of Arts degree
28 from University of California, Santa Barbara in 2013 and earned my Juris Doctor degree from

Pepperdine University School of Law in 2017. I was admitted to practice law in California in 2019. I am admitted to practice before all courts of the State of California and all federal district courts in the State of California. I have worked on many wage and hour class action and PAGA representative matters, and my work has included, *inter alia*, researching and drafting pleadings, administrative notice exhaustion, drafting, negotiating, and finalizing stipulations and settlement agreements, engaging in motion practice, claims evaluation and analysis, and making court appearances. Prior to working at Lawyers for Justice, PC, I represented filmmakers and talent, negotiating and structuring various types of agreements on their behalf. I am a member of the California Employment Lawyers Association, Beverly Hills Bar Association, and Iranian American Bar Association.

**EXAMPLES OF RESULTS IN WAGE-AND-HOUR CLASS ACTION AND
REPRESENTATIVE ACTION CASES**

7. What follows are just a few examples of the type of results Lawyers for Justice, PC (“LFJ”) has achieved on behalf of its clients:

a) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a major property management company involving allegations of misclassification of various “manager” positions. On September 20, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC400414.

b) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of household items involving allegations of misclassification of the “Assistant Store Manager” position. On October 28, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC413498.

c) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national property management company involving allegations of misclassification of the “Property Manager” position. On May 23, 2012, the court granted final approval of the class action settlement. The Los Angeles County Superior Court

Case Number is BC430918.

d) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer involving allegations of misclassification of the “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class certification. On August 26, 2013, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC424012.

e) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a bank, involving allegations of misclassification of the “Assistant Branch Manager” position. On August 27, 2013, the court granted final approval of the class and PAGA representative action settlement. The Kern County Superior Court Case Number is S-1500-CV-273194-LHB.

f) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national wholesale distributor of plumbing and builder supplies, involving allegations of misclassification of multiple salaried “manager” positions. On May 22, 2014, the court granted final approval of the class and PAGA representative action settlement. The Sacramento County Superior Court Case Number is 34-2012-00136285.

g) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class action against a multinational corporation that provides global workplace solutions, involving allegations of misclassification of the “Operations Manager” position. On September 16, 2014, the court granted plaintiff’s motion for class certification. The Los Angeles County Superior Court Case Number is BC478769.

h) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national retailer of household items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted final approval of the class and PAGA representative action settlement. The San Francisco County Superior Court Case Number is CGC-13-532344.

1 i) LFJ, in association with co-counsel therein, represented the plaintiff in a
2 wage-and-hour class and PAGA action involving allegations of misclassification of the salaried
3 residential “Property Manager” position. On September 17, 2015, the court granted plaintiff’s
4 motion for class certification. On October 20, 2017, the court granted final approval of the class
5 and PAGA representative action settlement. The Los Angeles County Superior Court Case
6 Number is BC474784.

7 j) LFJ, in association with co-counsel therein, represented the plaintiffs in a
8 wage-and-hour class and PAGA representative action against a national retailer of upscale
9 hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court
10 granted final approval of the class and PAGA representative action settlement. The Los Angeles
11 County Superior Court Case Numbers are BC516795 and JCCP4794, and the Judicial Council
12 Coordination Proceeding Number is 4794.

13 k) LFJ, in association with co-counsel therein, represented the plaintiffs in a
14 wage-and-hour class action against a national retailer of apparel and fashion accessories, on behalf
15 of non-exempt employees. On August 5, 2016, the court granted final approval of the class action
16 settlement. The Los Angeles County Superior Court Case Number is BC488069.

17 l) LFJ, in association with co-counsel therein, represented the plaintiffs in a
18 wage-and-hour class action against a national retailer of apparel, accessories, and home products,
19 involving allegations of misclassification of the “Department Manager” position. On August 12,
20 2016, the court granted the plaintiffs’ motion for class certification in part and certified a class. On
21 August 6, 2019, the court granted final approval of the class action settlement. The Alameda
22 County Superior Court Case Number is RG13680477.

23 m) LFJ represented the plaintiff in a PAGA representative action against a real
24 estate and property management company, on behalf of non-exempt employees. On November 4,
25 2016, the court granted approval of the PAGA representative action settlement. The Orange
26 County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

27 n) LFJ, in association with co-counsel therein, represented the plaintiffs in a
28 wage-and-hour class and PAGA representative action against a full-service bank, on behalf of non-

1 exempt employees. On November 18, 2016, the court granted final approval of the class and
2 PAGA representative action settlement. The San Francisco County Superior Court Case Number
3 is CJC-13-004839 and the Judicial Council Coordination Proceeding Number is 4839.

4 o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
5 representative action against a foodservice distributor, on behalf of non-exempt employees. On
6 January 26, 2017, the court granted final approval of the class and PAGA representative action
7 settlement. The San Bernardino County Superior Court Case Number is CIVDS1507260.

8 p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative
9 action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the
10 employer's motion to compel arbitration, which resulted in a published opinion by the California
11 Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply* (Cal.
12 App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied (U.S. Supreme Court
13 Docket No. 17-254). The Riverside County Superior Court Case Numbers are RIC1503952 and
14 RICJCCP5046, and the Judicial Council Coordination Proceeding Number is 5046.

15 q) LFJ, in association with co-counsel therein, represented the plaintiffs in a
16 wage-and-hour class and PAGA representative action against a consumer packaging company, on
17 behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class
18 and PAGA representative action settlement. The Los Angeles County Superior Court Case
19 Number is BC590429.

20 r) LFJ, in association with co-counsel therein, represented the plaintiffs in a
21 wage-and-hour class and PAGA representative action against a manufacturer of food service
22 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final
23 approval of the class and PAGA representative action settlement. The Orange County Superior
24 Court Case Number is 30-2015-00810013-CU-OE-CXC.

25 s) LFJ in association with co-counsel therein, represented the plaintiffs in a
26 wage-and-hour class and PAGA representative action against a lumber and hardware company on
27 behalf of non-exempt employees. On April 26, 2017, the court granted final approval of the class
28

1 and PAGA representative action settlement. The Orange County Superior Court Case Number is
2 30-2014-00747750-CU-OE-CXC.

3 t) LFJ represented the plaintiff in a wage-and-hour class and PAGA
4 representative action against a property management company, on behalf of non-exempt
5 employees. On June 14, 2017, the court granted final approval of the class and PAGA
6 representative action settlement. The Los Angeles County Superior Court Case Number is
7 BC586234.

8 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
9 representative action against a food company on behalf of non-exempt employees. On June 30,
10 2017, the court granted final approval of the class and PAGA representative action settlement. The
11 Sacramento County Superior Court Case Number is 34-2015-00175871.

12 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
13 representative action against a chocolate company on behalf of non-exempt employees. On July
14 19, 2017, the court granted final approval of the class and PAGA representative action settlement.
15 The Alameda County Superior Court Case Number is RG15764300.

16 w) LFJ represented the plaintiff in a PAGA representative action, against the
17 parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
18 October 18, 2017, the court granted approval of the PAGA representative action settlement. The
19 Los Angeles County Superior Court Case Number is BC569664.

20 x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
21 representative action against a manufacturer of plastic containers on behalf of non-exempt
22 employees. On October 31, 2017, the court granted final approval of the class and PAGA
23 representative action settlement. The Los Angeles County Superior Court Case Number is
24 BC577233.

25 y) LFJ, in association with co-counsel therein, represented the plaintiffs in a
26 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
27 employees. On December 11, 2017, the court granted final approval of the class and PAGA
28

1 representative action settlement. The Los Angeles County Superior Court Case Number is
2 BC569646.

3 z) LFJ, in association with co-counsel therein, represented the plaintiffs in a
4 wage-and-hour class and PAGA representative action against a property management company
5 on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court granted final
6 approval of the class and PAGA representative action settlement. The Los Angeles County
7 Superior Court Case Number is JCCP4819 and the Judicial Council Coordination Proceeding
8 Number is 4819.

9 aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a
10 wage-and-hour class and PAGA representative action against a global provider of flexible office
11 space solutions. On February 15, 2018, the court granted final approval of the class and PAGA
12 representative action settlement. The Los Angeles County Superior Court Case Number is
13 BC498401.

14 bb) LFJ, in association with co-counsel therein, represents the plaintiff in a
15 wage-and-hour class action against a container manufacturer, on behalf of non-exempt employees.
16 On October 15, 2018, the court granted the plaintiff's motion for class certification. The Tulare
17 County Superior Court Case Number is VCU264528.

18 cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
19 representative action against a behavioral health service provider on behalf of non-exempt
20 employees. On November 13, 2018, the court granted final approval of the class and PAGA
21 representative action settlement. The Alameda County Superior Court Case Number is
22 RG16811450.

23 dd) LFJ, in association with co-counsel therein, represented the plaintiff in a
24 PAGA representative action against a global provider of products and services to the energy
25 industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the court
26 granted approval of the PAGA representative action settlement. The Kern County Superior Court
27 Case Number is S-1500-CV-280215-SDC.

1 ee) LFJ, in association with co-counsel therein, represents the plaintiff in a
2 wage-and-hour class action against a parking company on behalf of non-exempt employees. On
3 September 3, 2019, the court granted the plaintiff's motion for class certification and certified a
4 class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial
5 Council Coordination Proceeding Number is 4886.

6 ff) LFJ, in association with co-counsel therein, represents the plaintiffs in a
7 wage-and-hour class and representative action against a bank on behalf of non-exempt employees.
8 On September 27, 2019, the court granted the plaintiffs' motion for class certification in part and
9 certified a class. The Alameda County Superior Court Case Number is RG15757606 and the
10 Judicial Council Coordination Proceeding Number is 4921.

11 gg) LFJ, in association with co-counsel therein, represented the plaintiffs in a
12 wage-and-hour class and PAGA representative action against a national retailer of apparel and
13 fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted
14 the plaintiffs' motion for class certification in part and certified a class. On May 14, 2021, the
15 court granted final approval of the class and PAGA representative action settlement. The
16 Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

17 hh) LFJ, in association with co-counsel therein, represents the plaintiff in a
18 wage-and-hour class and PAGA representative action against a medical equipment supplier on
19 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
20 for class certification and certified a class. The San Bernardino County Superior Court Case
21 Number is CIVDS1505744.

22 ii) LFJ, in association with co-counsel therein, on behalf of the plaintiff and
23 respondent in a PAGA representative action, successfully opposed in the trial court, and briefed
24 and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a
25 notable decision from the California Supreme Court clarifying the law and finding, in part, that
26 employer arbitration agreements are unenforceable where they block a PAGA claim from
27 proceeding, *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court
28

1 granted approval of the PAGA representative action settlement. The San Diego County Superior
2 Court Case Number is 34-2015-00175330.

3 jj) LFJ, in association with co-counsel therein, represented the plaintiff in a
4 wage-and-hour class and PAGA representative action against a large national drug testing
5 laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the
6 plaintiff's motion for class certification and certified a class. On October 28, 2022, the court
7 granted final approval of the class and PAGA representative action settlement. The San Diego
8 County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

9 kk) LFJ, in association with co-counsel therein, represents the plaintiffs in a
10 wage-and-hour class and PAGA representative action against a national retailer of sportswear,
11 footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the
12 court granted in part the plaintiff's motion for class certification and certified a class. The
13 Riverside County Superior Court Case Numbers are RIC1507504 and RICJCCP4930, and the
14 Judicial Council Coordination Proceeding Number is 4930.

15 ll) LFJ, in association with co-counsel therein, represented the plaintiffs in a
16 wage-and-hour class action against manufacturer and supplier of power products and services on
17 behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion
18 for class certification and certified a class. On August 27, 2021, the court granted final approval
19 of the class action settlement. The San Diego County Superior Court Case Number is 37-2015-
20 00025968-CU-OE-CTL.

21 mm) LFJ represents the plaintiff in a wage-and-hour class action against a
22 nutritional products manufacturer on behalf of non-exempt production line employees. On
23 December 13, 2021, the court granted the plaintiff's motion for class certification in part and
24 certified a class. The Solano County Superior Court Case Number is FCS051001.

25 nn) LFJ represents the plaintiff in a wage-and-hour class action against an iconic
26 lifestyle accessories brand and retailer on behalf of non-exempt employees. On March 15, 2022,
27 the court granted the plaintiff's motion for class certification in part and certified a class. The San
28 Francisco Superior Court Case Number is CGC-16-550794.

oo) LFJ represents the plaintiffs in a wage-and-hour class action against a manufacturer and distributor of commercial dish and glass cleaning machines and supplies for the restaurant and hospitality industries, on behalf of hourly-paid or non-exempt employees. On July 13, 2023, the court granted the plaintiffs’ motion for class certification and certified a class. The Los Angeles County Superior Court Case Number is BC707670.

THE SETTLEMENT AND SUMMARY OF WORK PERFORMED

8. Marked and attached hereto as “**EXHIBIT 1**” is the Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff, on the one hand, and Defendant Northern California Retina Vitreous Associates Medical Group, Inc., (“Defendant”), on the other hand (collectively, the “Parties”). The Parties and their counsel have approved the proposed Notice of Class Action Settlement (“Class Notice”), which is attached to the Settlement Agreement as “**EXHIBIT B**” and respectfully request that the Court approve it as well.

9. The effectiveness of Lawyers for Justice, PC (“Class Counsel”) in prosecuting this matter has translated into tangible monetary benefits for the Class Members in the following respects: (1) Class Members recover over a reasonably short period of time as opposed to waiting additional years for the same, or possibly worse, result; (2) a guaranteed result that compares favorably with other complex wage and hour class action settlements of similar type given the strengths and weaknesses of the case; and (3) significant savings in attorneys’ fees and/or costs that would have only increased significantly had the cases progressed through certification, trial, and/or appeals.

10. Class Counsel has litigated the matter for over two (2) years and was actively preparing the matter for class certification and trial. The Parties engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Lynn S. Frank, Esq., a well-respected mediator experienced in mediating complex labor and employment matters. In the course of the litigation and in connection with the mediation and settlement discussions, the Parties exchanged class information and engaged in extensive discussions regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further

1 litigation, the risks to the Parties of proceeding with class certification and/or representative
2 adjudication, the law relating to off-the-clock theory, meal and rest periods, PAGA representative
3 actions, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed,
4 and the possibility of appeals, among other things. During all settlement discussions, the Parties
5 conducted their negotiations at arm's length in an adversarial position. Arriving at a settlement
6 that was acceptable to all Parties was not easy. Defendant and their counsel felt strongly about
7 their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed
8 that they would be able to obtain class certification and prevail at trial. After conducting
9 investigations, informal discovery, and exchange of information, extensive settlement
10 negotiations, and with the aid of the mediator's evaluations, the Parties have agreed that the matter
11 is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well
12 as the costs and risks to both sides that would attend further litigation. The Settlement is a fair,
13 reasonable, and adequate resolution of the Released Class Claims of Plaintiff and Settlement Class
14 Members and of the Released PAGA Claims of Plaintiff, PAGA Group Members, and the State
15 of California, against the Released Parties.

16 11. Prior to reaching the Settlement, Class Counsel investigated the veracity, strength,
17 and scope of the claims, and was preparing the action for class certification and trial. Plaintiff
18 conducted significant investigation and informal discovery regarding the facts of the cases,
19 including and not limited to, the exchange, review, and analysis of a large volume of documents
20 and data obtained from Defendant, Plaintiff, and other sources. The volume of data and documents
21 that Class Counsel reviewed and analyzed included and was not limited to: employment records
22 of Plaintiff, Employee Handbook, job description, new hire checklist, earning statements,
23 employment agreement, company policy acknowledgements (Acknowledgement of Employee
24 Handbook) among other information and documents. Class Counsel had the opportunity to
25 interview Plaintiff and other Class Members to gather facts and to identify potential witnesses.
26 Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues
27 relating to the pleadings, and the production of documents and data prior to the mediation. Class
28 Counsel also drafted pleadings and mediation brief and prepared for and attended court

proceedings, mediation, and settlement negotiations, among other tasks.

12. Counsel for the Parties have also invested time researching and investigating the applicable law, which is constantly evolving as it relates to certification, representative PAGA claims, off-the-clock theory, meal and rest periods, wage-and-hour enforcement, Plaintiff's claims and damages, and Defendant's defenses thereto, as well as facts discovered. Based on Class Counsel's analysis, the results achieved in this litigation is fair, adequate, and reasonable.

13. The Settlement provides for a Maximum Settlement Amount of Six Hundred Five Thousand Dollars and Zero Cents (\$605,000.00), subject to increase. The Net Settlement Amount is the Maximum Settlement Amount less the following amounts subject to approval by the Court: Individual PAGA Payments to the PAGA Group Members, the LWDA Payment to the LWDA, Attorneys' Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Administration Costs to Settlement Administrator. Assuming that the amounts allocated under the Settlement toward these payments are awarded by the Court, the Net Settlement Amount is currently estimated to be Two Hundred Fifteen Thousand Two Hundred Fifty Dollars and Zero Cents (\$215,250.00). The Maximum Settlement Amount will be fully distributed in accordance with the terms of the Settlement.

14. The Parties have agreed to retain Simpluris Inc., ("Simpluris" or "Settlement Administrator") to handle the notice and settlement administration. The Parties respectfully request that the Court appoint Simpluris to handle these procedures and serve as the Settlement Administrator. Defendant will provide the Settlement Administrator with a list of Class Members that Defendants will compile from its records, which will include each Class Member's full name, last known mailing address, Social Security Number, dates worked for Defendant during the Class Period, and, if applicable, during the PAGA Period, and dates worked for Defendant during the period from April 28, 2017 through November 30, 2021 and such other information and data as necessary for the Settlement Administrator to independently calculate the Workweeks (collectively, "Class List"), and the Settlement Administrator will calculate each Settlement Class Member's estimated *pro rata* share of the Net Settlement Amount ("Individual Settlement Share") and each PAGA Group Members *pro rata* share of the Employee PAGA Amount ("Individual

1 PAGA Payment”). The Settlement Administrator’s duties will include but is not limited to:
2 distributing and responding to inquiries about the Class Notice, determining the timeliness,
3 validity, and/or completion of any Notices of Objection, Requests for Exclusion, and/or
4 Workweeks Disputes, calculating all amounts to be paid from the Net Settlement Amount, and
5 other duties and responsibilities set forth in the Settlement. Administration Costs are currently
6 estimated not to exceed Fifteen Thousand Dollars (\$15,000.00) and will be paid out of the
7 Maximum Settlement Amount, subject to approval of the Court.

8 15. Based on investigation and information discovered, Class Counsel believes that
9 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
10 that Defendant, with respect to Plaintiff, Class Members, and PAGA Group Members, *inter alia*,
11 failed to properly pay overtime and minimum wages and associated premium pay, failed to provide
12 compliant meal and rest periods and to pay associated premium pay, failed to timely pay wages
13 during employment and upon termination of employment, failed to provide compliant wage
14 statements, failed to maintain requisite payroll records, and failed to reimburse necessary business
15 expenses, and thereby engaged in unfair business practices and conduct giving rise to civil
16 penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code
17 sections 2698, et seq.). Plaintiff also asserted that Class Members were expected to perform similar
18 job duties and were subject to the same or similar operations and employment policies, practices,
19 and procedures. Additionally, Plaintiff asserted that Defendant’s recordkeeping practices with
20 respect to Plaintiff, Class Members, and PAGA Group Members were substantially the same
21 during the time period at issue. As a result, Plaintiff claims that the Class Members and PAGA
22 Group Members, were uniformly not paid all of the compensation that was owed to them by
23 Defendant. Thus, in Class Counsel’s view, it is clear that the outcome of this litigation would be
24 determined by Defendant’s uniform operations and employment practices, policies, and
25 procedures that Plaintiff alleges applied across its hourly-paid or non-exempt employees in
26 California during the relevant time period.

27 16. Class Counsel are aware of the defenses and position of Defendant, but believe that
28 Plaintiff could potentially obtain class certification despite many obstacles. Plaintiff and Class

1 Counsel have also taken into account the uncertainty and risk of the outcome of further litigation,
2 and the difficulties and delays inherent in such litigation, including those involved in class
3 certification and/or representative adjudication. Plaintiff and Class Counsel further recognize the
4 burdens of proof necessary to establish liability for the claims asserted in the lawsuits, Defendant's
5 defenses, and the difficulties in establishing entitlement to monetary recovery. Plaintiff and Class
6 Counsel have also considered the Parties' settlement discussions, as well as the evaluations of the
7 mediator, who is experienced and well-regarded in complex labor and employment matters.

8 17. Defendant, on the other hand, denied and continues to deny any liability and
9 wrongdoing of any kind associated with the claims alleged in the lawsuit, and further denies that
10 the lawsuits are appropriate for class treatment or representative adjudication for any purpose other
11 than this Settlement. Defendant believes that it would ultimately succeed in the matter. Both sides
12 have also had the opportunity to interview witnesses and review documents and information
13 relating to Plaintiff's, Class Members' and PAGA Group Members' employment with Defendant,
14 and Defendant's operations and employment policies, practices, and procedures. The Parties also
15 reviewed and analyzed a large volume of documents and data, including but not limited to
16 Plaintiff's time and pay information, to determine the potential value and strength of the claims.
17 The available information enabled Class Counsel to assess and value the potential claims and
18 prepare violation, damages, and penalties analyses models. Accordingly, the Parties have
19 conducted adequate investigation and discovery to be sufficiently informed of the nature and
20 extent of the Class Members' claims, and to enable both sides to fully evaluate the Settlement for
21 its fairness, adequacy, and reasonableness. The Settlement takes into account the strengths and
22 weaknesses of each side's position and the uncertainty of how the cases might have concluded at
23 certification, trial, and/or appeals.

24 18. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
25 in an amount of up to thirty-five percent (35%) of the Maximum Settlement Amount
26 (i.e., \$211,750.00 if the Maximum Settlement Amount remains \$605,000.00) and expenses and
27 costs in an amount not to exceed Twenty-Eight Thousand Dollars and Zero Cents (\$28,000.00)
28 which will be paid out of the Maximum Settlement Amount, subject to approval by the Court. It

1 should be noted that Class Counsel have borne all of the risks and costs of litigation and will not
2 receive any compensation until recovery is obtained.

3 19. The Settlement Agreement provides for payment of up to Ten Thousand Dollars
4 (\$10,000.00) to Plaintiff as an Enhancement Payment, to be paid out of the Maximum Settlement
5 Amount subject to approval by the Court. Plaintiff spent considerable time and effort to produce
6 relevant documents and past employment records and to provide the facts and evidence necessary
7 to attempt to prove the allegations. Plaintiff was available whenever Class Counsel needed her and
8 actively tried to obtain information that would benefit the Class. Accordingly, it is appropriate and
9 just for Plaintiff to receive an Enhancement Payment, in addition to her individual settlement
10 payments, for her services on behalf of the Class, PAGA Group Members, and the State of
11 California.

12 20. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is
13 in the best interest of Plaintiff, Class, and the State of California. Class Counsel further submits
14 that the Settlement is within an acceptable range of recovery for this type of litigation given the
15 strengths and weaknesses of the case, the inherent costs and risks of further litigation, and the costs
16 and risks associated with class certification, representative adjudication, trial, and/or appeals.

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed on this 19 day of January 2024, at Glendale, California.

20 

21 _____
Yasmin Hosseini

EXHIBIT 1

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement”
3 or “Settlement Agreement”) is made by and between the Plaintiff CHRISTINE ELIAZO
4 (“Plaintiff”), on her own behalf and on behalf of all members of the Settlement Class and the State
5 of California as a private attorney general with respect to employment of PAGA Group Members,
6 as defined below, on the one hand, and Defendant NORTHERN CALIFORNIA RETINA
7 VITREOUS ASSOCIATES MEDICAL GROUP, INC. (“Defendant”) on the other hand (Plaintiff
8 and Defendant collectively referred to as the “Parties” and individually referred to as “Party”), in
9 the lawsuits entitled *Christine Eliazo v. Northern California Retina Vitreous Associates Medical*
10 *Group, Inc.*, filed in Santa Clara County Superior Court, Case No. 21CV380823 (“Class Case”)
11 and *Christine Eliazo v. Northern California Retina Vitreous Associates Medical Group, Inc.*, filed
12 in Santa Clara County Superior Court, Case No. 21CV382772 (“PAGA Case”)(together, the Class
13 Case and PAGA Case are referred to herein as “Actions”).

14 This Settlement Agreement shall be binding on Plaintiff, Settlement Class Members (as
15 defined below), PAGA Group Members (as defined below), the State of California (as set forth
16 herein) and on Defendant, subject to the terms and conditions hereof and the approval of the Court.

17 **I. DEFINITIONS**

18 **1. “Administration Costs”** means all administrative costs of settlement, including
19 costs of notice to the Class, settlement administration, and any fees and costs incurred or charged
20 by the Settlement Administrator in connection with the execution of its duties under this Settlement.

21 **2. “Attorneys’ Fees and Costs”** means attorneys’ fees approved by the Court for
22 Class Counsel’s litigation and resolution of the Actions, and all actual costs incurred and to be
23 incurred by Class Counsel with respect to the Actions, as set forth in Section XV below.

24 **3. “Class Counsel” or “Plaintiff’s Counsel”** mean Edwin Aiwazian, Arby Aiwazian,
25 Joanna Ghosh, and Yasmin Hosseini of Lawyers *for* Justice, PC and all the lawyers of this firm
26 acting on behalf of Plaintiff and the Class.

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1 **4. “Class List”** means a complete list of all Class Members that Defendant will
2 diligently and in good faith compile from their records and provide to the Settlement
3 Administrator. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet
4 and will include each Class Member’s full name, last known mailing address, Social Security
5 Number, dates worked for Defendant during the Class Period and, if applicable, during the PAGA
6 Period, and dates worked for Defendant during the period from April 28, 2017 through November
7 30, 2021 and such other information and data as necessary for the Settlement Administrator to
8 independently calculate the Workweeks (as defined below).

9 **5. “Class Members” or “Class”** means all current and former hourly-paid or non-
10 exempt employees who worked for Defendant within the State of California at any time during the
11 Class Period.

12 **6. “Class Notice”** means the Notice of Class Action Settlement, substantially in the
13 form attached as **“Exhibit A.”**

14 **7. “Class Period”** means the period from April 28, 2017 through September 20, 2022.

15 **8. “Class Settlement”** means the settlement and release of Released Class Claims.

16 **9. “Court”** means the Superior Court of the State of California for the County of Santa
17 Clara.

18 **10. “Defendant”** means Northern California Retina Vitreous Associates Medical
19 Group, Inc.

20 **11. “Defendant’s Counsel”** means Fisher & Phillips LLP.

21 **12. “Effective Date”** means the date when all of the following events have occurred:
22 (1) the Settlement Agreement has been executed by all Parties, Class Counsel, and Defendant’s
23 Counsel; (2) the Court has given Preliminary Approval to the Settlement; (3) the Class Notice
24 has been mailed to the Class Members, providing them with an opportunity to object to the terms
25 of the Class Settlement or opt out of the Class Settlement; (4) the Court has held a Final Approval
26 Hearing and entered a Final Approval Order and Judgment; and (5) the later of the following
27 events: five (5) business days after the period for filing any appeal, writ, or other appellate
28 proceeding opposing the Court’s Final Approval Order and Judgment has elapsed without any

1 appeal, writ, or other appellate proceeding having been filed; or, if any appeal, writ, or other
2 appellate proceeding opposing the Court's Final Approval Order and Judgment has been filed,
3 five business days after any appeal, writ, or other appellate proceedings opposing the Settlement
4 has been finally and conclusively dismissed with no right to pursue further remedies or relief.

5 **13. "Enhancement Payment"** means the amount to be paid to Plaintiff CHRISTINE
6 ELIAZO in recognition of her efforts and work in prosecuting the Actions on behalf of Class
7 Members, as set forth in Section XVI below.

8 **14. "Final Approval"** means the determination by the Court that the Settlement is fair,
9 reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

10 **15. "Final Approval Hearing"** means the hearing at which the Court will consider
11 and determine whether the Settlement should be granted Final Approval.

12 **16. "Individual PAGA Payments"** means payments made to the PAGA Group
13 Members from the Employee PAGA Amount that PAGA Group Members are eligible to receive
14 for the PAGA Settlement, as calculated in accordance with Section XIII.2. herein.

15 **17. "Individual Settlement Payments"** means the net payment of each Settlement
16 Class Member's Individual Settlement Share, after reduction for the employee's share of taxes and
17 withholdings with respect to the wages portion of the Individual Settlement Share, as provided in
18 Section XIII.1. herein.

19 **18. "Individual Settlement Share"** means the *pro rata* share of the Net Settlement
20 Amount that a Class Member may be eligible to receive for the Class Settlement, to be calculated
21 in accordance with Section XIII.1. herein, which is inclusive of employee's share of taxes and
22 withholdings with respect to the wages portion of the Settlement.

23 **19. "Maximum Settlement Amount"** means the sum of Six Hundred Five Thousand
24 Dollars and Zero Cents (\$605,000.00), which shall be paid by Defendant, and from which all
25 Individual Settlement Payments, Court-approved Attorneys' Fees and Costs, Administration Costs,
26 Enhancement Payment, and PAGA Penalties shall be paid, except as provided herein.

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1 **20. “Net Settlement Amount”** means the Maximum Settlement Amount minus any
2 Court-approved award of Attorneys’ Fees and Costs to Class Counsel, Administration Costs to the
3 Settlement Administrator, Enhancement Payment to Plaintiff, and PAGA Penalties, and as
4 provided in Sections X, XV, XVI, and XVIII.

5 **21. “Notice of Objection”** means a Class Member’s written objection to the Class
6 Settlement, which must include: (a) the case name and number of the Class Case; (b) the
7 objector’s full name, signature, address, telephone number, and the last four digits of his or her
8 Social Security number; (c) a written statement of all grounds for the objection accompanied by
9 any legal support for such objection; (d) the full name, address, and telephone number of any
10 attorney representing the Class Member with respect to his or her objection; and (e) copies of any
11 papers, briefs, or other documents upon which the objection is based.

12 **22. “Operative Complaint”** means the contemplated First Amended Consolidated
13 Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act,
14 Cal. Labor Code § 2698, Et Seq., to be filed to implement the Settlement, in substantially the form
15 attached hereto as **“Exhibit A”**.

16 **23. “PAGA Group Members”** means all current and former hourly-paid or non-
17 exempt employees who worked for Defendant within the State of California on at least one day
18 during the PAGA Period.

19 **24. “PAGA Penalties”** means the amount of One Hundred Twenty-Five Thousand
20 Dollars and Zero Cents (\$125,000.00) from the Maximum Settlement Amount which will be
21 allocated toward penalties under the Private Attorneys General Act, California Labor Code § 2698
22 *et seq.*, of which seventy-five percent (75%) will be paid to the LWDA (i.e., the “LWDA
23 Payment”), and twenty-five percent (25%) will be distributed to the PAGA Group Members (i.e.,
24 the “Employee PAGA Amount”).

25 **25. “PAGA Period”** means the period from April 1, 2020 through September 20, 2022.

26 **26. “PAGA Settlement”** means the settlement and release of Released PAGA Claims.

27 **27. “Plaintiff”** as used herein means Christine Eliazo.

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1 **28. “Preliminary Approval”** means entry of the Court order granting preliminary
2 approval of the Settlement Agreement.

3 **29. “Released Class Claims”** means any and all claims under state, federal, or local
4 law, alleged in the Operative Complaint or that could have been alleged based on the factual
5 allegations in the Operative Complaint, arising during the Class Period, including but not limited
6 to claims for violations of California Labor Code sections 201-204, 221-224, 226 *et seq.*, 226.7, 351,
7 510, 512, 551, 552, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802, Industrial Welfare
8 Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, California
9 Business and Professions Code section 17200, *et seq.*, regulations, and/or other provisions of law
10 for failure to pay overtime wages, failure to provide compliant meal periods and associated
11 premiums, failure to provide compliant rest periods and associated premiums, failure to pay
12 minimum wages, failure to timely pay wages upon termination, failure to timely pay wages during
13 employment, failure to provide compliant wage statements, failure to keep requisite payroll records,
14 failure to reimburse necessary business expenses, and violation of California’s unfair competition
15 law.

16 **30. “Released PAGA Claims”** means any and all claims for civil penalties under the
17 Private Attorneys General Act (California Labor Code section 2698, *et seq.*), arising out of the
18 facts alleged in Plaintiff’s LWDA Letter, arising during the PAGA Period, for violations of
19 California Labor Code sections 201-204, 221-224, 226 *et seq.*, 226.7, 351, 510, 512, 551, 552, 1174,
20 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802 and Industrial Welfare Commission Wage
21 Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, for failure to pay overtime wages,
22 failure to provide compliant meal period and associated premiums, failure to provide compliant rest
23 periods and associated premiums, failure to pay minimum wages, failure to timely pay wages upon
24 termination, failure to timely pay wages during employment, failure to provide compliant wage
25 statements, failure to keep requisite payroll records, failure to reimburse necessary business
26 expenses.

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1 **31. “Released Parties”** means Defendant, and all of its current and former agents,
2 officers, management-level employees, directors, owners, subsidiaries, affiliates, parent
3 companies, insurers, and attorneys.

4 **32. “Response Deadline”** means the deadline by which Class Members must submit a
5 Request for Exclusion, Notice of Objection, and/or dispute of the Workweeks credited to them,
6 which shall be the date that is forty-five (45) calendar days from the initial mailing of the Class
7 Notice by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday,
8 in which case the Response Deadline will be extended to the next day on which the U.S. Postal
9 Service is open. The Response Deadline may also be extended by express agreement between
10 Class Counsel and Defendant’s Counsel. Under no circumstances, however, will the Settlement
11 Administrator have the authority to extend the Response Deadline. In the event that a Class Notice
12 is re-mailed to a Class Member, the Response Deadline for that Class Member shall be the
13 extended by fifteen (15) calendar days from the original Response Deadline.

14 **33. “Request for Exclusion”** means a Class Member’s written letter indicating a
15 request to be excluded from the Class Settlement. The Request for Exclusion must: (a) contain
16 the case name and number of the Class Case; (b) be signed by the Class Member; (c) contain the
17 full name, address, telephone number, and the last four digits of the Social Security Number of
18 the Class Member requesting exclusion; and (d) clearly state that the Class Member does not wish
19 to be included in the Class Settlement.

20 **34. “Settlement Administrator”** means Simpluris, Inc. (“Simpluris”), the settlement
21 administrator selected by the Parties, and which will be responsible for the administration of the
22 Maximum Settlement Amount, as defined below, and all related matters. The Parties each represent
23 that they do not have any financial interest in the Settlement Administrator or otherwise have a
24 relationship with the Settlement Administrator that could create a conflict of interest.

25 **35. “Settlement Class Member”** means a Class Member who does not submit a timely
26 and valid Request for Exclusion from the Class Settlement.

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1 **36. “Workweeks”** means the number of weeks that a Class Member and/or PAGA
2 Group Member worked for Defendant as an hourly-paid or non-exempt employee in California
3 during the Class Period and/or PAGA Period, which will be calculated by the Settlement
4 Administrator utilizing information provided by Defendant that shall include dates of employment
5 and the specific number of workweeks worked where the Class Member and/or PAGA Group
6 Member worked at least one (1) shift during a calendar week commencing from Sunday through
7 Saturday, during the Class Period and/or PAGA Period. Each Class Member and/or PAGA Group
8 Member will be credited with at least one (1) Workweek.

9 **II. BACKGROUND**

10 **1.** On April 1, 2021, Plaintiff sent a letter to the Labor and Workforce Development
11 Agency and Defendant, pursuant to California Labor Code section 2699.3, providing notice of her
12 intent to seek civil penalties under the Private Attorneys General Act, California Labor Code
13 section 2698, *et seq.*, for Defendant’s alleged violations of California Labor Code sections 201,
14 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and
15 2802, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001
16 and 5-2001 (“LWDA Letter”).

17 **2.** On April 28, 2021, Plaintiff filed a Class Action Complaint for Damages (the “Class
18 Action Complaint”), Case No. 21CV380823 in Santa Clara County Superior Court, which is a wage
19 and hour class action against Defendant. In this class action, Plaintiff alleges, *inter alia*, on behalf
20 of herself and all others similarly situated, that Defendant violated California state wage and hour
21 laws and the California Business and Professions Code section 17200 *et seq.* Specifically, Plaintiff
22 alleged that Defendant violated the following provisions of the California Labor Code: (1)
23 California Labor Code sections 510 and 1198 (Unpaid Overtime); (2) California Labor Code
24 sections 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) California Labor Code section
25 226.7 (Unpaid Rest Period Premiums); (4) California Labor Code sections 1194, 1197, and 1197.1
26 (Unpaid Minimum Wages); (5) California Labor Code sections 201-203 (Final Wages Not Timely
27 Paid); (6) California Labor Code section 204 (Wages Not Timely Paid During Employment); (7)
28 California Labor Code section 226(a) (Non-Compliant Wage Statements); (8) California Labor

1 Code section 1174(d) (Failure To Keep Requisite Payroll Records); (9) California Labor Code
2 sections 2800 and 2802 (Unreimbursed Business Expenses); and (10) California Business &
3 Professions Code section 17200, *et seq.*

4 **3.** On June 7, 2021, Plaintiff filed a Complaint for Enforcement Under the Private
5 Attorneys General Act, California Labor Code § 2698, Et Seq. (the “PAGA Complaint”) Case No.
6 21CV382772 in Santa Clara County Superior Court, alleging a single representative cause of action
7 against Defendant under the Private Attorneys General Act, California Labor Code section 2698,
8 *et seq.* (“PAGA”).

9 **4.** In order to facilitate global settlement of the Class Case and the PAGA Case, the
10 Parties have agreed to allow Plaintiff to file a First Amended Complaint in the Class Case
11 (“Operative Complaint” or “First Amended Complaint”).

12 **5.** Defendant denies all material allegations set forth in the Actions, defined below,
13 and has asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding
14 further litigation, Defendant desires to fully and finally settle the Actions and Released Class
15 Claims and Released PAGA Claims (as defined herein).

16 **6.** Class Counsel diligently investigated the allegations asserted in the Actions and
17 evaluated the claims against Defendant, including any and all applicable defenses and the
18 applicable law. The investigation included, *inter alia*, the exchange of information, data, and
19 documents, and review of numerous corporate policies and practices.

20 **7.** On January 6, 2022, the Parties participated in an all-day mediation with Lynn
21 Frank, Esq. (the “Mediator”), a respected mediator of complex wage and hour actions. Plaintiff
22 and Class Counsel engaged in good faith, arms-length negotiations with Defendant concerning
23 possible settlement of the claims asserted in the Actions. These good faith, arms-length
24 negotiations resulted in settlement of the Actions and are memorialized in this Settlement
25 Agreement after extensive negotiations about the terms and conditions of the Settlement. Class
26 Counsel has conducted an investigation of the law and facts relating to the claims asserted in the
27 Actions and has concluded, taking into account the sharply contested issues involved, the defenses
28 asserted by Defendant, the expense and time necessary to pursue the Actions through trial and any

1 appeals, the risks and costs of further prosecution of the Actions, the risk of an adverse outcome,
2 the uncertainties of complex litigation, and the substantial benefits to be received by Plaintiff, Class
3 Members, State of California, and PAGA Group Members, pursuant to this Agreement, that a
4 settlement with Defendant on the terms and conditions set forth herein is fair, reasonable, adequate,
5 and in the best interests of the Class, State of California, and PAGA Group Members. Plaintiff, on
6 her own behalf, on behalf of the Class, and as a private attorney general on behalf of the State of
7 California with respect to PAGA Group Members, has agreed to settle the Actions with Defendant
8 on the terms set forth herein.

9 **8.** Defendant has concluded that, because of the substantial expense of defending
10 against the Actions, the length of time necessary to resolve the issues presented herein, the
11 inconvenience involved, and the concomitant disruption to their business operations, it is in
12 Defendant's best interest to accept the terms of this Agreement. Defendant denies each of the
13 allegations and claims asserted against it in the Actions. However, Defendant nevertheless desires
14 to settle the Actions for the purpose of avoiding the burden, expense and uncertainty of continuing
15 litigation and for the purpose of putting to rest the controversies engendered by the Actions.

16 **9.** The Parties expressly acknowledge that this Settlement Agreement is entered into
17 solely for the purpose of compromising significantly disputed claims and that nothing herein is
18 an admission of liability or wrongdoing by Defendant. If for any reason the Settlement
19 Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to
20 their original respective positions.

21 **III. JURISDICTION**

22 The Court has jurisdiction over the Parties and the subject matter of the Actions. The
23 Actions include claims that, while Defendant denies them in their entirety, would, if proven,
24 authorize the Court to grant relief pursuant to the applicable statutes. After entry of judgment
25 pursuant to the Settlement, the Court will have continuing jurisdiction pursuant to Rule 3.769 of
26 the California Rules of Court and Section 664.6 of the California Code of Civil Procedure, for
27 purposes of addressing: (a) the interpretation and enforcement of the terms of the settlement, (b)
28

1 settlement administration matters, and (c) such post-judgment matters as may be appropriate
2 under court rules or as set forth in this Settlement Agreement.

3 **IV. AMENDMENT OF THE PLEADINGS**

4 As part of the Settlement embodied in this Agreement, the Parties stipulate to Plaintiff
5 seeking and being granted leave to file the contemplated First Amended Consolidated Class Action
6 Complaint for Damages and Enforcement Under the Private Attorneys General Act, California
7 Labor Code § 2698, Et Seq. (i.e., Operative Complaint), consolidating the Class Action Complaint
8 and the PAGA Complaint. Thereafter, Plaintiff shall dismiss the PAGA Case without prejudice.

9 **V. STIPULATION OF CLASS CERTIFICATION**

10 1. The Parties stipulate to the certification of the Class for purposes of settlement only.
11 2. The Parties agree that certification for the purpose of settlement is not an
12 admission that certification is proper under Section 382 of the California Code of Civil Procedure.
13 Should, for whatever reason, the Court not grant Final Approval, or if judgment thereon not
14 become final, the Parties' stipulation to class certification as part of the Settlement shall become
15 null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection
16 with, the issue of whether or not certification would be appropriate or inappropriate in a non-
17 settlement context in this or any other proceeding.

18 **VI. MOTION FOR PRELIMINARY APPROVAL**

19 1. Plaintiff will bring a motion before the Court for an order preliminarily approving
20 the Settlement including the Class Notice, which is attached hereto as "**Exhibit B**," and including
21 certification of the Class for settlement purposes only.

22 2. Class Counsel will prepare the motion seeking Preliminary Approval of the
23 Settlement and will provide Defendant's Counsel the opportunity to review it and provide input
24 before it is filed. Defendant agrees that it will not oppose Plaintiff's Motion for Preliminary
25 Approval, nor shall it seek to delay the hearing date obtained by Plaintiff on this motion. This is a
26 material term of the Settlement and any delay or opposition by Defendant will be grounds for
27 Plaintiff to withdraw from the Settlement.

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1 **VII. STATEMENT OF NO ADMISSION**

2 **1.** Defendant denies liability for any claim or cause of action asserted in the LWDA
3 Letter, the Operative Complaint, and/or in the Actions. This Agreement does not constitute, and is
4 not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any
5 of the allegations or claims made against it in the LWDA Letter, the Operative Complaint, and/or
6 in the Actions.

7 **2.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
8 statements, discussions or communications, nor any materials prepared, exchanged, issued, or used
9 during the course of the negotiations leading to this Agreement or the Settlement, is intended by
10 the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used, or be
11 offered in any way in this case or any other judicial, arbitral, administrative, investigative or other
12 forum or proceeding as evidence of any violation of any federal, state, or local law, statute,
13 ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The
14 Parties themselves agree not to introduce, use, or offer this Agreement, directly or indirectly, in this
15 case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding, as
16 purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation,
17 rule or executive order, or any obligation or duty at law or in equity, or for any other purpose.
18 Notwithstanding the foregoing, this Agreement may be used and filed in any proceeding before the
19 Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement
20 or any orders or judgments of the Court entered in connection with implementation of this
21 Agreement and/or the Settlement.

22 **3.** None of the documents produced or created by Plaintiff or the Class in connection
23 with settlement procedures constitute, and they are not intended to constitute, an admission by
24 either Plaintiff or Defendant regarding whether or not any violation of any federal, state, or local
25 law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in
26 equity has occurred.

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1 **VIII. WAIVER, RELEASE AND CONFIDENTIALITY**

2 **1. Released Class Claims of All Settlement Class Members.**

3 Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff
4 and all Class Members who do not submit a timely and valid Request for Exclusion from the Class
5 Settlement (i.e., Settlement Class Members) will be deemed to have fully, finally, and forever
6 released, settled, compromised, relinquished, and discharged the Released Parties of all Released
7 Class Claims.

8 **2. Released PAGA Claims of the State of California and PAGA Group Members.**

9 Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff,
10 the State of California, and PAGA Group Members will be deemed to have fully, finally, and
11 forever released, settled, compromised, relinquished, and discharged the Released Parties of all
12 Released PAGA Claims.

13 **3. General Release by Plaintiff Only.**

14 In addition to the releases made in Section VIII, upon the Effective Date and full funding
15 of the Maximum Settlement Amount, Plaintiff will be deemed to have fully released and discharged
16 the Released Parties of and from all claims arising from her employment with Defendant, separation
17 of employment from Defendant, and any acts that have or could have been asserted in any legal
18 action or proceeding against Defendant, whether known or unknown, arising under any federal,
19 state, or local law, or statute, including, *inter alia*, those arising under the California Labor Code,
20 Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of
21 1964, Employee Retirement Income Security Act, National Labor Relations Act, California
22 Corporations Code, California Business and Professions Code, Orders of the California Industrial
23 Welfare Commission, California Fair Employment and Housing Act, California Constitution (all
24 as amended), and law of contract and tort, as well as for discrimination, harassment, retaliation,
25 wrongful termination, lost wages, benefits, other employment compensation, emotional distress,
26 medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on
27 or before the date on which the Settlement is executed. With respect to those claims released by
28

1 Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits
2 available under California Civil Code Section 1542, which provides:

3 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
4 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
5 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
6 **THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD**
7 **HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH**
8 **THE DEBTOR OR RELEASED PARTY.**

9 Plaintiff understands and agrees that claims or facts in addition to or different from those which are
10 now known or believed by her to exist may hereafter be discovered. It is Plaintiff's intention to
11 settle fully and release all claims she now has against the Released Parties, whether known or
12 unknown, suspected or unsuspected. The Enhancement Payment will be paid to Plaintiff
13 specifically in exchange for the general release of the Released Parties from all claims, including
14 those specified in this paragraph and a covenant not to sue the Released Parties. Notwithstanding
15 the above, the general release by Plaintiff shall not extend to claims for workers' compensation
16 benefits, claims for unemployment benefits, or other claims that may not be released by law.

17 **IX. MONETARY CONSIDERATION FOR SETTLEMENT**

18 **1. Consideration for This Agreement.**

19 As consideration for this Agreement, Defendant will make a payment that totals the
20 Maximum Settlement Amount of \$605,000.00, subject to increase as set forth in Section IX.2.
21 herein. The payment of the Maximum Settlement Amount represents full and complete settlement
22 of this matter. The Maximum Settlement Amount includes all Attorneys' Fees and Costs to Class
23 Counsel, Administration Costs to Settlement Administrator, Enhancement Payment to Plaintiff,
24 and PAGA Penalties. The balance of the Maximum Settlement Amount, after deduction of
25 Attorneys' Fees and Costs, Administration Costs, PAGA Penalties, and the Enhancement Payment,
26 will be the Net Settlement Amount. The Maximum Settlement Amount is non-reversionary.
27 Defendant's employer payroll taxes and contributions in connection with the wages portion of the
28 Settlement ("Employer Taxes") shall be paid separately and in addition to the Maximum Settlement
Amount.

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1 **2. Potential Increase to the Settlement Amount.**

2 Defendant represented that there are approximately 14,174 Workweeks for the period from
3 April 28, 2017 to November 30, 2021. If the number of Workweeks during the period of April 28,
4 2017 to November 30, 2021 is actually more than 10% higher than 14,174, i.e., there are more than
5 15,591 workweeks for the referenced time period (“Workweeks Threshold”), the Maximum
6 Settlement Amount will increase on a *pro rata* basis to the extent the Workweeks Threshold is
7 exceeded. For example, if the Workweeks for the referenced time period exceed the Workweeks
8 Threshold by 1%, then the Maximum Settlement Amount will be increased by 1%.

9 **X. SETTLEMENT ADMINISTRATOR**

10 Plaintiff and Defendant, through their respective counsel, have selected Simpluris, Inc. as a
11 Settlement Administrator to administer the Settlement, which includes but is not limited
12 distributing and responding to inquiries about the Class Notice, determining the timeliness, validity,
13 and/or completion of any Notices of Objection, Requests for Exclusion, and/or Workweeks
14 Disputes, and calculating all amounts to be paid from the Net Settlement Amount. Charges and
15 expenses of the Settlement Administrator, estimated to be no more than \$15,000.00, will be paid
16 from the Maximum Settlement Amount, subject to Court approval. To the extent actual
17 Administration Costs are greater than the estimated amount stated herein, such excess amount will
18 be paid from the Maximum Settlement Amount, subject to approval by the Court. Any portion of
19 the estimated, designated, and/or awarded Administration Costs which are not in fact required to
20 fulfill payment to the Settlement Administrator to undertake the required settlement
21 administration duties will be part of the Net Settlement Amount for the benefit of Settlement Class
22 Members.

23 **XI. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

24 **1. Notice to the Class.**

25 Plaintiff and Defendant, through their respective attorneys, have jointly prepared the Class
26 Notice, which in substance will be provided to the Class Members as follows:

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1 **a.** As soon as practicable following Preliminary Approval of the Settlement,
2 but no later than twenty-one (21) calendar days after Preliminary Approval, Defendant will provide
3 to the Settlement Administrator the Class List. Defendant further agrees to consult with the
4 Settlement Administrator prior to the production date to ensure that the format will be acceptable
5 to the Settlement Administrator. Plaintiff's Counsel shall also receive a redacted Class List that
6 shall only disclose an identification number attributed to each Class Member and their associated
7 Workweeks during the Class Period, PAGA Period, and during the period from April 28, 2017
8 through November 30, 2021.

9 **b.** The Settlement Administrator shall run all the addresses provided through
10 the United States Postal Service's National Change of Address ("NCOA") database (which
11 provides updated addresses for any individual who has moved in the previous four years who has
12 notified the U.S. Postal Service of a forwarding address) to obtain current address information, and
13 shall mail the Class Notice to the Class Members via first-class U.S. Mail using the most current
14 mailing address information available, within ten (10) calendar days of the receipt of the Class List
15 from Defendant.

16 **c.** The Class Notice will include information regarding the nature of the
17 Actions; a summary of the terms of the Settlement; the definition of the Class; a statement that the
18 Court has preliminarily approved the Settlement; the nature and scope of the claims being released;
19 the procedure and time period for objecting to the Class Settlement, the date and location of the
20 Final Approval Hearing; information regarding the procedure for opting out of the Class
21 Settlement; the number of Workweeks credited to each Class Member and the procedure for
22 disputing the number of Workweeks credited; and the estimated Individual Settlement Payment for
23 the Class Member and/or Individual PAGA Payment for the PAGA Group Member (if applicable).

24 **d.** If a Class Notice is returned as undeliverable before the Response Deadline,
25 the Settlement Administrator will perform a skip trace in an attempt to locate a more current address
26 within three (3) business days of receipt of the returned mail. If the Settlement Administrator is
27 successful in locating an updated address, it will re-mail the Class Notice to the Class Member as
28 soon as possible. Further, any Class Notices returned with a forwarding address to the Settlement

1 Administrator before the Response Deadline, shall be re-mailed to the forwarding address affixed
2 thereto.

3 e. Class Members will be given forty-five (45) calendar days after the Class
4 Notice is initially mailed to the Class Members, to submit Workweeks Disputes, Requests for
5 Exclusion, and/or Notices of Objection (i.e., Response Deadline). With respect to any Class Notice
6 that is re-mailed, the Response Deadline for the Class Member whose Class Notice is re-mailed
7 will be extended an additional fifteen (15) calendar days from the original Response Deadline.

8 f. Prior to the Final Approval Hearing, the Settlement Administrator shall
9 provide counsel for Defendant and Class Counsel with a declaration attesting to the completion of
10 the settlement notice administration process, that includes the number of attempts to obtain valid
11 mailing addresses for and re-sending of any returned Notices, the number of Workweeks Disputes,
12 Requests for Exclusion, and Notices of Objection received, attaches copies of the Notices of
13 Objection received, and lists the names of individuals who submitted a timely and valid Request
14 for Exclusion.

15 **2. Objections to the Class Settlement.**

16 a. Class Members who do not submit a Request for Exclusion (i.e., Settlement
17 Class Members) may object to the Class Settlement. To object to the Class Settlement, a Settlement
18 Class Member may send a written objection (i.e., a Notice of Objection) to the Settlement
19 Administrator or appear at the Final Approval Hearing with or without submitting a written
20 objection to the Class Settlement.

21 b. The Settlement Class Member may appear personally or through an attorney,
22 at his or her own expense, at the Final Approval Hearing to present his or her objection directly to
23 the Court. However, any attorney who will represent an objector must file a notice of appearance
24 with the Court and serve Class Counsel and Defendant's counsel no later than the Response
25 Deadline.

26 c. If a Class Member objects to the Class Settlement, the Class Member will
27 remain a Settlement Class Member and if the Court approves this Agreement, the Settlement Class
28 Member will be bound by the terms of the Class Settlement in the same way and to the same extent

1 as a Settlement Class Member who does not object to the Class Settlement.

2 **d.** The date of mailing of the Class Notice to the objecting Settlement Class
3 Member shall be conclusively determined according to the records of the Settlement Administrator.
4 The Court retains final authority with respect to the consideration and admissibility of any
5 objections to the Class Settlement from Settlement Class Members. The Class Notice shall contain
6 instructions on how to object to the Class Settlement.

7 **3. Opportunity to Be Excluded from the Class Settlement.**

8 **a.** In order for any Class Member to validly exclude himself or herself from the
9 Class Settlement (i.e., to validly opt out of the Class Settlement), he or she must submit a timely
10 and valid Request for Exclusion. The Class Notice shall contain instructions on how to opt out of
11 the Class Settlement.

12 **b.** The date of the initial mailing of the Class Notice, and the date the signed
13 Request for Exclusion was postmarked, shall be conclusively determined according to the records
14 of the Settlement Administrator. Any Class Member who timely and validly submits a Request
15 for Exclusion will not be entitled to an Individual Settlement Payment, will not be bound by the
16 Class Settlement, and will not have any right to object, appeal, or comment thereon.

17 **c.** Any Class Member who does not submit a timely and valid Request for
18 Exclusion to the Settlement Administrator will be deemed bound to the Class Settlement in
19 accordance with this Settlement. All PAGA Group Members shall be bound to the PAGA
20 Settlement regardless of their decision to participate in the Class Settlement.

21 **4. Cooperation.**

22 The Parties and their respective counsel agree not to encourage members of the Class to opt
23 out of the Class Settlement or to object to the Class Settlement, directly or indirectly, through any
24 means. However, if a Class Member contacts Class Counsel, Class Counsel may discuss the terms
25 of the Settlement and the Class Member's options with respect to the Settlement.

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1 **XII. WORKWEEKS DISPUTE PROCEDURE**

2 1. If a Class Member and/or PAGA Group Member disputes the number of Workweeks
3 credited to him or her for the Class Period and/or PAGA Period, which will be set forth in the Class
4 Notice, he or she must submit a written dispute (“Workweeks Dispute”) that: (a) contains the case
5 name and number of the Class Case; (b) contains the Class Member’s full name, address, telephone
6 number, signature, and last four digits of his or her Social Security number; (c) contains a statement
7 setting forth the number of Workweeks during the Class Period and/or PAGA Period that he or she
8 contends is correct and attaches any relevant documentation in support thereof; and (d) is submitted
9 to the Settlement Administrator by mail, postmarked no later than the Response Deadline. If a Class
10 Member and/or PAGA Group Member does not dispute his or her number of Workweeks, the
11 number of Workweeks set forth in the Class Notice will govern the Individual Settlement Payment
12 to the Class Member and/or the Individual PAGA Payment to the PAGA Group Member, and such
13 individual need not take further action to participate in the Settlement.

14 2. Upon timely receipt of any such challenge, the Settlement Administrator, in
15 consultation with Class Counsel and counsel for Defendant, will review the pertinent records
16 showing the dates the Class Member worked for Defendant in California and the number of
17 Workweeks worked during the Class Period and/or PAGA Period, which records Defendant agrees
18 to make available to the Settlement Administrator and Class Counsel.

19 3. After consulting with Class Counsel and counsel for Defendant, the Settlement
20 Administrator shall compute the number of Workweeks to be used in computing the Class
21 Member’s *pro rata* share of the Net Settlement Amount and the PAGA Group Members’ *pro rata*
22 share of the Employee PAGA Amount (if applicable). In the event that there is a disparity between
23 the number of Workweeks a Class Member claims he or she worked during the Class Period and/or
24 number of Workweeks a PAGA Group Member claims he or she worked during PAGA Period and
25 the number of Workweeks indicated by Defendant’s records, Defendant’s records will control
26 unless inconsistent with records provided by the Class Member and/or PAGA Group Member (or
27 bona fide copies thereof), in which case the records provided by the Class Member and/or PAGA
28 Group Member will control. The Settlement Administrator’s decision as to the number of

Workweeks to be credited to a Class Member and/or PAGA Group Member shall be final and non-appealable. The Settlement Administrator shall send written notice of the decision on any such dispute to the Class Member and/or PAGA Group Member, to Class Counsel, and counsel for Defendant within ten (10) calendar days of receipt of the Workweeks Dispute.

XIII. COMPUTATION AND DISTRIBUTION OF PAYMENTS

1. Formula for Calculating Individual Settlement Payments.

Settlement Class Members (i.e., Class Members who do not submit a timely and valid Request for Exclusion) will receive a lump sum payment as good and valuable consideration for the settlement and release of Released Class Claims set forth in Section I.29, above, in an amount determined by the Settlement Administrator in accordance with the provisions of this Agreement. Each Settlement Class Member's Individual Settlement Share will be determined as follows:

a) The value of each Workweek shall be determined by the Settlement Administrator by dividing the Net Settlement Amount by the total number of Workweeks of all Settlement Class Members ("Estimated Workweek Value").

b) Each Settlement Class Member's individual Workweeks will be multiplied by the Estimated Workweek Value to arrive at his or her Individual Settlement Share. Individual Settlement Shares for each Settlement Class Member will be reduced by any required legal deductions for the employee's share of taxes and withholdings on the wages portion of the Individual Settlement Shares, resulting in a net payment to the Settlement Class Member (i.e., Individual Settlement Payment).

2. Formula for Calculating Individual PAGA Payments.

PAGA Group Members will receive a lump sum payment as good and valuable consideration for the settlement and release of Released PAGA Claims set forth in Section I.30, above, in an amount determined by the Settlement Administrator in accordance with the provisions of this Agreement. Each PAGA Group Member's Individual PAGA Payment will be determined as follows:

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1 a) The value of each PAGA Workweek shall be determined by the Settlement
2 Administrator by dividing the Employee PAGA Amount by the total number of PAGA Workweeks
3 of all PAGA Group Members (“PAGA Workweek Value”).

4 b) Each PAGA Group Member’s individual PAGA Workweeks will be
5 multiplied by the PAGA Workweek Value to arrive at his or her Individual PAGA Payment.

6 **3. Funding of Settlement.**

7 Within twenty-one (21) calendar days following the Effective Date, Defendant will deposit
8 the Maximum Settlement Amount into qualified settlement account established by the Settlement
9 Administrator for administration of the Settlement. At no time prior to the Effective Date shall
10 Defendant be required to escrow any portion of the Maximum Settlement Amount.

11 **4. Time for Distribution.**

12 a) The Settlement Administrator shall distribute the Court-approved Attorneys’
13 Fees and Costs to Class Counsel, Court-approved Enhancement Payment to Plaintiff, Court-
14 approved Administration Costs to the Settlement Administrator, LWDA Payment to the LWDA,
15 Individual Settlement Payments to Settlement Class Members, and the Individual PAGA Payments
16 to PAGA Group Members within ten (10) calendar days following the full funding of the
17 Settlement.

18 b) If an Individual Settlement Payment and/or Individual PAGA Payment
19 check is returned to the Settlement Administrator as undeliverable within thirty (30) calendar days
20 of the mailing of the check, the Settlement Administrator shall promptly attempt to obtain a valid
21 mailing address by performing a skip trace search and, if another address is identified, shall mail
22 the check to the newly identified address. The Settlement Administrator may, at its discretion,
23 distribute the Individual Settlement Payment and Individual PAGA Payment by way of a single
24 check that combines both payments (if applicable).

25 c) Any checks issued by the Settlement Administrator to Settlement Class
26 Members and PAGA Group Members will be valid and negotiable for one hundred and eighty (180)
27 calendar days after issuance, and thereafter, the checks will be canceled. The funds remaining and
28 associated with canceled Individual Settlement Payment and/or Individual PAGA Payment checks

1 will be paid to Legal Aid at Work, after the Court enters an order approving the parties' stipulation
2 to amend the judgment, which Parties shall prepare and file in accordance with California Code of
3 Civil Procedure section 384.5, *et seq.* The Parties each represent that they do not have any financial
4 interest in Legal Aid at Work or otherwise have a relationship with Legal Aid at Work that could
5 create a conflict of interest.

6 **XIV. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

7 The amounts paid under this Agreement do not represent a modification of any previously
8 credited hours of service under any employee benefit plan, policy, or bonus program sponsored by
9 Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or
10 any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant's
11 policies or bonus programs. Any payments made under the terms of this Settlement shall not be
12 applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other
13 form of compensation for the purposes of Defendant's benefit plan, policy, or bonus program.
14 Defendant retains the right to modify the language of its benefit plan, policies, and bonus programs
15 to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for
16 "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by
17 applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or
18 any other purpose, and that additional contributions or benefits are not required by this Settlement.

19 **XV. CLASS COUNSEL ATTORNEYS' FEES AND COSTS**

20 Defendant shall not oppose an application by Class Counsel for an amount up to thirty-five
21 percent (35%) of the Maximum Settlement Amount (i.e., \$211,750.00, if the Maximum Settlement
22 Amount remains \$605,000.00) for all past and future attorneys' fees necessary to prosecute and
23 settle the Actions ("Attorneys' Fees"). Additionally, Defendant shall not oppose an application by
24 Class Counsel for an amount up to \$28,000.00 for all past and future litigation costs and expenses
25 necessary to prosecute and settle the Actions ("Litigation Costs") (together with Attorneys' Fees,
26 "Attorneys' Fees and Costs"). Such costs shall be included with specificity in a declaration from
27 Class Counsel. Any Attorneys' Fees and Costs awarded to Class Counsel by the Court as part of
28 the Settlement shall be deducted from the Maximum Settlement Amount for the purpose of

determining the Net Settlement Amount. The “future” aspect of these amounts includes, without limitation, all time and expenses expended by Class Counsel in implementing the Settlement and securing Preliminary Approval and Final Approval (including any appeals therein). There will be no additional consideration paid by Defendant for such work; although such work may cause Class Counsel’s lodestar to increase, Class Counsel will be limited to the Attorneys’ Fees and Costs provided for under the Settlement. The Attorneys’ Fees and Costs shall include all attorneys’ fees, litigation costs, and expenses for which Plaintiff and Class Counsel could claim under any legal theory whatsoever with respect to the Actions. Within ten (10) calendar days following the full funding of the Settlement, the Settlement Administrator shall disburse payment to Class Counsel from the Maximum Settlement Amount for the Court-approved Attorneys’ Fees and Costs. With respect to the Attorneys’ Fees and Costs to Class Counsel, the Settlement Administrator may purchase an annuity to utilize United States Treasuries and bonds or other attorney fee deferral vehicles, for Class Counsel. Any additional expenses for the use of attorney fee deferral vehicles by the Settlement Administrator shall be paid separately by Class Counsel and shall not be included within the Administration Costs. Should the Court approve the Attorneys’ Fees and Costs in an amount that is less than that set forth above, the difference between the lesser amount approved by the Court and the amount allocated toward the Attorneys’ Fees and Costs shall be a part of the Net Settlement Amount for the benefit of Settlement Class Members.

XVI. ENHANCEMENT PAYMENT TO PLAINTIFF

Defendant shall not oppose an application by Plaintiff, and Plaintiff shall not seek or receive an amount in excess of Ten Thousand Dollars (\$10,000.00) for her efforts and work in prosecuting the Actions (i.e., Enhancement Payment). Any Enhancement Payment awarded to Plaintiff by the Court as part of the Settlement shall be deducted from the Maximum Settlement Amount for the purpose of determining the Net Settlement Amount, and shall be reported on IRS Form 1099, and Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. Should the Court approve an Enhancement Payment less than that set forth above, the difference between the lesser amount approved by the Court and the amount allocated toward the Enhancement Payment will be part of

1 the Net Settlement Amount for the benefit of Settlement Class Members.

2 **XVII. TAXATION AND ALLOCATION**

3 1. The Parties agree that all employees' share of employment taxes and other legally
4 required withholdings applicable to the wages portion of Individual Settlement Shares will be
5 withheld from payments to the Settlement Class Members and Plaintiff based on the Parties'
6 stipulated allocation of the Individual Settlement Shares as provided for in this Section.

7 2. In Defendant's sole discretion, and to which Plaintiff and Class Counsel do not
8 object, the amount of federal income tax withholding will be based upon a flat withholding rate for
9 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or
10 supplemented. Income tax withholdings will also be made pursuant to applicable state and/or local
11 withholding codes or regulations.

12 3. For withholding tax characterization purposes and payment of taxes, the Individual
13 Settlement Payments to Settlement Class Members shall be deemed twenty percent (20%) wages
14 and eighty percent (80%) penalties, interest, and non-wage damages. The portion allocated to
15 wages will be reported on an IRS Form W-2 and the portions allocated to interest and penalties
16 will be reported on an IRS Form-1099 by the Settlement Administrator. The Settlement
17 Administrator will withhold the employee's share of taxes and withholdings with respect to the
18 wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members
19 for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of
20 these taxes and withholdings).

21 4. For withholding tax characterization purposes and payment of taxes, the Individual
22 PAGA Payments to PAGA Group Members shall be deemed one hundred percent (100%) penalties
23 and will be reported on an IRS Form-1099, if necessary. The Settlement Administrator will not
24 undertake any deductions for taxes or withholding with respect to the Individual PAGA Payments.

25 5. The employer's share of payroll taxes and contributions on the wages portion of
26 Individual Settlement Payments (i.e., the Employer Taxes) will be paid by Defendant in addition
27 to and not as a deduction from the Maximum Settlement Amount.

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1 **XVIII. PAGA ALLOCATION**

2 In order to implement the terms of this Settlement and to settle claims alleged under the
3 Private Attorneys General Act, California Labor Code section 2698 *et seq.*, the Parties agree to
4 allocate One Hundred Twenty-Five Thousand Dollars (\$125,000.00) from the Maximum
5 Settlement Amount as penalties authorized by the PAGA (i.e., PAGA Penalties). Seventy-five
6 percent (75%), or \$93,750.00, of the PAGA Penalties will be distributed to the Labor and
7 Workforce Development Agency (i.e., LWDA Payment) and twenty-five percent (25%), or
8 \$31,250.00 of the PAGA Penalties will be distributed on a *pro rata* basis to the PAGA Group
9 Members (i.e., Employee PAGA Amount). PAGA Group Members shall be bound to the PAGA
10 Settlement and will be issued their Individual PAGA Payments irrespective of whether they
11 exercise their option to opt out of the Class Settlement.

12 **XIX. COURT APPROVAL**

13 1. This Agreement and the Settlement is contingent upon Final Approval by the Court
14 and entry of judgment. Plaintiff and Defendant agree to take all steps as may be reasonably
15 necessary to secure both Preliminary Approval and Final Approval of the Settlement, to the extent
16 not inconsistent with the terms of this Agreement, and will not take any action adverse to each other
17 in obtaining approval by the Court, and, if necessary, appellate approval, of the Settlement in all
18 respects. Plaintiff and Defendant expressly agree that they will not file any objection to the terms
19 of the Settlement or assist or encourage any person or entity to make or submit any such objection.

20 2. In the event it becomes impossible to secure approval of the Settlement, the Parties
21 shall be restored to their respective positions in the Actions, as of the date on which the Settlement
22 was reached, except as otherwise provided in Section XX, below.

23 **XX. MISCELLANEOUS PROVISIONS**

24 1. **Interim Stay of Litigation.**

25 Plaintiff and Defendant agree to the stay of all proceedings in the Actions (including with
26 respect to California Code of Civil Procedure section 583.310), except such proceedings necessary
27 to implement and complete the Settlement, pending the Final Approval Hearing to be conducted
28 by the Court.

1 **2. Interpretation of the Agreement.**

2 This Agreement constitutes the entire agreement between Plaintiff and Defendant. Except
3 as expressly provided herein, this Agreement has not been executed in reliance upon any other
4 written or oral representations or terms, and no such extrinsic oral or written representations or
5 terms shall modify, vary from or contradict its terms. In entering into this Agreement, the Parties
6 agree that this Agreement is to be construed according to its terms and may not be varied or
7 contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws
8 of the State of California, both in its procedural and substantive aspects, without regard to its
9 conflict of laws provisions. Any claim arising out of or relating to the Agreement, or the subject
10 matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California
11 for the County of Santa Clara, and Plaintiff and Defendant hereby consent to the personal
12 jurisdiction of the Court over them solely in connection therewith. Plaintiff, on her own behalf, on
13 behalf of the Class, and on behalf of the State of California pursuant to PAGA with respect to
14 PAGA Group Members, and Defendant participated in the negotiation and drafting of this
15 Agreement and had available to them the advice and assistance of independent counsel. As such,
16 neither Plaintiff nor Defendant may claim that any ambiguity in this Agreement should be construed
17 against the other. The terms and conditions of this Agreement constitute the exclusive and final
18 understanding and expression of all agreements between Plaintiff and Defendant with respect to
19 the Settlement.

20 **3. Further Cooperation.**

21 Plaintiff and Defendant and their respective attorneys shall proceed diligently to prepare
22 and execute all documents, to seek the necessary approvals from the Court, and to do all things
23 reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.
24 The Parties agree that they shall make a good faith effort to resolve any issues raised by the Court
25 during the approval process, and if unable to do so informally, the Parties further agree that they
26 will seek assistance from the Mediator, in an effort to reach a settlement that may be ultimately
27 approved by the Court.

28 ///

1 **4. Confidentiality of Documents and Information.**

2 Plaintiff, the Settlement Administrator, and Class Counsel shall maintain the confidentiality
3 of all documents and other information obtained in the Actions that were specifically designated as
4 confidential at the time they were produced (formally or informally) in the Actions, unless ordered
5 to be disclosed by the Court or by a subpoena.

6 **5. Neutral Employment Reference.**

7 Defendant agrees that it will adopt a neutral reporting policy regarding any future
8 employment references related to Plaintiff. In the event that any potential or future employers of
9 Plaintiff request a reference regarding Defendant's employment of Plaintiff, Defendant shall only
10 provide the requested Plaintiff's dates of employment and job titles during employment. Defendant
11 shall not refer to the Actions or this Settlement.

12 **6. Counterparts.**

13 This Settlement Agreement is subject only to the execution of all Parties. However, the
14 Settlement Agreement may be executed in one or more counterparts. All executed counterparts
15 and each of them, including facsimile, electronic, and scanned copies of the signature page, will
16 be deemed to be one and the same instrument.

17 **7. Authority.**

18 Each individual signing below warrants that he or she has the authority to execute this
19 Agreement on behalf of the Party for whom or which that individual signs.

20 **8. No Third-Party Beneficiaries.**

21 Plaintiff, Settlement Class Members, PAGA Group Members, the State of California's
22 Labor and Workforce Development Agency, Defendant, and Released Parties are intended
23 beneficiaries of this Agreement, and there are no other third-party beneficiaries.

24 **9. Modification.**

25 Before this Agreement has been submitted to the Court in connection with seeking
26 Preliminary Approval of the Settlement, it may not be changed, altered, or modified, except in a
27 writing signed by the counsel for the Parties. After this Agreement has been submitted to the Court
28 in connection with seeking Preliminary Approval of the Settlement, it may not be changed, altered,

1 or modified, except in a writing signed by the counsel for the Parties, subject to approval by the
2 Court. This Agreement may not be discharged except by performance in accordance with its terms
3 or by a writing signed by the Parties.

4 **10. Deadlines Falling on Weekends or Holidays.**

5 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
6 legal holiday, that deadline shall be continued until the following business day.

7 **11. California Law Governs.**

8 All terms of this Settlement Agreement and Exhibits hereto will be governed and interpreted
9 according to the laws of the State of California.

10 **12. Severability.**

11 In the event that any one or more of the provisions contained in this Agreement shall for
12 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
13 unenforceability shall in no way effect any other provision if Defendant's counsel and Class
14 Counsel, on behalf of the Parties, the Settlement Class Members, State of California, and PAGA
15 Group Members, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable
16 provision had never been included in this Agreement, subject to Court approval.

17 **13. Binding on Successors and Assigns.**

18 This Settlement Agreement will be binding upon, and inure to the benefit of, the successors
19 or assigns of the Parties hereto, as previously defined.

20 **14. Waiver.**

21 No waiver of any condition or covenant contained in this Settlement Agreement or failure
22 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute
23 a further waiver by such party of the same or any other condition, covenant, right, or remedy.

24 **15. Representation by Counsel.**

25 The Parties acknowledge that they have been represented by counsel throughout all
26 negotiations that preceded the execution of this Agreement, and that this Agreement has been
27 executed with the consent and advice of counsel and reviewed in full.

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To Defendant:

Lonnie Giamela, Esq.
Areen Babajanian, Esq.
FISHER & PHILLIPS LLP
444 South Flower Street, Suite 1500
Los Angeles, California 90071

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IT IS SO AGREED:

Electronically Signed	2023-06-04 20:30:11 UTC - 137.52.180.39
Christine Eliazo	
Victor AmatoSmoB	64d6bb.3728.4f6d.6d1613017262973

CHRISTINE ELIAZO, *Plaintiff*

NORTHERN CALIFORNIA RETINA
VITREOUS ASSOCIATES MEDICAL
GROUP, INC., *Defendant*
Name: Aamer Hayat

Position: Chief Administrative Officer

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1 **APPROVED AS TO FORM:**

2 Date: June 5, 2023

LAWYERS *for* JUSTICE, PC

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9 Date: April 17, 2023

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EXHIBIT A

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CHRISTINE ELIAZO, individually, and on
behalf of other members of the general public
similarly situated, and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

NORTHERN CALIFORNIA RETINA
VITREOUS ASSOCIATES MEDICAL
GROUP, INC., an unknown business entity;
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 21CV380823

Honorable Sunil R. Kulkarni
Department 1

**[PROPOSED] FIRST AMENDED
CONSOLIDATED CLASS ACTION
COMPLAINT FOR DAMAGES AND
ENFORCEMENT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE § 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep

- Requisite Payroll Records);
(9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
(10) Violation of California Business & Professions Code §§ 17200, et seq.
(11) Violation of California Labor Code §§ 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff CHRISTINE ELIAZO (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated, and other aggrieved employees pursuant to the California Private Attorneys General Act (“PAGA”), and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The “amount in controversy” for the named Plaintiff, including but not limited to claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of Santa Clara.

PARTIES

5. Plaintiff CHRISTINE ELIAZO is an individual residing in the State of California.

6. Defendant NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., at all times herein mentioned, was and is, an employer whose employees are engaged throughout the State of California, including the County of Santa Clara.

7. At all relevant times, Defendant NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

9. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

10. Defendant NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC. and DOES 1 through 100 will hereinafter collectively be referred to

1 as “Defendants.”

2 11. Plaintiff further alleges that Defendants directly or indirectly controlled or
3 affected the working conditions, wages, working hours, and conditions of employment of
4 Plaintiff, the other class members, and the other aggrieved employees so as to make each of said
5 Defendants employers liable under the statutory provisions set forth herein.

6 **CLASS ACTION ALLEGATIONS**

7 12. Plaintiff brings this action on her own behalf and on behalf of all other members
8 of the general public similarly situated, and, thus, seeks class certification under California Code
9 of Civil Procedure section 382.

10 13. The proposed class is defined as follows:

11 All current and former hourly-paid or non-exempt employees who worked for any
12 of the Defendants within the State of California at any time during the period from
13 April 28, 2017 to September 20, 2022 and who reside in California.

14 (Subclass A) All current and former hourly-paid or non-exempt employees who
15 worked for any of the Defendants within the State of California at any time during
16 the period from April 28, 2017 to September 20, 2022 who received overtime
17 compensation at a rate lower than their respective regular rate of pay because
18 Defendants failed to include all non-discretionary bonuses or other incentive-
19 based compensation in the calculation of the regular rate of pay for overtime pay
20 purposes and who reside in California.

21 (Subclass B) All current and former hourly-paid or non-exempt employees who
22 worked for any of the Defendants within the State of California at any time during
23 the period from April 28, 2017 to September 20, 2022 who were required by
24 Defendants to stay on Defendant’s premises for rest breaks and who reside in
25 California.

26 14. Plaintiff reserves the right to establish other subclasses as appropriate.

27 15. The class is ascertainable and there is a well-defined community of interest in the
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litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiff's claims are typical of all other class members' as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom she has a well-defined community of interest.

c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class member, with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.

e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

16. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

1 a. Whether Defendants' failure to pay wages, without abatement or
2 reduction, in accordance with the California Labor Code, was willful;

3 b. Whether Defendants' had a corporate policy and practice of failing to pay
4 their hourly-paid or non-exempt employees within the State of California for all hours worked
5 and missed (short, late, interrupted, and/or missed altogether) meal periods and rest breaks in
6 violation of California law;

7 c. Whether Defendants required Plaintiff and the other class members to
8 work over eight (8) hours per day, over forty (40) hours per week, and/or six (6) days per
9 workweek and failed to pay the legally required overtime compensation to Plaintiff and the other
10 class members;

11 d. Whether Defendants deprived Plaintiff and the other class members of
12 meal and/or rest periods or required Plaintiff and the other class members to work during meal
13 and/or rest periods without compensation;

14 e. Whether Defendants failed to pay minimum wages to Plaintiff and the
15 other class members for all hours worked;

16 f. Whether Defendants failed to pay all wages due to Plaintiff and the other
17 class members within the required time upon their discharge or resignation;

18 g. Whether Defendants failed to timely pay all wages due to Plaintiff and the
19 other class members during their employment;

20 h. Whether Defendants complied with wage reporting as required by the
21 California Labor Code; including, *inter alia*, section 226;

22 i. Whether Defendants kept complete and accurate payroll records as
23 required by the California Labor Code, including, *inter alia*, section 1174(d);

24 j. Whether Defendants failed to reimburse Plaintiff and the other class
25 members for necessary business-related expenses and costs;

26 k. Whether Defendants' conduct was willful or reckless;

27 l. Whether Defendants engaged in unfair business practices in violation of
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California Business & Professions Code section 17200, et seq.;

m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and

n. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

PAGA ALLEGATIONS

17. At all times herein set forth, PAGA was applicable to Plaintiff's employment by Defendants.

18. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

19. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

20. Plaintiff was employed by Defendants and the alleged violation was committed against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them.

21. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have been met:

a. The aggrieved employee shall give written notice by online submission (hereinafter "Employee's Notice") to the Labor & Workforce

Development Agency (hereinafter “LWDA”) and the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

22. On April 1, 2021, Plaintiff provided written notice by online submission to the LWDA and by U.S. Certified Mail to Defendant NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC. of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff has not received an LWDA Notice within sixty-five (65) calendar days of the date of Plaintiff’s notice.

23. Therefore, Plaintiff has satisfied the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 221, 222, 223, 224, 226(a), 226.7, 351, 510, 512, 551, 552, 1174, 1174.5, 1182, 12, 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders including *inter alia*, Wage Orders 4-2001, and 5-2001.

GENERAL ALLEGATIONS

24. At all relevant times set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California, including the County of Santa Clara.

25. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-

1 exempt employee, from approximately August 2019 to approximately July 2020 in the State of
2 California, County of Santa Clara.

3 26. Defendants hired Plaintiff and the other class members, classified them as hourly-
4 paid or non-exempt employees, and failed to compensate them for all hours worked and missed,
5 short, late, and/or interrupted meal periods and/or rest breaks.

6 27. Defendants had the authority to hire and terminate Plaintiff and the other class
7 members, to set work rules and conditions governing Plaintiff's and the other class members'
8 employment, and to supervise their daily employment activities.

9 28. Defendants exercised sufficient authority over the terms and conditions of
10 Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff
11 and the other class members.

12 29. Defendants directly hired and paid wages and benefits to Plaintiff and the other
13 class members.

14 30. Defendants continue to employ hourly-paid or non-exempt employees within the
15 State of California.

16 31. Plaintiff and the other class members worked over eight (8) hours in a day, forty
17 (40) hours in a week, and/or over six (6) days in a workweek during their employment with
18 Defendants.

19 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or
21 non-exempt employees within the State of California. This scheme involved, *inter alia*, failing
22 to pay them for all hours worked and missed meal periods and rest breaks in violation of
23 California law.

24 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knew or should have known that Plaintiff and the other class members were entitled to receive
26 certain wages for overtime compensation and that they were not receiving accurate overtime
27 compensation for all overtime hours worked. The deficiencies include, *inter alia*, requiring
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1 Plaintiff and the other class members to perform work overtime off-the-clock, the failure to
2 include earned commissions, non-discretionary forms of pay such as awards and bonuses, and/or
3 monetary and non-monetary incentives, to calculate the regular rate of pay used to calculate the
4 overtime rate.

5 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 unlawfully collected and/or received amounts due to wages to Plaintiff and other class members
7 for wages during the relevant time period. Specifically, California Labor Code section 221
8 provides that it is unlawful for an employer to collect or receive from an employee any part of
9 wages paid by said employer to said employee, California Labor Code section 222 requires that
10 an employee be paid all of the wages he or she has earned and provides that it is unlawful to
11 withhold any part of the agreed-upon wage, and California Labor Code section 223 provides that
12 it is unlawful for an employer to secretly pay a lower wage while purporting to pay the minimum
13 wage designated by statute or by contract. During the relevant time period, Defendants
14 unlawfully collected, received, and/or withheld amounts due to Plaintiff and other class members
15 and aggrieved employees for wages, and also unlawfully and secretly paid a lower wage while
16 purporting to pay the minimum wage, by failing to pay for off-the-clock work, automatically
17 deducting meal periods regardless of whether employees were actually able to take compliant
18 meal periods, and undertaking deductions.

19 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 failed to provide Plaintiff and the other class members all required rest and meal periods during
21 the relevant time period as required under the Industrial Welfare Commission Wage Orders and
22 thus they are entitled to any and all applicable premium wages. Defendants' failure included,
23 inter alia, failing to provide uninterrupted ten (10) minute rest periods and timely, uninterrupted
24 thirty (30) minute meal periods to Plaintiff and the other class members. Plaintiff and the other
25 class members were required to perform work during meal periods and rest periods, and
26 Defendants incentivized Plaintiff and the other class members to forego statutorily required meal
27 periods and rest periods.
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1 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to relieve Plaintiff and the other class members of all duties, failed to relinquish control
3 over Plaintiff and the other class members' activities, failed to permit Plaintiff and the other
4 class members a reasonable opportunity to take, and impeded or discouraged them from taking
5 thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work for
6 shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal
7 breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours..

8 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knew or should have known that Plaintiff and the other class members were entitled to receive
10 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
11 member's regular rate of pay when a meal period was missed, and they did not receive all meal
12 periods or payment of one additional hour of pay at Plaintiff's and the other class member's
13 regular rate of pay when a meal period was missed, short, late, and/or interrupted.

14 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 failed to provide, authorize, and permit Plaintiff and the other class members to take full,
16 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6) hour
17 and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10)
18 hours, and failed to make a good faith effort to authorize, permit, and provide such rest breaks
19 in the middle of each work period. Defendants also required Plaintiff and other putative class
20 members to remain on the premises during rest periods.

21 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knew or should have known that Plaintiff and the other class members were entitled to receive
23 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
24 member's regular rate of pay when a rest period was missed, short, late, and/or interrupted and
25 they did not receive all rest periods or payment of one additional hour of pay at Plaintiff's and
26 the other class members' regular rate of pay when a rest period was missed, short, late, and/or
27 interrupted.

1 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and the other class members were entitled to receive
3 at least minimum wages for compensation and that they were not receiving at least minimum
4 wages for all hours worked.

5 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knew or should have known that Plaintiff and the other class members were entitled to receive
7 all wages owed to them upon discharge or resignation, including earned but unpaid overtime
8 wages, minimum wages and meal and rest period premiums, and they did not, in fact, receive all
9 such wages owed to them at the time of their discharge or resignation.

10 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 knew or should have known that Plaintiff and the other class members were entitled to receive
12 all wages owed to them during their employment. Plaintiff and the other class members did not
13 receive payment of all wages, including overtime and minimum wages and meal and rest period
14 premiums, within any time permissible under California Labor Code section 204.

15 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 knew or should have known that Plaintiff and the other class members were entitled to receive
17 complete and accurate wage statements in accordance with California law, but, in fact, they did
18 not receive complete and accurate wage statements from Defendants. The deficiencies included,
19 *inter alia*, the failure to include the total number of hours worked by Plaintiff and the other class
20 members.

21 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knew or should have known that Defendants had to keep complete and accurate payroll records
23 for Plaintiff and the other class members in accordance with California law, but, in fact, did not
24 keep complete and accurate payroll records.

25 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knew or should have known that Plaintiff and the other class members were entitled to
27 reimbursement for necessary business-related expenses.
28

1 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that they had a duty to compensate Plaintiff and the other class
3 members pursuant to California law, and that Defendants had the financial ability to pay such
4 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented
5 to Plaintiff and the other class members that they were properly denied wages, all in order to
6 increase Defendants' profits.

7 47. During the relevant time period, Defendants failed to pay overtime wages to
8 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other class
9 members did not receive overtime compensation at one-and one-half time the regular rate for all
10 hours spent performing job duties in excess of eight (8) hours per day, forty (40) hours per week,
11 and/or for the first eight (8) hours worked on the seventh day of work in a workweek without
12 overtime compensation for all overtime hours worked.

13 48. During the relevant time period, Defendants failed to provide all requisite
14 uninterrupted meal and rest periods to Plaintiff and the other class members.

15 49. During the relevant time period, Defendants failed to pay Plaintiff and the other
16 class members at least minimum wages for all hours worked.

17 50. During the relevant time period, Defendants failed to pay Plaintiff and the other
18 class members all wages owed to them upon discharge or resignation.

19 51. During the relevant time period, Defendants failed to pay Plaintiff and the other
20 class members all wages within any time permissible under California law, including, *inter alia*,
21 California Labor Code section 204.

22 52. During the relevant time period, Defendants failed to provide complete or
23 accurate wage statements to Plaintiff and the other class members.

24 53. During the relevant time period, Defendants failed to keep complete or accurate
25 payroll records for Plaintiff and the other class members.

26 54. During the relevant time period, Defendants failed to reimburse Plaintiff and the
27 other class members for all necessary business-related expenses and costs.
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56. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him [or her] under this article.”

(Violation of California Labor Code §§ 510 and 1198)

(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., and DOES 1 through 100)

57. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 56, and each and every part thereof with the same force and effect as though fully set forth herein.

58. California Labor Code section 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

59. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and the other class members employed by Defendants, and working more than eight (8) hours in a day or more than forty (40) hours in a week, and/or more than six (6) consecutive days in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a week, or the first eight (8) hours worked on the seventh day of the work in a workweek.

60. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

61. California Labor Code section 510 codifies the right to overtime compensation at

one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

62. During the relevant time period, Plaintiff and the other class members worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week, and/or for the first eight (8) hours worked on the seventh day.

63. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff and the other class members.

64. Defendants' failure to pay Plaintiff and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

65. Pursuant to California Labor Code section 1194, Plaintiff and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., and DOES 1 through 100)

66. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 65, and each and every part thereof with the same force and effect as though fully set forth herein.

67. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class members' employment by Defendants.

68. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an

1 applicable order of the California IWC.

2 69. At all relevant times, the applicable IWC Wage Order and California Labor Code
3 section 512(a) provide that an employer may not require, cause or permit an employee to work
4 for a work period of more than five (5) hours per day without providing the employee with a
5 meal period of not less than thirty (30) minutes, except that if the total work period per day of the
6 employee is no more than six (6) hours, the meal period may be waived by mutual consent of
7 both the employer and employee.

8 70. At all relevant times, the applicable IWC Wage Order and California Labor Code
9 section 512(a) further provide that an employer may not require, cause or permit an employee to
10 work for a work period of more than ten (10) hours per day without providing the employee with
11 a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total
12 hours worked is no more than twelve (12) hours, the second meal period may be waived by
13 mutual consent of the employer and the employee only if the first meal period was not waived.

14 71. During the relevant time period, Plaintiff and the other class members who were
15 scheduled to work for a period of time no longer than six (6) hours, and who did not waive their
16 legally-mandated meal periods by mutual consent, were required to work for periods longer than
17 five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or
18 rest period.

19 72. During the relevant time period, Plaintiff's and other class members' meal periods
20 were missed, shortened, late, and/or were interrupted because Defendants required them to
21 perform and complete work duties, even when it resulted in missed, shortened, late, or
22 interrupted meal periods. Defendants interrupted Plaintiff and the other class members during
23 purported meal periods with questions regarding patient status or assigned tasks and required
24 Plaintiff and other class members to complete all assigned tasks, such as assisting patients with
25 showering, feeding, and grooming, by a specific time, before taking their meal periods.

26 73. As a result, Defendants failed to relieve Plaintiff and the other class members of
27 all duties, failed to relinquish control over Plaintiff's and the other class members' activities,
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1 failed to permit Plaintiff and the other class members a reasonable opportunity to take, and
2 impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no later
3 than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to take
4 second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work for
5 shifts lasting more than ten (10) hours.

6 74. During the relevant time period, Plaintiff and the other class members who were
7 scheduled to work for a period of time in excess of six (6) hours were required to work for
8 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
9 (30) minutes and/or rest period.

10 75. During the relevant time period, Defendants intentionally and willfully required
11 Plaintiff and the other class members to work during meal periods and failed to compensate
12 Plaintiff and the other class members the full meal period premium for work performed during
13 meal periods.

14 76. During the relevant time period, Defendants failed to pay Plaintiff and the other
15 class members the full meal period premium due pursuant to California Labor Code section
16 226.7.

17 77. Defendants' conduct violates applicable IWC Wage Order and California Labor
18 Code sections 226.7 and 512(a).

19 78. Pursuant to applicable IWC Wage Order and California Labor Code section
20 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
21 additional hour of pay at the employee's regular rate of compensation for each work day that the
22 meal or rest period is not provided.

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THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

**(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL
GROUP, INC., and DOES 1 through 100)**

79. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 78, and each and every part thereof with the same force and effect as though fully set forth herein.

80. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other class members' employment by Defendants.

81. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

82. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "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" unless the total daily work time is less than three and one-half (3 ½) hours.

83. During the relevant time period, Defendants required Plaintiff and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

84. During the relevant time period, Defendants willfully required Plaintiff and the other class members to work during rest periods and failed to pay Plaintiff and the other class members the full rest period premium for work performed during rest periods.

85. During the relevant time period, Defendants failed to pay Plaintiff and the other class members the full rest period premium due pursuant to California Labor Code section 226.7.

86. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

87. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., and DOES 1 through 100)

88. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 87, and each and every part thereof with the same force and effect as though fully set forth herein.

89. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

90. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1. Defendants' failure to pay minimum wages included, *inter alia*, Defendants' effective payment of zero dollars per hour for hours Plaintiff and the other class members worked off-the-clock performing work duties.

91. Defendants' failure to pay Plaintiff and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiff and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

92. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class

1 members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
2 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
3 minimum wages.

4 93. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class
5 members are entitled to recover liquidated damages in an amount equal to the wages unlawfully
6 unpaid and interest thereon.

7 **FIFTH CAUSE OF ACTION**

8 **(Violation of California Labor Code §§ 201 and 202)**

9 **(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL**
10 **GROUP, INC., and DOES 1 through 100)**

11 94. Plaintiff incorporates by reference the allegations contained in paragraphs 1
12 through 93, and each and every part thereof with the same force and effect as though fully set
13 forth herein.

14 95. At all relevant times herein set forth, California Labor Code sections 201 and 202
15 provide that if an employer discharges an employee, the wages earned and unpaid at the time of
16 discharge are due and payable immediately, and if an employee quits his or her employment, his
17 or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
18 unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in
19 which case the employee is entitled to his or her wages at the time of quitting.

20 96. During the relevant time period, Defendants intentionally and willfully failed to
21 pay Plaintiff and the other class members who are no longer employed by Defendants their
22 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.
23 Plaintiff and other class members were not paid at the time of their discharge wages earned and
24 unpaid throughout their employment, including but not limited to, minimum wages for time
25 worked off-the-clock to perform work duties, for meal and rest period premium payments.

26 97. Defendants' failure to pay Plaintiff and the other class members who are no longer
27 employed by Defendants' their wages, earned and unpaid, within seventy-two (72) hours of their
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1 leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

2 98. California Labor Code section 203 provides that if an employer willfully fails to
3 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
4 continue as a penalty from the due date thereof at the same rate until paid or until an action is
5 commenced; but the wages shall not continue for more than thirty (30) days.

6 99. Plaintiff and the other class members are entitled to recover from Defendants the
7 statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum
8 pursuant to California Labor Code section 203.

9 **SIXTH CAUSE OF ACTION**

10 **(Violation of California Labor Code § 204)**

11 **(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL**
12 **GROUP, INC., and DOES 1 through 100)**

13 100. Plaintiff incorporates by reference the allegations contained in paragraphs 1
14 through 99, and each and every part thereof with the same force and effect as though fully set
15 forth herein.

16 101. At all times herein set forth, California Labor Code section 204 provides that all
17 wages earned by any person in any employment between the 1st and 15th days, inclusive, of any
18 calendar month, other than those wages due upon termination of an employee, are due and
19 payable between the 16th and the 26th day of the month during which the labor was performed.

20 102. At all times herein set forth, California Labor Code section 204 provides that all
21 wages earned by any person in any employment between the 16th and the last day, inclusive, of
22 any calendar month, other than those wages due upon termination of an employee, are due and
23 payable between the 1st and the 10th day of the following month.

24 103. At all times herein set forth, California Labor Code section 204 provides that all
25 wages earned for labor in excess of the normal work period shall be paid no later than the payday
26 for the next regular payroll period.

27 104. During the relevant time period, Defendants intentionally and willfully failed to
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1 pay Plaintiff and the other class members all wages due to them, within any time period
2 permissible under California Labor Code section 204.

3 105. Plaintiff and the other class members are entitled to recover all remedies available
4 for violations of California Labor Code section 204.

5 **SEVENTH CAUSE OF ACTION**

6 **(Violation of California Labor Code § 226(a))**

7 **(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL**
8 **GROUP, INC., and DOES 1 through 100)**

9 106. Plaintiff incorporates by reference the allegations contained in paragraphs 1
10 through 105, and each and every part thereof with the same force and effect as though fully set
11 forth herein.

12 107. At all material times set forth herein, California Labor Code section 226(a)
13 provides that every employer shall furnish each of his or her employees an accurate itemized
14 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
15 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
16 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of
17 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
18 dates of the period for which the employee is paid, (7) the name of the employee and his or her
19 social security number, (8) the name and address of the legal entity that is the employer, and (9)
20 all applicable hourly rates in effect during the pay period and the corresponding number of hours
21 worked at each hourly rate by the employee. The deductions made from payments of wages
22 shall be recorded in ink or other indelible form, properly dated, showing the month, day, and
23 year, and a copy of the statement or a record of the deductions shall be kept on file by the
24 employer for at least three years at the place of employment or at a central location within the
25 State of California.

26 108. Defendants have intentionally and willfully failed to provide Plaintiff and the
27 other class members with complete and accurate wage statements. The deficiencies include, but
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are not limited to: the failure to include the total number of hours worked by Plaintiff and the other class members.

109. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights.

110. More specifically, Plaintiff and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

111. Plaintiff and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

112. Plaintiff and the other class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., and DOES 1 through 100)

113. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 112, and each and every part thereof with the same force and effect as though fully set forth herein.

114. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less

1 than two years.

2 115. Defendants have intentionally and willfully failed to keep accurate and complete
3 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other
4 class members.

5 116. As a result of Defendants' violation of California Labor Code section 1174(d),
6 Plaintiff and the other class members have suffered injury and damage to their statutorily-
7 protected rights.

8 117. More specifically, Plaintiff and the other class members have been injured by
9 Defendants' intentional and willful violation of California Labor Code section 1174(d) because
10 they were denied both their legal right and protected interest, in having available, accurate and
11 complete payroll records pursuant to California Labor Code section 1174(d).

12 **NINTH CAUSE OF ACTION**

13 **(Violation of California Labor Code §§ 2800 and 2802)**

14 **(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL**
15 **GROUP, INC., and DOES 1 through 100)**

16 118. Plaintiff incorporates by reference the allegations contained in paragraphs 1
17 through 117, and each and every part thereof with the same force and effect as though fully set
18 forth herein.

19 119. Pursuant to California Labor Code sections 2800 and 2802, an employer must
20 reimburse its employee for all necessary expenditures incurred by the employee in direct
21 consequence of the discharge of his or her job duties or in direct consequence of his or her
22 obedience to the directions of the employer.

23 120. Plaintiff and the other class members incurred necessary business-related
24 expenses and costs that were not fully reimbursed by Defendants.

25 121. Defendants have intentionally and willfully failed to reimburse Plaintiff and the
26 other class members for all necessary business-related expenses and costs.

27 122. Plaintiff and the other class members are entitled to recover from Defendants their
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business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., and DOES 1 through 100)

123. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 122, and each and every part thereof with the same force and effect as though fully set forth herein.

124. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

125. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

126. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the other class members violate California Labor

Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

127. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

128. Plaintiff and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

129. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiff and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years preceding the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

ELEVENTH CAUSE OF ACTION

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

(Against NORTHERN CALIFORNIA RETINA VITREOUS ASSOCIATES MEDICAL GROUP, INC., and DOES 1 through 100)

130. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 129, and each and every part thereof with the same force and effect as though fully set forth herein.

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

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

1 assess a civil penalty.

2 133. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
3 employees” as defined by California Labor Code section 2699(c) in that they are all current or
4 former employees of Defendants, and one or more of the alleged violations was committed
5 against them.

6 **Failure to Pay Overtime**

7 134. Defendants’ failure to pay legally required overtime wages to Plaintiff and the
8 other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair
9 activity prohibited by California Labor Code sections 510 and 1198.

10 **Failure to Provide Meal Periods**

11 135. Defendants’ failure to provide legally required meal periods to Plaintiff and the
12 other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair
13 activity prohibited by California Labor Code sections 226.7 and 512(a).

14 **Failure to Provide Rest Periods**

15 136. Defendants’ failure to provide legally required rest periods to Plaintiff and the
16 other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair
17 activity prohibited by California Labor Code section 226.7.

18 **Failure to Pay Minimum Wages**

19 137. Defendants’ failure to pay legally required minimum wages to Plaintiff and the
20 other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair
21 activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

22 **Unlawful Collection, Reduction, and/or Withholding of Wages**

23 138. Defendants’ unlawful collection, receipt, and/or withholding of amounts due to
24 Plaintiff and other class members for wages, thereby secretly paying a lower wage than
25 Defendants were required to pay by law or contract, in violation of the Wage Orders and
26 California Labor Code sections 221, 222, and 22, as alleged above, constitutes unlawful and/or
27 unfair activity prohibited by California Labor Code sections 221, 222, and 223.

Failure to Timely Pay Wages Upon Termination

139. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

140. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

141. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

142. Defendants' failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

143. Defendants' failure to reimburse Plaintiff and the other aggrieved employees for necessary business-related expenses and costs in accordance with California Labor Code sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

144. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of them, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all penalties pursuant to PAGA against Defendants, and each of them, including but not limited to:

a. Penalties under California Labor Code section 2699 in the amount of a

hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

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

c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

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

146. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, prays for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action as to the first ten causes of action;
2. That Plaintiff be appointed as the representative of the Class as to the first ten causes of action;
3. That counsel for Plaintiff be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and the other class members;
6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;
7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;
8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and
9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to

1 provide all meal periods (including second meal periods) to Plaintiff and the other class
2 members;

3 11. That the Court make an award to Plaintiff and the other class members of one (1)
4 hour of pay at each employee's regular rate of compensation for each workday that a meal period
5 was not provided;

6 12. For all actual, consequential, and incidental losses and damages, according to
7 proof;

8 13. For premium wages pursuant to California Labor Code section 226.7(c);

9 14. For pre-judgment interest on any unpaid wages from the date such amounts were
10 due;

11 15. For reasonable attorneys' fees and costs of suit incurred herein; and

12 16. For such other and further relief as the Court may deem just and proper.

13 **As to the Third Cause of Action**

14 17. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
16 rest periods to Plaintiff and the other class members;

17 18. That the Court make an award to Plaintiff and the other class members of one (1)
18 hour of pay at each employee's regular rate of compensation for each workday that a rest period
19 was not provided;

20 19. For all actual, consequential, and incidental losses and damages, according to
21 proof;

22 20. For premium wages pursuant to California Labor Code section 226.7(c);

23 21. For pre-judgment interest on any unpaid wages from the date such amounts were
24 due; and

25 22. For such other and further relief as the Court may deem just and proper.

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As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the other class members;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff and the other class members in the amount as may be established according to proof at trial;

26. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

28. For liquidated damages pursuant to California Labor Code section 1194.2; and

29. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and the other class members no longer employed by Defendants;

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

32. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff and the other class members who have left Defendants' employ;

33. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

34. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiff and the other class members;

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

37. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

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

41. For statutory penalties pursuant to California Labor Code section 226(e);

42. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

43. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff and the other class members as required by California Labor Code section 1174(d);

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

46. For statutory penalties pursuant to California Labor Code section 1174.5; and

47. For such other and further relief as the Court may deem just and proper.

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

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

50. For the imposition of civil penalties and/or statutory penalties;

51. For reasonable attorneys' fees and costs of suit incurred herein; and

52. For such other and further relief as the Court may deem just and proper.

As to the Tenth Cause of Action

53. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201-204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

54. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

55. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

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

57. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

1 58. For such other and further relief as the Court may deem just and proper.

2 **As to the Eleventh Cause of Action**

3 59. For civil penalties pursuant to California Labor Code sections 2699(a), (f) and
4 (g), costs/expenses, and attorneys' fees for violation of California Labor Code sections 201, 202,
5 203, 204, 221, 222, 223, 224, 226(a), 226.7, 351, 510, 512(a), 551, 552, 1174, 1174.5(d),
6 1182,12, 1194, 1197, 1197.1, 1198, 2800 and 2802; and

7 60. For such other and further relief as the Court may deem just and proper.

8
9 Dated: January 17, 2024

LAWYERS for JUSTICE, PC

10
11 By: _____

12 Edwin Aiwarzian
13 Yasmin Hosseini
14 Attorneys for Plaintiff

EXHIBIT B

NOTICE OF CLASS ACTION SETTLEMENT

Eliazo v. Northern California Retina Vitreous Associates Medical Group, Inc.
Superior Court of California for the County of Santa Clara, Case No. 21CV380823
Eliazo v. Northern California Retina Vitreous Associates Medical Group, Inc.
Superior Court of California for the County of Santa Clara, Case No. 21CV382772

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the Class Settlement, your legal rights may be affected.

This Class Notice is designed to advise you of your rights and options, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class action settlement has been reached between Plaintiff Christine Eliazo ("Plaintiff") and Defendant Northern California Retina Vitreous Associates Medical Group, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the cases entitled *Christine Eliazo v. Northern California Retina Vitreous Associates Medical Group, Inc.*, Santa Clara County Superior Court, Case No. 21CV380823 ("Class Case") and *Christine Eliazo v. Northern California Retina Vitreous Associates Medical Group, Inc.*, Santa Clara County Superior Court, Case No. 21CV382772 ("PAGA Case") (together, the "Actions"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the time period from April 28, 2017, through September 20, 2022.

"Class Settlement" means the settlement and release of Released Class Claims (described in Section III.D below).

"PAGA Group Members" means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California on at least one day during the PAGA Period.

"PAGA Settlement" means the settlement and release of Released PAGA Claims (described in Section III.D below).

"PAGA Period" means the time period from April 1, 2020 through September 20, 2022.

II. BACKGROUND OF THE ACTION

On April 1, 2021, Plaintiff provided written notice to the Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that she contends were violated ("LWDA Letter").

On April 28, 2021, Plaintiff filed a Class Action Complaint for Damages in the Santa Clara County Superior Court ("Class Action Complaint"), Case No. 21CV380823.

On June 7, 2021, Plaintiff filed a Complaint for Damages & Enforcement Under the Private Attorneys General Act ("PAGA"), California Labor Code § 2698, Et Seq. ("PAGA Complaint"), Case No. 21CV382772.

On [date], Plaintiff filed a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the

Private Attorneys General Act, Cal. Labor Code § 2698, Et Seq. (“Operative Complaint”).

Plaintiff alleges that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide complaint wage statements, keep requisite payroll records, reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business & Professions Code section 17200, *et seq.*, and engaged in conduct that gives rise to penalties under California Labor Code section 2698, *et seq.* Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys’ fees and costs.

Defendant denies all of the allegations in the Actions or that it violated any law.

After investigation and analysis of the claims, the Parties engaged in good faith, arms-length negotiations, and as a result, the Parties reached a settlement. The Parties have since entered into the Joint Stipulation of Class Action and PAGA Settlement (“Settlement” or “Settlement Agreement”).

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the Settlement (“Settlement Administrator”), Plaintiff Christine Eliazo as representative of the Class (“Class Representative”), and the following counsel as counsel for the Class (“Class Counsel”):

Edwin Aiwazian, Esq.
Arby Aiwazian, Esq.
Joanna Ghosh, Esq.
Yasmin Hosseini, Esq.
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Group Member, you do not need to take any action to receive an Individual PAGA Payment.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Actions have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Group Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members and PAGA Group Members. The Court has made no ruling on the merits of the claims asserted in the Actions and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The maximum settlement amount is Six Hundred Five Thousand Dollars (\$605,000.00) (the “Maximum Settlement Amount”). The portion of the Maximum Settlement Amount that is available for payment to Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Maximum Settlement Amount, less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount not to exceed 35% of the Maximum Settlement Amount (i.e., \$211,750.00, if the Maximum Settlement Amount remains \$605,000.00) (“Attorneys’ Fees”) and reimbursement of litigation costs and expenses, in an amount not to exceed Twenty-Eight Thousand Dollars (\$28,000.00) (“Litigation Costs”) (together with Attorneys’ Fees, “Attorneys’ Fees and Costs”) to Class Counsel; (2) Enhancement Payment in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to Plaintiff for her services in the Action; (3) Administration Costs in an amount not to exceed Fifteen Thousand Dollars (\$15,000.00) to the Settlement Administrator; and (4) the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) allocated toward civil penalties under

the Private Attorneys General Act (“PAGA Penalties”). The PAGA Penalties will be distributed 75% (\$93,750.00) to the LWDA (“LWDA Payment”) and the remaining 25% (i.e., \$31,250.00) will be distributed to PAGA Group Members (“Employee PAGA Amount”).

Class Members are entitled to receive payment for the Class Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Payment”) based on the number of weeks each Class Member worked for Defendant as an hourly-paid or non-exempt employee in California during the Class Period (“Workweeks”).

The Settlement Administrator has divided the Net Settlement Amount by the total number of Workweeks of all Class Members (“Estimated Workweek Value”) and multiplied each Class Member’s individual Workweeks by the Estimated Workweek Value to arrive at his or her Individual Settlement Share that he or she may be eligible to receive for the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Settlement Class Members”) will be issued their payment of their final Individual Settlement Share.

Each Individual Settlement Share will be allocated as twenty percent (20%) wages, which will be reported on an IRS Form W-2, and eighty percent (80%) penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099. Each Individual Settlement Share shall be subject to reduction for the employee’s share of payroll taxes due on the wages portion of Individual Settlement Share, resulting in a net payment to the Settlement Class Member (“Individual Settlement Payment”). The employer’s share of payroll taxes and contributions in connection with the wages portion of the Individual Settlement Payments (“Employer Taxes”) will be paid by Defendant separately and in addition to the Maximum Settlement Amount.

PAGA Group Members are eligible to receive payment for the PAGA Settlement of their *pro rata* share of the Employee PAGA Amount (“Individual PAGA Payment”), based on the number of Workweeks of each PAGA Group Member during the PAGA Period (“PAGA Workweeks”). The Settlement Administrator has divided the Employee PAGA Amount by the total number of PAGA Workweeks of all PAGA Group Members (“PAGA Workweek Value”) and multiplied each PAGA Group Member’s individual PAGA Workweeks by the PAGA Workweek Value to arrive at his or her Individual PAGA Payment that he or she may be eligible to receive for the PAGA Settlement (which is listed in Section III.C below).

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, which will be reported on an IRS Form 1099 (if applicable). The Settlement Administrator will issue checks to PAGA Group Members for the full amount of their Individual PAGA Payments without undertaking any withholdings.

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Group Members at the address that is on file with the Settlement Administrator by way of check following the deposit of the Maximum Settlement Amount by Defendant. The Settlement Administrator may, at its discretion, distribute the Individual Settlement Payment and Individual PAGA Payment by way of a single check that combines both payments (if applicable). **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to under the Settlement.**

B. Your Workweeks Based on Defendant’s Records

According to Defendant’s records:

From April 28, 2017 through September 20, 2022 (i.e., Class Period), you are credited as having worked [REDACTED] Workweeks.

From April 1, 2020 through September 20, 2022 (i.e., PAGA Period), you are credited as having worked [REDACTED] Workweeks.

If you wish to dispute the Workweeks credited to you, you must submit a written dispute (“Workweeks Dispute”) that: (a) contains the case name and number of the Class Case (*Christine Eliaz v. Northern California Vitreous Associates Medical Group, Inc.*, 21CV380823); (b) contains your full name, address, telephone number, signature, and last four digits of your Social Security number; (c) contains a statement setting forth the number of Workweeks during the Class Period and/or

PAGA Period that you contend is correct and attach any relevant documentation in support thereof; and (d) is submitted to the Settlement Administrator by mail at the specified address listed in Section IV.B below, postmarked **no later than [Response Deadline]**.

C. Your Estimated Individual Settlement Payment and/or Individual PAGA Payment

As explained above, your estimated Individual Settlement Payment and/or Individual PAGA Payment is based on the number of Workweeks credited to you during the Class Period and/or PAGA Period.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [redacted]. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [redacted] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Payment and/or Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and/or Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff and all Class Members who do not submit a valid and timely Request for Exclusion (i.e., Settlement Class Members) will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims he or she may have or had.

Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff, PAGA Group Members, and the State of California (with respect to employment of PAGA Group Members by Defendant during the PAGA Period) will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims he, she, or it may have or had. The PAGA Group Members are bound by the PAGA Settlement regardless of whether they cash or deposit their Individual PAGA Payment check, and even if they object to or opt out of the Class Settlement.

“Released Class Claims” means any and all claims under state, federal, or local law, alleged in the Operative Complaint or that could have been alleged based on the factual allegations in the Operative Complaint, arising during the Class Period, including but not limited to claims for violations of California Labor Code sections 201-204, 221-224, 226 *et seq.*, 226.7, 351, 510, 512, 551, 552, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802, Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, California Business and Professions Code section 17200, *et seq.*, regulations, and/or other provisions of law for failure to pay overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to pay minimum wages, failure to timely pay wages upon termination, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, failure to reimburse necessary business expenses, and violation of California’s unfair competition law.

“Released PAGA Claims” means any and all claims for civil penalties under the Private Attorneys General Act (California Labor Code section 2698, *et seq.*), arising out of the facts alleged in Plaintiff’s LWDA Letter, arising during the PAGA Period, for violations of California Labor Code sections 201-204, 221-224, 226 *et seq.*, 226.7, 351, 510, 512, 551, 552, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, for failure to pay overtime wages, failure to provide compliant meal period and associated premiums, failure to provide compliant rest periods and associated premiums, failure to pay minimum wages, failure to timely pay wages upon termination, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, failure to reimburse necessary business expenses.

“Released Parties” means Defendant, and all of its current and former agents, officers, management-level employees, directors, owners, subsidiaries, affiliates, parent companies, insurers, and attorneys.

E. Attorneys' Fees and Costs to Class Counsel

Class Counsel will seek attorneys' fees in an amount of up to thirty five percent (35%) of the Maximum Settlement Amount (i.e., an amount of up to \$211,750.00, if the Maximum Settlement Amount remains \$605,000.00) ("Attorneys' Fees") and reimbursement of litigation costs and expenses in an amount of up to Twenty-Eight Thousand Dollars (\$28,000.00) ("Litigation Costs") (together with Attorneys' Fees, "Attorneys' Fees and Costs"), subject to approval by the Court. The Attorneys' Fees and Costs granted by the Court will be paid from the Maximum Settlement Amount. Class Counsel has been prosecuting the Actions on behalf of Plaintiff and Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of Ten Thousand Dollars (\$10,000.00) ("Enhancement Payment"), in recognition of her services in connection with the Action. The Enhancement Payment will be paid from the Maximum Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to her Individual Settlement Payment and Individual PAGA Payment (if applicable) that she is entitled to under the Settlement.

G. Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Fifteen Thousand Dollars (\$15,000.00) ("Administration Costs") for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and Workweeks Disputes, calculating Individual Settlement Shares and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Maximum Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Class Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Class Claims described in Section III.D above.

If you are a PAGA Group Member, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims described in Section III.D above.

As a Class Member and/or PAGA Group Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless they retain their own counsel, in which event they will be responsible for their own attorney's fees and expenses.

B. Request Exclusion from the Class Settlement

If you do not wish to participate in the Class Settlement, you must seek exclusion from the Class Settlement by submitting a written request ("Request for Exclusion"), which must: (a) contain the case name and number of the Class Case (*Christine Eliazo v. Northern California Retina Vitreous Associates Medical Group, Inc.*, 21CV380823); (b) be signed by you; (c) contain your full name, address, telephone number, and last four digits of your Social Security number; (d) clearly state that you do not wish to be included in the Class Settlement; and (e) be sent to the Settlement Administrator, postmarked by **no later than [Response Deadline]** at the following address:

[Settlement Administrator]

[Address]

If the Court grants final approval of the Settlement, any Class Member who does not submit a timely and valid Request for Exclusion will not be entitled to receive an Individual Settlement Payment, will be bound by the Class Settlement (and the

release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. However, consistent with applicable law, PAGA Group Members will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, regardless of whether they submit a Request for Exclusion, and will be bound by any judgment that may be entered by the Court (as it pertains to the PAGA Settlement), if it grants final approval of the Settlement.

C. Object to the Class Settlement

You can object to the terms of the Class Settlement as long as you have not submitted a Request for Exclusion, by submitting a written objection to the Settlement Administrator. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so.

All written objections, supporting papers and/or notices must include: (a) the case name and number of the Class Case (*Christine Eliazo v. Northern California Retina Vitreous Associates Medical Group, Inc.*, 21CV380823); (b) contain your full name, address, telephone number, signature, and last four digits of your Social Security number; (c) a written statement of all grounds for your objection accompanied by any legal support for such objection; (d) the full name, address, and telephone number of any attorney representing you with respect to your objection; (e) copies of any papers, briefs, or other documents upon which the objection is based; and (f) be mailed to the Settlement Administrator at the address listed in Section IV.B above, postmarked **no later than [Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 7 of the Santa Clara County Superior Court, located at 191 North First Street, San Jose, California 95113, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Attorneys' Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

Please visit the Court's website for the most up-to-date information regarding the impact of COVID-19 on the operations of the Court and any requirements that may apply for accessing Court facilities: <https://www.scscourt.org/>.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other documents filed in this litigation online by visiting the following website: <https://portal.scscourt.org/search> and typing in the Case Number "21CV380823" in the field marked "Case Number Search". You may also examine these documents in person by visiting the Records department of the Superior Court of California, County of Santa Clara, located at 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 1:30 p.m. (Monday through Thursday) or 8:30 a.m. and 12:00 p.m. (Friday), excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator.

PLEASE DO NOT TELEPHONE THE COURT, THE OFFICE OF THE CLERK, OR DEFENDANT'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: **[INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL AT (818) 265-1020.**