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individually and on behalf of all others similarly situated

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

09/28/2021 at 02:11:00 PM

Clerk of the Superior Court
By Marc David, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

ASHA SINGH, individually and on behalf
of all others similarly situated

Plaintiff,

vs.

POINT LOMA REHABILITATION
CENTER, LLC; and Does 1 through 20,
inclusive,

Defendants.

Case No. 37-2021-00028133-CU-OE-CTL

Assigned for All Purposes to:

Hon. Joel R. Wohlfeil; Dept. C73

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods
4. Failure to Permit Rest Breaks;
5. Failure to Reimburse All Business Expenses;
6. Failure to Provide Accurate Itemized Wage Statements;
7. Failure to Provide Paid Sick Leave
8. Failure to Timely Pay All Wages Due Upon Separation of Employment; and
9. Violation of Business and Professions Code §§ 17200, *et seq.*
10. Enforcement of Labor Code § 2698 *et seq.* ("PAGA")

1 Plaintiff Asha Singh, individually and on behalf of others similarly situated, alleges as
2 follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Asha Singh (“Plaintiff”) brings this putative class and representative
5 action against defendants Point Loma Rehabilitation Center, LLC and DOES 1 through 20,
6 inclusive (collectively, “Defendants”), on behalf of herself individually and on behalf of non-
7 exempt employees employed by Defendants.

8 2. Defendants are in the business of operating rehabilitation centers.

9 3. Through this action, Plaintiff alleges that Defendants have engaged in a
10 systematic pattern of wage and hour violations under the California Labor Code and Industrial
11 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
12 unfair competition.

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

15 (a) Failing to pay minimum wages;

16 (b) Failing to pay overtime wages;

17 (c) Failing to provide legally compliant meal periods or compensation in lieu thereof;

18 (d) Failing to provide legally compliant rest breaks or compensation in lieu thereof;

19 (e) Failing to reimburse for all business expenses;

20 (f) Failing to provide paid sick leave; and

21 (g) Failing to timely pay all wages due upon separation of employment.

22 5. Plaintiff brings this lawsuit seeking monetary relief against Defendants on behalf
23 of themselves and all others similarly situated in California to recover, among other things,
24 unpaid wages and benefits, interest, attorneys’ fees, costs and expenses and penalties pursuant to
25 Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174,
26 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and 2698, *et seq.*

27 **JURISDICTION AND VENUE**

28 6. This is a class action, pursuant to California Code of Civil Procedure § 382. The

1 monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdictional limits
2 of the Superior Court and will be established according to proof at trial.

3 7. This Court has jurisdiction over this action pursuant to the California Constitution,
4 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
5 given by statutes to other courts. The statutes under which this action is brought do not specify
6 any other basis for jurisdiction.

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

12 9. Venue is proper in this Court because, upon information and belief, Defendants
13 reside, transact business or have offices in this county and the acts and omissions alleged herein
14 took place in this county.

15 **THE PARTIES**

16 10. Plaintiff was employed by Defendants during the Class Period in California.

17 11. Plaintiff is informed and believes, and thereon alleges, that Defendants at all times
18 hereinafter mentioned, were and are employers as defined in and subject to the Labor Code and
19 IWC Wage Orders, whose employees were and are engaged throughout this county and the State
20 of California.

21 12. Plaintiff is unaware of the true names or capacities of the defendants sued herein
22 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
23 Complaint and serve such fictitiously named defendants once their names and capacities become
24 known.

25 13. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted
26 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint
27 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant
28 are legally attributable to the other defendant. Furthermore, Defendants in all respects acted as

1 the employer and/or joint employer of Plaintiff and the class members.

2 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
3 and omissions alleged herein were performed by, or are attributable to, Defendants and/or Does
4 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
5 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
6 official policy of Defendants.

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

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

14 **CLASS ACTION ALLEGATIONS**

15 17. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of
16 herself and all others similarly situated who were affected by Defendants' Labor Code, Business
17 and Professions Code §§ 17200 and IWC Wage Order violations.

18 18. All claims alleged herein arise under California law for which Plaintiff seeks relief
19 authorized by California law.

20 19. Plaintiff's proposed Class consists of and is defined as follows:

21 Class

22 All current and former non-exempt employees who worked for
23 Defendants in the State of California at any time between January 3,
2017 and the date of class certification.¹

24 Plaintiff also seeks to certify the following Subclass of employees:

25 Waiting Time Subclass

26 All members of the Class who separated their employment from Defendants
at any time between January 3, 2018 and the date of class certification.

27
28 ¹ The statute of limitations for this matter was tolled by 179 days pursuant to Cal. Rules of Court,
Appendix 1, Emergency Rule No. 9.

1 20. Members of the Class and Subclass described above will be collectively referred
2 to as “class members.” Plaintiff reserves the right to establish other or additional subclasses, or
3 modify any Class or Subclass definition, as appropriate based on investigation, discovery and
4 specific theories of liability.

5 21. This action has been brought and may properly be maintained as a class action
6 under the California Code of Civil Procedure § 382 because there are common questions of law
7 and fact as to the Class that predominate over questions affecting only individual members
8 including, but not limited to:

- 9 (a) Whether Defendants paid Plaintiff and class members all minimum wage
10 compensation;
- 11 (b) Whether Defendants paid Plaintiff and class members all overtime compensation;
- 12 (c) Whether Defendants deprived Plaintiff and class members of compliant meal
13 periods or required Plaintiff and class members to work through meal periods
14 without compensation;
- 15 (d) Whether Defendants deprived Plaintiff and class members of compliant rest periods
16 or required Plaintiff and class members to work through rest periods without
17 compensation;
- 18 (e) Whether Defendants failed to reimburse Plaintiff and class members for business
19 expenses;
- 20 (f) Whether Defendants failed to furnish Plaintiff and class members with accurate,
21 itemized wage statements;
- 22 (g) Whether Defendants failed to provide Plaintiff and class members with paid sick
23 leave;
- 24 (h) Whether Defendants failed to timely pay Plaintiff and former class members all
25 wages due upon termination or within 72 hours of resignation; and
- 26 (i) Whether Defendants engaged in unfair business practices in violation of Business
27 & Professions Code §§ 17200, *et seq.*

28 22. There is a well-defined community of interest in this litigation and the Class is

1 readily ascertainable:

2 (a) Numerosity: The members of the Class are so numerous that joinder of all
3 members is impractical. Although the members of the Class are unknown
4 to Plaintiff at this time, on information and belief, the Class is estimated to
5 be greater than 100 individuals. The identity of the class members are
6 readily ascertainable by inspection of Defendants' employment and payroll
7 records.

8 (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the
9 claims (or defenses, if any) of the Class because Defendants' failure to
10 comply with the provisions of California wage and hour laws entitled each
11 class member to similar pay, benefits and other relief. The injuries sustained
12 by Plaintiff are also typical of the injuries sustained by the Class because
13 they arise out of and are caused by Defendants' common course of conduct
14 as alleged herein.

15 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent
16 and protect the interests of all members of the Class because it is in her best
17 interest to prosecute the claims alleged herein to obtain full compensation
18 and penalties due to her and the Class. Plaintiff's attorneys, as proposed
19 class counsel, are competent and experienced in litigating large employment
20 class actions and are versed in the rules governing class action discovery,
21 certification and settlement. Plaintiff has incurred and, throughout the
22 duration of this action, will continue to incur attorneys' fees and costs that
23 have been and will be necessarily expended for the prosecution of this action
24 for the substantial benefit of each class member.

25 (d) Superiority: The nature of this action makes the use of class action
26 adjudication superior to other methods. A class action will achieve
27 economies of time, effort and expense as compared with separate lawsuits,
28 and will avoid inconsistent outcomes because the same issues can be

1 adjudicated in the same manner and at the same time for each Class. If
2 appropriate this Court can, and is empowered to, fashion methods to
3 efficiently manage this case as a class action.

4 (e) Public Policy Considerations: Employers in the State of California and
5 other states violate employment and labor laws every day. Current
6 employees are often afraid to assert their rights out of fear of direct or
7 indirect retaliation. Former employees are fearful of bringing actions
8 because they believe their former employers might damage their future
9 endeavors through negative references and/or other means. Class actions
10 provide the class members who are not named in the complaint with a type
11 of anonymity that allows for the vindication of their rights at the same time
12 as affording them privacy protections.

13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO PAY MINIMUM WAGES**

15 **(Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order § 3)**

16 23. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
17 though fully set forth herein.

18 24. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
19 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
20 wage than the minimum so fixed is unlawful.

21 25. During the relevant time period, Defendants paid Plaintiff and class members less
22 than minimum wages when, for example, Defendants required Plaintiff and class members to
23 work off-the-clock when Plaintiff and class members were under Defendants' control. To the
24 extent these hours do not qualify for the payment of overtime or doubletime, Plaintiff and class
25 members were not being paid at least minimum wage for their work.

26 26. During the relevant time period, Defendants regularly failed to pay at least
27 minimum wage to Plaintiff and class members for all hours worked pursuant to Labor Code §§
28 1194 and 1197.

27. Defendants' failure to pay Plaintiff and class members the minimum wage as required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs and attorney's fees.

28. Pursuant to Labor Code § 1194.2, Plaintiff and class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order)

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

30. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half (1½) or two (2) times the person's regular rate of pay, depending on the number of hours or days worked by the person on a daily or weekly basis.

31. Specifically, the applicable IWC Wage Orders provide that Defendants are and were required to pay overtime compensation to Plaintiff and Class Members at the rate of one and one-half times (1½) their regular rate of pay when working and for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first eight (8) hours of work on the seventh day of work in a workweek.

32. The applicable IWC Wage Orders further provide that Defendants are and were required to pay overtime compensation to Plaintiff and Class Members at a rate of two times their regular rate of pay when working and for all hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours on the seventh day of work in a workweek.

33. California Labor Code § 510 codifies the right to overtime compensation at one and one-half (1½) times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh

1 consecutive day of work, and overtime compensation at twice the regular hourly rate for hours
2 worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
3 seventh day of work in a workweek.

4 34. Labor Code § 510 and the applicable IWC Wage Orders provide that employment
5 of more than six days in a workweek is only permissible if the employer pays proper overtime
6 compensation as set forth herein.

7 35. Plaintiff and Class Members were non-exempt employees entitled to the
8 protections of California Labor Code §§ 510 and 1194.

9 36. During the relevant time period, Defendants failed to pay Plaintiff and Class
10 Members overtime wages for all overtime hours worked when Plaintiff and Class Members
11 worked in excess of eight (8) hours in a day, forty (40) hours in a week and/or for a seventh
12 consecutive day of work in a workweek, or when Plaintiff and Class Members worked in excess
13 of twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh day of work in a
14 work week.

15 37. In violation of state law, Defendants knowingly and willfully refused to perform
16 their obligations and compensate Plaintiff and Class Members for all wages earned and all hours
17 worked.

18 38. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of
19 overtime and double time compensation, as required by California law, violates the provisions
20 of Labor Code §§ 510 and 1198, and is therefore unlawful.

21 39. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to
22 recover their unpaid overtime and double time compensation as well as interest, costs, and
23 attorneys' fees.

24 **THIRD CAUSE OF ACTION**

25 **FAILURE TO PROVIDE MEAL PERIODS**

26 **(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)**

27 40. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
28 though fully set forth herein.

1 41. Labor Code § 226.7 provides that no employer shall require an employee to work
2 during any meal period mandated by the IWC Wage Orders.

3 42. Section 11 of the applicable IWC Wage Order states, “[n]o employer shall employ
4 any person for a work period of more than five (5) hours without a meal period of not less than
5 30 minutes, except that when a work period of not more than six (6) hours will complete the
6 day’s work the meal period may be waived by mutual consent of the employer and the
7 employee.”

8 43. Labor Code § 512(a) provides that an employer may not require, cause, or permit
9 an employee to work for a period of more than five (5) hours per day without providing the
10 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
11 the total work period per day of the employee is not more than six (6) hours, the meal period may
12 be waived by mutual consent of both the employer and the employee.

13 44. Labor Code § 512(a) also provides that an employer may not employ an employee
14 for a work period of more than ten (10) hours per day without providing the employee with a
15 second meal period of not less than thirty (30) minutes, except that if the total hours worked is
16 no more than twelve (12) hours, the second meal period may be waived by mutual consent of the
17 employer and the employee only if the first meal period was not waived.

18 45. During the relevant time period, Plaintiff and Class Members did not receive
19 compliant meal periods for working more than five (5) and ten (10) hours per day because their
20 meal periods were missed, late, short, interrupted, and/or they were not permitted to take a second
21 meal period.

22 46. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
23 an employer to pay an employee one (1) additional hour of pay at the employee’s regular rate of
24 compensation for each work day that a compliant meal period is not provided.

25 47. At all relevant times, Defendants failed to pay Plaintiff and Class Members meal
26 period premiums for missed, late, and/or short meal periods pursuant to Labor Code § 226.7(b)
27 and section 11 of the applicable IWC Wage Order.

28

1 48. As a result of Defendants' failure to pay Plaintiff and Class Members an additional
2 hour of pay for each day a compliant meal period was not provided, Plaintiff and Class Members
3 suffered and continue to suffer a loss of wages and compensation.

4 **FOURTH CAUSE OF ACTION**

5 **FAILURE TO PERMIT REST BREAKS**

6 **(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order)**

7 49. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
8 though fully set forth herein.

9 50. Labor Code § 226.7(a) provides that no employer shall require an employee to
10 work during any rest period mandated by the IWC Wage Orders.

11 51. Section 12 of the applicable IWC Wage Order states "every employer shall
12 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
13 the middle of each work period" and the "authorized rest period time shall be based on the total
14 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
15 thereof" unless the total daily work time is less than three and one-half (3½) hours.

16 52. During the relevant time period, Plaintiff and class members did not receive a ten
17 (10) minute rest period for every four (4) hours or major fraction thereof worked.

18 53. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires
19 an employer to pay an employee one additional hour of pay at the employee's regular rate of
20 compensation for each workday that the rest period is not provided.

21 54. At all relevant times, Defendants failed to pay Plaintiff and class members all rest
22 period premiums due for rest period violations pursuant to Labor Code § 226.7(b) and section 12
23 of the applicable IWC Wage Order.

24 55. As a result of Defendants' failure to pay Plaintiff and class members an additional
25 hour of pay for each day a rest period was not provided, Plaintiff and class members suffered and
26 continue to suffer a loss of wages and compensation.

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 **(Violation of Labor Code §§ 2800, 2802, and the Applicable IWC Wage Order § 9)**

4 56. Plaintiff re-alleges and incorporates by this reference each and every allegation
5 set forth in all previous paragraphs of the Complaint.

6 57. Labor Code § 2800 provides, in pertinent part, “[a]n employer shall in all cases
7 indemnify his employee for losses caused by the employer’s want of ordinary care.”

8 58. Labor Code § 2802 provides, in pertinent part, “[a]n employer shall indemnify his
9 or her employee for all necessary expenditures or losses incurred by the employee in direct
10 consequence of the discharge of his or her duties...”

11 59. Further, Labor Code § 2802 additionally provides, in pertinent part: “(c)...the
12 term ‘necessary expenditures or losses’ shall include all reasonable costs, including but not
13 limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

14 60. The Applicable IWC Wage Order § 9 provides that: “When tools or equipment
15 are required by the employer or are necessary to the performance of a job, such tools and
16 equipment shall be provided and maintained by the employer . . .”

17 61. California Labor Code section 2804 mandates that this statutory right cannot be
18 waived.

19 62. During the relevant time period, Defendants were required to indemnify and
20 reimburse Plaintiff and members of the Plaintiff Class for all expenditures or losses caused by
21 the employer’s want of ordinary care and/or incurred in direct consequent of the discharge of
22 their duties, but failed to indemnify and reimburse Plaintiff and members of the Plaintiff Class
23 for items and equipment required for work.

24 63. As a direct and proximate result, Plaintiff and members of the Plaintiff Class have
25 suffered, and continue to suffer, substantial losses, related to the use and enjoyment of such
26 monies to be reimbursed, lost interest on such monies, and expenses and attorney’s fees in
27 seeking to compel Defendants to fully perform their obligations under California law, all to their
28 damage in amounts according to proof at the time of trial.

1
2 64. Accordingly, Plaintiff and members of the Plaintiff Class are entitled to recover,
3 and hereby seek, an amount equal to incurred necessary expenditures, pre- and post-judgment
4 interest, applicable penalties, attorneys' fees and costs, and any further equitable relief this Court
5 may deem just and proper. *See* Cal. Lab. Code § 2802, *see also*, Cal. Civ. Proc. Code § 1021.5.

6 **SIXTH CAUSE OF ACTION**

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

8 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

9 65. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
10 though fully set forth herein.

11 66. Labor Code § 226(a) requires Defendants to provide each employee with an
12 accurate wage statement in writing showing nine pieces of information, including: (1) gross
13 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned
14 and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
15 provided that all deductions made on written orders of the employee may be aggregated and
16 shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
17 employee is paid, (7) the name of the employee and the last four digits of his or her social security
18 number or an employee identification number other than a social security number, (8) the name
19 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
20 during the pay period and the corresponding number of hours worked at each hourly rate by the
21 employee.

22 67. During the relevant time period, Defendants have knowingly and intentionally
23 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff
24 and class members. The deficiencies include, among other things, the failure to state the correct
25 rate of pay and hours worked at each rate of pay, failure to state the correct total hours worked,
26 and the failure to correctly state the gross and net wages earned by Plaintiff and class members.

27 68. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
28 and class members have suffered injury and damage to their statutorily protected rights.

1 Specifically, Plaintiff and class members have been injured by Defendants' intentional violation
2 of California Labor Code § 226(a) because they were denied both their legal right to receive, and
3 their protected interest in receiving, accurate itemized wage statements under California Labor
4 Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the extent of the
5 underpayment of wages, thereby causing Plaintiff to incur expenses and lost time. Plaintiff would
6 not have had to engage in these efforts and incur these costs had Defendants provided the accurate
7 wages earned. This has also delayed Plaintiff's ability to demand and recover the underpayment
8 of wages from Defendants.

9 69. California Labor Code § 226(a) requires an employer to pay the greater of all
10 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
11 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
12 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
13 comply with California Labor Code § 226(a).

14 70. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff and
15 class members from knowing, understanding and disputing the wages paid to them, and resulted
16 in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
17 intentional failure to comply with California Labor Code § 226(a), Plaintiff and class members
18 have suffered an injury, and the exact amount of damages and/or penalties is all in an amount to
19 be shown according to proof at trial.

20 71. Plaintiff and class members are also entitled to injunctive relief under California
21 Labor Code § 226(h), compelling Defendants to comply with California Labor Code § 226, and
22 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

23 **SEVENTH CAUSE OF ACTION**

24 **FAILURE TO PROVIDE PAID SICK LEAVE**

25 **(Violation of Labor Code § 246)**

26 72. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
27 though fully set forth herein.

28 73. Labor Code section 246 requires employers to provide paid sick leave under

certain circumstances.

74. At all relevant times, Defendants failed to provide Plaintiff and class with paid sick time at the proper rate of pay.

75. As a result of Defendants' failure to provide Plaintiff and class members with paid sick time, Plaintiff and class members suffered and continue to suffer a loss of wages and compensation.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT AND WITHIN THE REQUIRED TIME

(Violation of Labor Code §§ 201, 202 203, 227.3; Violation of IWC Wage Order)

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

77. California Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his employment, his wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his intention to quit, in which case the employee is entitled to his wages at the time of quitting.

78. During the relevant time period, Defendants willfully failed to pay Plaintiff and Waiting Time Subclass members all their earned wages upon termination including, but not limited to, proper minimum wages, accrued vacation pay, and overtime and doubletime compensation, either at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ.

79. Defendants' failure to pay Plaintiff and Waiting Time Subclass members all their earned wages at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ is in violation of Labor Code §§ 201 and 202.

80. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201

1 and 202, then the wages of the employee shall continue as a penalty from the due date at the same
2 rate until paid or until an action is commenced; but the wages shall not continue for more than
3 thirty (30) days.

4 81. Plaintiff and Waiting Time Subclass members are entitled to recover from
5 Defendants the statutory penalty which is defined as Plaintiff' and Waiting Time Subclass
6 members' regular daily wages for each day they were not paid, at their regular hourly rate of pay,
7 up to a thirty (30) day maximum pursuant to Labor Code § 203.

8 **NINTH CAUSE OF ACTION**

9 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

10 82. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
11 though fully set forth herein.

12 83. Defendants' conduct, as alleged herein, has been and continues to be unfair,
13 unlawful and harmful to Plaintiff and class members. Plaintiff seeks to enforce important rights
14 affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

15 84. Defendants' activities, as alleged herein, violate California law and constitute
16 unlawful business acts or practices in violation of California Business and Professions Code
17 §§ 17200, *et seq.*

18 85. A violation of Business and Professions Code §§ 17200, *et seq.* may be predicated
19 on the violation of any state or federal law.

20 86. Defendants' policies and practices have violated state law in at least the following
21 respects:

22 (a) Failing to pay all minimum wages, overtime, and sick pay owed to Plaintiff and
23 class members in violation of Labor Code §§ 246, 510, 1182.12, 1194.2, 1197, and 1198;

24 (b) Failing to provide timely meal periods without paying Plaintiff and class members
25 premium wages for every day said meal periods were not provided in violation of Labor Code
26 §§ 226.7 and 512;

27 (c) Failing to authorize or permit rest breaks without paying Plaintiff and class
28 members premium wages for every day said rest breaks were not authorized or permitted in

1 violation of Labor Code § 226.7;

2 (d) Failing to provide Plaintiff and class members with accurate itemized wage
3 statements in violation of Labor Code § 226;

4 (e) Failing to reimburse all necessary business expenses in violation of Labor Code
5 §§ 2800 and 2802;

6 (g) Failing to timely pay all earned wages to Plaintiff and Waiting Time Subclass
7 members upon separation of employment in violation of Labor Code §§ 201, 202, 203, and 227.3.

8 87. Defendants intentionally avoided paying Plaintiff and class members' wages and
9 monies, thereby creating for Defendants an artificially lower cost of doing business in order to
10 undercut their competitors and establish and gain a greater foothold in the marketplace.

11 88. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiff and class
12 members are entitled to restitution of the wages unlawfully withheld and retained by Defendants
13 during a period that commences four years prior to the filing of the Complaint; an
14 award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable laws;
15 and an award of costs.

16 TENTH CAUSE OF ACTION

17 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

18 89. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs as
19 though fully set forth herein.

20 90. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
21 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
22 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
23 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
24 an aggrieved employee on behalf of himself or herself and other current or former employees
25 pursuant to the procedures specified in Labor Code § 2699.3.

26 91. For all provisions of the Labor Code except those for which a civil penalty is
27 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
28 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two

1 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
2 period in which Defendants violated these provisions of the Labor Code.

3 92. Defendants' conduct violates numerous Wage Order and Labor Code sections,
4 including, but not limited to, the following:

- 5 a. violation of Labor Code §§ 201, 202, 203, 204, 210, 227.3, 246, 510,
6 1182.12, 1194, 1197, and 1198 for failure to timely pay all earned wages
7 (including minimum wage and overtime wages) owed to Plaintiff and other
8 aggrieved employees during employment and upon separation of
9 employment as herein alleged;
- 10 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
11 periods to Plaintiff and other aggrieved employees and failure to pay
12 premium wages for missed meal periods as herein alleged;
- 13 c. violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff
14 and other aggrieved employees and failure to pay premium wages for
15 missed rest periods as herein alleged;
- 16 d. violation of Labor Code § 226 for failure to provide accurate itemized wage
17 statements to Plaintiff and other aggrieved employees as herein alleged;
- 18 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate
19 and complete records showing, among other things, the hours worked daily
20 by and the wages paid to aggrieved employees; and
- 21 f. violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff
22 and other aggrieved employees as herein alleged.

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

26 94. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as
27 to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and all other
28 aggrieved employees under PAGA.

95. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

96. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

Plaintiff, on her own behalf and on behalf of all others similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

1. For certification of this action as a class action, including certifying the Class and Subclass alleged by Plaintiff;

2. For appointment of Asha Singh as the class representative;

3. For appointment of Aegis Law Firm, PC as class counsel for all purposes;

4. For compensatory damages in an amount according to proof with interest thereon;

5. For economic and/or special damages in an amount according to proof with interest thereon;

6. For reasonable attorneys' fees, costs of suit and interest to the extent permitted by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e), 1194, and 2698 *et seq.*;

7. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;

8. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

9. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions Code §§ 17200, *et seq.*;

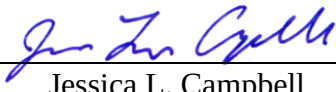
10. For an award of damages in the amount of unpaid compensation including, but not limited to, liquidated damages, unpaid wages, benefits and penalties, including interest thereon;

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- 11. For pre-judgment interest;
- 12. For civil penalties; and
- 13. For such other relief as the Court deems just and proper.

Dated: September 28, 2021

AEGIS LAW FIRM, PC

By: 
Jessica L. Campbell
Attorney for Plaintiff Asha Singh