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**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 5/23/2024 3:51 PM
Reviewed By: R. Walker
Case #21CV380823
Envelope: 15432101**

**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 Charles F. Adams
Department 7

**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

as “Defendants.”

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

CLASS ACTION ALLEGATIONS

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

13. The proposed class is defined as follows:

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

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

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

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

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

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.
28

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.
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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
28

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: May 23, 2024

LAWYERS for JUSTICE, PC

10
11 By: _____



12 Edwin Aiwanian
13 Yasmin Hosseini
14 Attorneys for Plaintiff