

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Gregory Alarcon

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

ERICA GARCIA PENDLETON,

Plaintiff,

vs.

RTI PROPERTIES, INC.; ROBERT
ABBASI; and DOES 1 to 25, inclusive

Defendants.

CASE NO.: **21STCV43414**

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 7) VIOLATION OF LABOR CODE SECTION 558;**
- 8) FAILURE TO MAINTAIN ACCURATE RECORDS;**
- 9) FAILURE TO GIVE REST BREAKS;**
- 10) FAILURE TO GIVE MEAL BREAKS**
- 11) PRIVATE ATTORNEYS GENERAL ACT ("PAGA");**
- 12) FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 13) WRONGFUL CONSTRUCTIVE DISCHARGE IN VIOLATION OF PUBLIC POLICY; and**
- 14) VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200.**

DEMAND FOR JURY TRIAL

1
2 **COMES NOW** Plaintiff, ERICA GARCIA PENDLETON (hereinafter “Plaintiff”),
3 and alleges as follows:

4 **PARTIES, JURISDICTION, VENUE**

5 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
6 County of Los Angeles in this judicial district because Defendants RTI PROPERTIES, INC.,
7 ROBERT ABBASI, and DOES 1 to 25, inclusive do business in the County of Los Angeles and
8 because Defendants’ obligations and liabilities arise therein, and because the work that was
9 performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover,
10 Plaintiff’s damages sought herein exceed \$25,000.

12 2. Plaintiff is a female resident of the County of Los Angeles, State of California.

13 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
14 ROBERT ABBASI is and was a California corporation, doing business in Los Angeles County,
15 and which employed Plaintiff.

16 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant
17 ROBERT ABBASI is male resident of the County of Los Angeles, State of California, and the
18 owner and managing agent of RTI PROPERTIES, INC. Plaintiff is informed and believes and
19 thereon alleges that ROBERT ABBASI managed and was directly involved in the day-to-day
20 operations of RTI PROPERTIES, INC. and is being included in this lawsuit pursuant to Labor
21 Code Section 558.1. RTI PROPERTIES, INC. and ROBERT ABBASI are hereinafter
22 collectively referred to as “Defendants”, “or “RTI”.

23 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
24 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
25 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
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1 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible
2 for the conduct alleged herein. Upon discovering the true names and capacities of these
3 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
4 capacities of these fictitiously named defendants.

5 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
6 that information and belief, alleges that at all times herein mentioned, each of the remaining
7 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
8 under the authority of their agency, employment, or representative capacity, with the consent of
9 his/her codefendants.
10

11 **GENERAL ALLEGATIONS**

12 7. Plaintiff started working for RTI on or around January 2020 as a Resident Manager for
13 the property located at 319 S. Clark Dr., Los Angeles, California.

14 8. Plaintiff was forced to quit her employment on or around May 19, 2021.

15 9. Plaintiff was classified as an hourly, non-exempt employee who earned approximately
16 \$14.25 per hour. Plaintiff was allegedly allotted only 30 hours of work per pay period and
17 would only have to pay \$800 in monthly rent for her unit. Plaintiff would essentially receive
18 her "paycheck" of \$800 or so and then give it right back to RTI to pay her rent.

19 10. It is Plaintiff's position that RTI has violated numerous Labor Code Sections against
20 Plaintiff and other similarly situated aggrieved employees.
21

22 11. RTI did not provide Plaintiff and other similarly situated aggrieved employees with the
23 minimum wages to which they were entitled for work performed and as such did not compensate
24 Plaintiff and others for all hours worked at the minimum wage rate pursuant to California Labor
25 Code sections 1194, 1197 and 1197.1. Plaintiff would consistently have to respond to emergency
26 situations on the premises, including any alarms or toilets flooding, etc. In addition, Plaintiff
27 would also have to put in a work order for any immediate repairs that needed to be made
28 throughout the day. Furthermore, Plaintiff would always have to respond to any work issues.

1 Even though Plaintiff was supposed to work Monday through Friday, 9am to 12pm, which
2 equated to 15 hours per week, 30 hours per pay period, and approximately 60 hours per month,
3 Plaintiff worked throughout her workday, every single day, up through midnight. Plaintiff would
4 consistently give prospective tenants tours of units for which she was not paid or given
5 commission. Plaintiff notified her supervisor that she is always being contacted either by
6 the supervisor, Eric Martinez, or by residents all throughout the day but was not getting
7 compensated for it. Plaintiff's supervisor told her that it would be addressed, but it stayed the
8 same. There were times that Plaintiff would have to work on weekends as well. Moreover, it is
9 important to note that there were 30 residential units to manage, which is a daunting amount of
10 work when you consider the fact that Plaintiff's work hours were capped at 3 hours per day.
11 Plaintiff's paycheck reflected 3 hours per workday, despite the fact that Plaintiff did not actually
12 work 3 hours per day. It was basically company policy and standard for Plaintiff to indicate that
13 she worked 3 hours per day even though that was far from reality. If a tenant stated that Plaintiff
14 did not answer their call (at any time of the day or night), Plaintiff was advised that she would
15 lose her job. This fear of losing her job, which was consistently instilled in her by supervisor
16 Eric Martinez, was the reason that Plaintiff consistently worked "off the clock" and was paid far
17 less than the minimum wage for all hours worked.

18 12. Due to the "off the clock" work as alleged above, RTI violated Labor Code §510 because
19 it failed to pay Plaintiff and other similarly situated aggrieved employees overtime, even though
20 they worked more than 8 hours per day, 12 hours per day and/or 40 hours per week throughout
21 their employment. Plaintiff's work hours were set in stone on paper and through contract (3 hours
22 a day; 30 hours per pay period), however, that did not conform with reality as Plaintiff was
23 constantly working and subject to the control of RTI, up to 12-15 hours per day. As such, Plaintiff
24 is entitled to overtime compensation for those work hours. Plaintiff's and others' actual work
25 hours entitled them to overtime compensation (both daily and weekly), especially due to the "off
26 the clock" work as described above. However, they were not paid accurately and fully for their
27 overtime hours worked as required under California law.

28 13. RTI also violated Labor Code § 226.7 and the applicable Industrial Welfare Commission

1 Wage Order (No. 5) because it failed to provide Plaintiff and others with 10-minute rest periods
2 for every four hours of work, or majority portion thereof, throughout their employment. RTI
3 did not completely relieve Plaintiff and others of all duty during said rest periods. RTI did not
4 pay to Plaintiff and others one additional hour of pay at Plaintiff's regular rate of compensation
5 for each workday that one or more statutory rest periods was not provided.

6 14. RTI violated Labor Code §§ 512 and 226.7 along with the applicable Industrial Welfare
7 Commission Wage Order (No. 5) because it failed to provide Plaintiff and others the requisite
8 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their
9 employment, and Plaintiff did not validly waive said meal periods. RTI did not completely
10 relieve Plaintiff and others of all duty during said meal periods. RTI did not pay to Plaintiff and
11 others one additional hour of pay at Plaintiff's regular rate of compensation for each workday
12 that one or more statutory meal periods was not provided. Since Plaintiff was the on-site resident
13 manager, her meal periods would consistently be interrupted by her supervisor or by tenants who
14 needed assistance. Furthermore, RTI's written policy per the employment contract called for
15 Plaintiff to take a meal period for every 6 hours worked, however, Plaintiff was actually entitled
16 to a meal period for every 5 hours worked.

17 15. Furthermore, during the relevant time period and due to the above-mentioned violations,
18 RTI failed to pay Plaintiff and others all wages due to them within any time period specified by
19 California Labor Code section 204, including the minimum wages and overtime as described
20 above as well as meal/rest break premiums.

21 16. RTI was also in violation of California Labor Code section 226(a), by failing to include
22 pertinent information on the wage statements, including but not limited to, all hours worked
23 (regular and overtime), gross wages earned, all deductions, net wages earned, premium pay for
24 missed meal and rest breaks, the correct start and end of the pay period, all identifying employee
25 information, the correct name and address of the legal employer, and all applicable hourly rates,
26 among other items. As such, RTI did not provide Plaintiff and other similarly situated aggrieved
27 employees with complete, accurate itemized wage statements.
28

1 17. During the relevant time period, RTI also failed to keep accurate and complete payroll
2 records showing the actual hours worked per day (including the time for meal periods) and the
3 wages paid to Plaintiff and others pursuant to California Labor Code sections 1174(d).

4 18. RTI also violated Labor Code § 203 because it willfully failed to pay Plaintiff and the
5 other similarly situated aggrieved employees earned and due wages upon separation of
6 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
7 After Plaintiff stopped working at RTI and after her employment with RTI ended, RTI failed and
8 refused to pay all wages earned and due immediately upon separation. These earned but unpaid
9 wages include the unpaid minimum wages, overtime wages, premium pay for missed meal and
10 rest breaks, and business expense reimbursement.

11 19. Additionally, during the relevant time period, Plaintiff and others incurred necessary,
12 business-related expenses and costs that were not reimbursed by RTI. These costs include, but
13 are not limited to, use of personal phones/internet/personal computer for business-related
14 purposes as Plaintiff's supervisor and tenants would consistently communicate with Plaintiff via
15 her personal cell phone. Accordingly, RTI was in violation of California Labor Code sections
16 2800 and 2802.

17 20. Moreover, RTI failed to provide sick pay pursuant to Labor Code section 246 and also
18 failed to provide Worker's Compensation coverage for Plaintiff and other aggrieved employees
19 in violation of Labor Code Section 3700.5.

20 21. Finally, Plaintiff was forced to quit due to the intolerable working conditions, which
21 included fearing for her safety due to the high volume of robberies in the building and not being
22 paid for all hours worked (as discussed above). Plaintiff notified her supervisor regarding her
23 safety concerns. RTI refused to take the safety of its employees seriously. As such, Plaintiff was
24 constructively terminated in violation of public policy.

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FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

(California Industrial Welfare Commission Order 5-2001, California Code of Regulations Title 8 Section 11050, and California Labor Code Section 1198)

(Plaintiff against all named defendants and all DOE defendants)

22. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 21, inclusive, of this Complaint as though fully set forth herein.

23. At all times relevant herein, Defendants were required to compensate their employees for all hours worked upon reporting for work at the appointed time stated by the employer pursuant to Industrial Welfare Commission Order 5-2001, California Code of Regulations, Title 8, Section 11050.

24. For the three (3) years preceding filing of this action, Defendants failed to compensate Plaintiff for all hours worked.

25. Under the aforementioned wage order and regulations, Plaintiff is to recover compensation for all hours worked but not paid by Defendants for the three (3) years preceding the filing of this Complaint.

26. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this Court.

27. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus reasonable attorney's fees and costs of suit.

28. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs which will equal an amount known to Plaintiff once she has obtained all of her payroll records from Defendants.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(California Labor Code Sections 1194, 1194.2, 1197)

(Plaintiff against all named defendants and all DOE defendants)

29. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 28, inclusive, of this Complaint as though fully set forth herein.

30. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the minimum wage rate for all hours worked as required by the applicable Industrial Welfare Commission Wage Order No. 5-2001, codified at California Code of Regulations, Title 8, Section 11050, subdivision 4.

31. Pursuant to IWC Wage Order No. 5-2001, subdivision 2(K), at all relevant times, “hours worked” included “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so, and in the case of an employee who is required to reside on the employment premises, that time spent carrying out assigned duties shall be counted as hours worked...”

32. During her employment, Plaintiff was regularly required as a matter of uniform policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid less than the minimum wage rate by Defendants for hours worked in violation of California Labor Code Section 1197 and the applicable California Industrial Wage Commission wage order(s).

33. Plaintiff was, at all relevant times, under the control of Defendants and suffered or permitted to work by Defendants. Defendants’ acts or omissions in failing to adequately compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants to believe that their acts or omissions were not contrary to California law.

34. For all hours worked by Plaintiff for which she was paid less than the minimum wage

1 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
2 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
3 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
4 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

5 35. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
6 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
7 trial.

8 **THIRD CAUSE OF ACTION**

9 **FAILURE TO PAY OVERTIME**

10 **(California Industrial Welfare Commission Order 5-2001, California Code of**
11 **Regulations Title 8 Section 11050)**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 36. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 35, inclusive, of this Complaint as though fully set forth herein.

15 37. Pursuant to Industrial Welfare Commission 4-2001/5-2001, California Code of
16 Regulations, Title 8, Section 11050 for the period of Plaintiff's employment,
17 Defendants were required to compensate Plaintiff for all overtime, which is calculated at one
18 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
19 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
20 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
21 consecutive work day in a week.

22 38. Plaintiff was a non-exempt employee entitled to the protections of the California
23 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations,
24 Title 8, Section 11050.

25 39. Plaintiff worked more than eight (8) hours or twelve (12) hours in a single workday or
26 forty (40) hours in a single workweek on numerous occasions.

27 40. Plaintiff was entitled to the above overtime premiums.
28

1 41. Defendants did not pay Plaintiff premium wages of at least one and one-half times
2 Plaintiff's regular rate of pay for hours worked past eight (8) in a day and two-times Plaintiff's
3 regular rate of pay for hours worked past twelve (12) in a day.

4 42. Defendants did not pay Plaintiff premium wages of at least one and one-half times
5 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

6 43. Plaintiff worked at least one pay period in which she was not properly paid overtime
7 within the three (3) years prior to the initiation of this lawsuit.

8 44. Defendants know or should know the actual dates of overtime worked, the amount of
9 overtime worked, and the amount of unpaid overtime due.

10 45. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
11 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
12 Court.

13 46. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
14 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the
15 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
16 reasonable attorney's fees and costs of suit.

17 47. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
18 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
19 trial.

20 **FOURTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

22 **(California Labor Code Section 226)**

23 **(Plaintiff against all named defendants and all DOE defendants)**

24 48. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 47, inclusive, of this Complaint as though fully set forth herein.

26 49. Pursuant to California Labor Code Section 226, every employer must furnish each
27 employee an itemized statement of wages and deductions at the time of payment of wages.
28

1 50. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
2 accurately reflected all information required by Labor Code Section 226, including but not
3 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
4 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
5 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
6 Plaintiff in accordance with California Labor Code Section 226(a).

7 51. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
8 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
9 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
10 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
11 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
12 the 3-year period immediately preceding the date this lawsuit was filed.

13 52. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
14 sustained damages, including loss of earnings, in an amount to be established at trial. As a
15 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
16 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
17 and attorney's fees pursuant to statute.

18 53. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
19 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
20 trial.

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

23 **(California Labor Code Section 204)**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 54. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 53, inclusive, of this Complaint as though fully set forth herein.

27 55. California Labor Code Section 204 establishes the fundamental right of all employees
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1 in the State of California to be paid wages in a timely fashion for their work.

2 56. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
3 full amount of all owed wages when due as required by California Labor Code Section 204.

4 57. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
5 informed, believes, and thereon alleges, that all times relevant during the liability period,
6 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
7 including overtime hours and premium pay for missed rest breaks and meal breaks.

8 58. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
9 amount, subject to proof, to the extent she was not paid all wages each pay period. The precise
10 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
11 from Defendants' records or indirectly based on information from Defendants' records.

12 59. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
14 trial.

15 **SIXTH CAUSE OF ACTION**

16 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

17 **(California Labor Code Sections 201, 202, 203)**

18 **(Plaintiff against all named defendants and all DOE defendants)**

19 60. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 59, inclusive, of this Complaint as though fully set forth herein.

21 61. Pursuant to California Labor Code Section 201(a), an employer who discharges an
22 employee must immediately pay for all compensation due and owing.

23 62. Pursuant to California Labor Code Section 202, when an employee resigns, the
24 employer must pay all compensation due and owing within 72 hours of resignation, or on the
25 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

26 63. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
27 without abatement or reduction, any wages of an employee whose employment ends, the wages
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1 of the employee shall continue as a penalty from the due date at the same rate until paid or until
2 an action is commenced; however, the wages shall not continue for more than 30 days for
3 failure to pay an employee owed wages.

4 64. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
5 continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

6 65. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
8 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
9 preceding the filing of this lawsuit.

10 66. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
11 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
12 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

13 67. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
14 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
15 trial.

16 **SEVENTH CAUSE OF ACTION**

17 **VIOLATION OF LABOR CODE SECTION 558**

18 **(California Labor Code Section 558)**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 68. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 67, inclusive, of this Complaint as though fully set forth herein.

22 69. California Labor Code Section 558 states that any person acting on behalf of an
23 employer who violates, or causes to be violated, a section of this chapter or any provision
24 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
25 subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid
26 employee for each pay period for which the employee was underpaid in addition to an amount
27 sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one
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1 hundred dollars (\$100) for each underpaid employee for each pay period for which the
2 employee was underpaid in addition to an amount sufficient to recover underpaid wages.
3 Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was
4 filed.

5 70. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558. Thus,
6 Defendants are subject to civil penalties under the following laws:

- 7 a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular
8 wages, including overtime wages for overtime hours worked and premium pay for
9 missed meal breaks and rest breaks. As such, Defendants violated Section 558
10 under which penalties are due. Plaintiff therefore prays for penalties of \$50.00 for
11 the first pay period and \$100.00 for each subsequent violation for each pay period
12 for which Plaintiff was underpaid in addition to an amount sufficient to recover
13 underpaid wages.
14
15 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
16 relief associated with Plaintiff's prosecution of this cause of action under California
17 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
18 paying Plaintiff for all hours worked, her overtime hours worked, and premium pay
19 for missed meal breaks and rest breaks.
20
21 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
22 fees for relief associated with Plaintiff's prosecution of this cause of action under
23 California Labor Code Sections 200, et seq.

24 71. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
25 the statutes, regulations, and wage orders alleged in this cause of action along with any
26 allowable interest, penalties, attorney's fees, and costs according to proof at trial.

27 72. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs an
28

attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.

EIGHTH CAUSE OF ACTION

FAILURE TO MAINTAIN ACCURATE RECORDS

(California Labor Code Section 1174(d))

(Plaintiff against all named defendants and all DOE defendants)

73. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 72, inclusive, of this Complaint as though fully set forth herein.

74. Labor Code section 1174(d) requires that employers, including Defendants, maintain accurate records showing the hours worked daily by its employees and to whom wages were paid.

75. Additionally, the "Records" section of the applicable IWC Wage Order obligates the employer, including Defendants, to keep accurate information with respect to each one of their employees including, but not limited to, the total wages paid each payroll period, and time records showing when the employee begins and ends each work period, meal periods, split shift intervals; the total daily hours worked; the total hours worked in the payroll period, and the applicable rates of pay.

76. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails to maintain accurate and complete records required by Labor Code section 1174(d) is subject to a penalty. On information and belief, Defendants intentionally failed to maintain accurate records of Plaintiff's total daily hours, including rest breaks and meal breaks, the total hours worked in the payroll period, the applicable rates of pay, and total wages earned for the payroll period.

77. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and continues to suffer substantial losses related to Defendants' failure to record and maintain records of meal and rest periods as well as time records.

78. Plaintiff seeks all available remedies for Defendants' violations including, but not limited penalties, and costs to the extent permitted by law and according to proof at trial.

1
2 **NINTH CAUSE OF ACTION**

3 **FAILURE TO GIVE REST BREAKS**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 79. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 78, inclusive, of this Complaint as though fully set forth herein.

7 80. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 8 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which
9 provides that every employer shall authorize and permit all employees to take rest
10 periods, which insofar as practicable shall be in the middle of each work period.
11 The authorized rest period time shall be based on the total hours worked daily at the
12 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
13
14 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which
15 provides that if an employer fails to provide an employee a rest period in
16 accordance with the applicable provisions of this order, the employer shall pay the
17 employee one (1) hour of pay at employee's regular rate of compensation for each
18 workday that the rest period is not provided;
19
20 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which
21 penalizes the employer \$50.00 for each initial violation, per employee, of any
22 provision of the Wage Order, and \$100.00 for each additional violation thereafter
23 per employee; and
24
25 d. California Labor Code section 226.7, which states that (a) no employer shall require
26 any employee to work during any rest period mandated by an applicable order of
27 the Industrial Welfare Commission, and (b) if an employer fails to provide an
28 employee a rest period in accordance with an applicable order of the Industrial

1 Welfare Commission, the employer shall pay the employee one (1) additional hour
2 of pay at employee's regular rate of compensation for each work day that the rest
3 period is not provided.

4 81. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute
5 rest break after every four (4) hours of work or major fraction thereof, as required by California
6 law.

7 82. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
8 regulations, and wage orders alleged in this cause of action along with any allowable interest,
9 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
10 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

11 83. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
12 fees as well as interest under Labor Code section 218.6.

13 84. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
14 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
15 trial.
16

17 **TENTH CAUSE OF ACTION**

18 **FAILURE TO GIVE MEAL BREAKS**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 85. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 84, inclusive, of this Complaint as though fully set forth herein.

22 86. Plaintiff brings this cause of action under the following laws, for the following
23 reasons:
24

- 25 a. California Labor Code section 512(a), which requires that employees be given a 30-
26 minute uninterrupted meal break after five (5) hours of work, and a second
27 uninterrupted meal break after ten (10) hours of work;
28

- 1 b. California Labor Code section 226.7, which states that (a) no employer shall require
2 any employee to work during any meal period mandated by an applicable order of
3 the Industrial Welfare Commission, and (b) if any employer fails to provide an
4 employee a meal period in accordance with an applicable order of the Industrial
5 Welfare Commission, the employer shall pay the employee one (1) additional hour
6 of pay at the employee's regular rate of compensation for each workday that the
7 meal period is not provided;
- 8 c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified
9 under Title 8 of the California Code of Regulations Section 11050, which states that
10 if an employer fails to provide an employee a meal period in accordance with the
11 applicable provisions of the Wage Order, the employer shall pay the employee one
12 (1) hour of pay at the employee's regular rate of compensation for each workday
13 that the meal period is not provided;
- 14 d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as
15 codified under Title 8 of the California Code of Regulations Section 11050, which
16 requires an employer to maintain records documenting its employees' meal periods;
- 17 e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as
18 codified under California Code of Regulations Section 11050, which penalizes the
19 employer \$50.00 for each initial violation, per employee, of any provision of the
20 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- 21 f. California Labor Code section 1171 and 1173, which have given the California
22 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order No. 5)
23 as enforceable law.
- 24
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27 87. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
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1 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
2 to take a second relieved meal break after ten (10) hours of work, as required by California
3 law. California Labor Code section 512(a) and California Industrial Welfare Commission
4 Order No. 5, as codified under California Code of Regulations Section 11050 *et. seq.* requires
5 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,
6 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all
7 work duty. California Labor Code section 226.7 provides that employers may not require their
8 employees to work through their meal periods. California Labor Code section 226.7 and
9 California Code of Regulations section 11050 requires that if the employer fails to provide the
10 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
11 of pay for each work day that the meal period is not given.
12

13 88. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
14 regulations, and wage orders alleged in this cause of action along with any allowable interest,
15 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
16 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
17

18 89. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
19 fees as well as interest under Labor Code section 218.6.
20

21 90. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
22 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
23 trial.
24

25 **ELEVENTH CAUSE OF ACTION**

26 **PRIVATE ATTORNEYS GENERAL ACT**

27 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
28 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 232, 246, 510, 512, 558, 1174, 1174.5,**
1194, 1197.1, 1198, 2802, 3700.5)

(Against All Named Defendants and all DOE Defendants)

91. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 90, inclusive, of this Complaint as though fully set forth herein.

2 92. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
3 Defendants of the specific violations of the California Labor Code that Defendants and DOE
4 defendants have violated and continue to violate.

5 93. Pursuant to California Labor code section 2699.3, no response was received from the
6 LWDA within 65 days of the postmark date of the above-alleged letter.

7 94. Plaintiff therefore has exhausted all administrative remedies required of her under
8 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
9 cause of action and pursue penalties in a representative action for Defendants' violations of the
10 Labor Code.

11 95. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
12 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
13 departments, divisions, commissions, boards, agencies, or employees for violation of the code
14 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
15 on behalf of himself or herself and other current or former employees pursuant to the
16 procedures specified in California Labor Code section 2699.3.

17 96. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
18 violator and had one or more of the alleged violations committed against her, and therefore is
19 properly suited to represent the interests of other current and former employees, including all
20 current and former hourly, non-exempt employees who worked for RTI in the State of
21 California during the applicable PAGA Period.

22 97. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
23 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
24 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

25 98. Plaintiff therefore has exhausted all administrative remedies required of her under
26 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
27 cause of action and pursue penalties in a representative action for Defendants' violations of the
28

1 Labor Code.

2 99. California Labor Code section 2699 et seq. imposes penalties upon culpable
3 Defendants for violating the Labor Code.

4 100. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
5 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
6 seeking individual/victim specific relief or underpaid wages for herself or other employees
7 under this specific PAGA cause of action. Plaintiff has separate causes of action in this
8 Complaint for individual wages but is not seeking wages through the PAGA action.

9 101. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
10 the following:

11 Violations of California Labor Code sections 201, 202, 203, 204, and/or 204b, 210,
12 226, 226.3, 226.7, 232, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1198, 2802, 3700.5
13 via 2698 and 2699 and any other Labor Codes/Industrial Welfare Commission Order (No.
14 5) violated based on the facts alleged in this Complaint.

15 102. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
16 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
17 employees as alleged herein in an amount to be shown according to proof at trial and within the
18 jurisdictional limits of this Court.

19 **TWELFTH CAUSE OF ACTION**

20 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

21 **(Plaintiff against all named Defendants and DOE Defendants, and each of them)**

22 103. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 102, inclusive, of this Complaint as thought fully set forth herein.

24 104. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
25 employee for all necessary expenditures or losses incurred by the employee in direct
26 consequence of the discharge of his or her duties."
27

28 105. Beginning at least 3 years prior to the filing of this complaint, in order to discharge

1 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
2 of completing her job duties, which were not reimbursed by Defendant. These expenses
3 include, but are not limited to, use of personal phones/internet/personal computer for business-
4 related purposes as Plaintiff's supervisor and tenants would consistently communicate with
5 Plaintiff via her personal cell phone.

6 106. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
7 and attorney's fees and costs, under Labor Code section 2802.

8 **THIRTEENTH CAUSE OF ACTION**

9 **WRONGFUL CONSTRUCTIVE DISCHARGE IN VIOLATION OF PUBLIC POLICY**

10 **(Against All Named Defendants and all DOE Defendants)**

11 107. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 106, inclusive, of this Complaint as though fully set forth herein.

13 108. At all times during her employment with RTI, Plaintiff performed her
14 duties with the utmost diligence and competence.

15 109. Defendants intentionally created an illegal work environment and atmosphere
16 by not providing Plaintiff with a safe working environment, and not paying Plaintiff for all
17 hours worked, and not paying her overtime, and violating numerous labor code sections as
18 outlined in this Complaint, thereby not giving Plaintiff an opportunity to work in a safe
19 environment free of labor code violations. This situation became intolerable for Plaintiff and
20 Plaintiff had no alternative but to quit her job.

21 110. The employment of Plaintiff was constructively wrongfully terminated in or
22 around May 2021 in violation of the fundamental public policy of the State of California with
23 respect to providing Plaintiff with a safe working environment and violating numerous labor
24 code violations, including, not compensating Plaintiff for all hours worked, not paying Plaintiff
25 overtime wages, not providing Plaintiff accurate, itemized wage statements, not reimbursing
26 Plaintiff for all necessary business expenses, and not paying Plaintiff wages owed every pay
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period, among other violations. Said conduct violated statutory and constitutional expressions of public policy including, the California Labor Code and the California Constitution, Article 1 section 8. Moreover, Plaintiff was forced to hire an attorney to assist her to end these illegal activities. Said conduct violated statutory and constitutional expressions of public policy including, the California Labor Code and the California Constitution, Article 1 section 8.

111. As set forth above, said actions by Defendants were wrongful and in violation of the fundamental principles of the public policy of the State of California as reflected in its laws, objectives and policies. Said statutes and constitutional expressions of public policy include, but are not limited to, California Labor Code and the California Constitution, Article 1 section 8. These laws inure to the benefit of the public at large, and not just the private interests of the employers and employees whom they govern or protect.

112. As a direct and proximate result of the aforementioned acts and omissions of Defendants, Plaintiff suffered general and compensatory damages, including but not limited to, loss of income (past and future), loss of employment benefits (past and future), general and compensatory damages (past and future), mental pain and anguish and emotional distress (past and future), and will continue to suffer in the future, in an amount to be proved at trial.

113. The foregoing conduct engaged in by Defendants and each of their directors, officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified, and carried on with a conscious and willful disregard of their workers' right to work in an environment free of labor code violations, so as to justify the imposition of punitive damages to punish and set an example of said Defendants.

FOURTEENTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(California Business and Professions Code Section 17200)

(Plaintiff against All Named Defendants and all DOE defendants)

114. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 113, inclusive, of this Complaint as though fully set forth herein.

2 115. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendant
3 constitutes unfair and unlawful business practices under California Business and
4 Professions Code Section 17200, et seq.

5 116. Defendant's violations of California labor laws and the Labor Code, as alleged above
6 constitutes a business practice because it was done repeatedly over a significant period of time
7 in a systematic manner that was detrimental to Plaintiff and other similarly situated aggrieved
8 employees.

9 117. For the four years preceding the filing of this action, Plaintiff has suffered damages
10 and request damages and/or restitution of all monies and profits to be disgorged from
11 Defendant in an amount according to proof at time of trial, but in excess of the jurisdiction of
12 this Court.

13 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
14 follows:

- 15 1. For compensatory damages including lost past and future wages, regular wages,
16 overtime, and all other sums of money, including employment benefits, together
17 with interest on said amounts, and any other economic injury to Plaintiff, according to
18 proof;
- 19 2. For general damages according to proof;
- 20 3. For special and consequential damages to Plaintiff in an amount subject to proof at
21 trial;
- 22 4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
23 at trial;
- 24 5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
25 subject to proof at trial;
- 26 6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
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proof at trial;

7. For restitution and disgorgement for all unfair business practices by Defendants against Plaintiff in an amount subject to proof at trial;
8. For an order enjoining Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
11. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative PAGA claim/action;
12. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of attorney's fees, costs, interest, and penalties according to proof to the extent permitted by law;
13. For restitution and/or damages for all amounts unlawfully withheld from the wages of Plaintiff, as may be proven;
14. For the imposition of civil penalties and/or statutory penalties;
15. For all interest as allowed by law;
16. For all costs and disbursements incurred in this suit;
17. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, the California Labor Code; and/or other applicable laws; and

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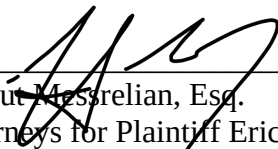
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1 18. For such other and further relief as this Court may deem proper.
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3 DATED: November 27, 2021

MESSRELIAN LAW INC.

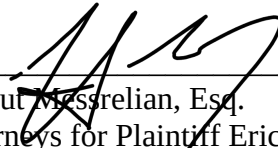
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5 By 
6 Harout Messrelian, Esq.
7 Attorneys for Plaintiff Erica Garcia Pendleton

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
10

11 DATED: November 27, 2021

MESSRELIAN LAW INC.

12
13 By 
14 Harout Messrelian, Esq.
15 Attorneys for Plaintiff Erica Garcia Pendleton
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