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13 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF BUTTE**

15 VERONICA GONZALEZ, individually, and
16 on behalf of all others similarly situated,

17 Plaintiff,

18 vs.

19 SIERRA HEALTH AND WELLNESS
20 CENTERS LLC, and DOES 1 through 100,
21 inclusive,

22 Defendants.

Case No. 21CV01932

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES, DECLARATORY AND
INJUNCTIVE RELIEF, PENALTIES AND
RESTITUTION**

[JURY TRIAL DEMANDED]

23 Representative Plaintiff alleges as follows:

INTRODUCTION

24 1. This is a class and representative action seeking unpaid compensation for wages,
25 meal and/or rest period violations, interest thereon, liquidated damages and other penalties,
26 injunctive and other equitable relief, and reasonable attorneys' fees and costs under, *inter alia*,
27 California Labor Code §§ 200-204, 210, 218, *et seq.*, 223, 225.5, 226, *et seq.*, 256, 510, 512, 558,
28 1174, 1174.5, 1182.12, 1194, *et seq.*, 1197, 1197.1, 1198, 2699, *et seq.*, 2800, 2802, California
Business and Professions Code §§ 17200, *et seq.* and California Code of Civil Procedure § 1021.5.

1 2. Representative Plaintiff Veronica Gonzalez (“Representative Plaintiff” or
2 “Plaintiff”) brings this action individually and on behalf of all other persons similarly situated
3 (“Class Members” and/or the “Plaintiff Class”) who are or have been employed by Defendant
4 Sierra Health and Wellness Centers, LLC and/or Does 1 through 100, inclusive (collectively
5 “Defendants”) as non-exempt employees within the State of California within the applicable class
6 period.

7 3. The relevant “class period” begins on July 30, 2017 and extends through trial, based
8 upon the allegation that the violations of California’s wage and hour laws, as described more fully
9 below, have been ongoing throughout that time.

10 4. The relevant period for recovery of penalties under California’s Private Attorneys
11 General Act begins on July 30, 2020 and extends through trial (i.e., the “PAGA period”), based
12 upon the allegation that the violations of California’s wage and hour laws, as described more fully
13 below, have been ongoing throughout that time.

14 5. Representative Plaintiff and those persons working for Defendants in California as
15 non-exempt employees within these periods and trial, inclusive, are referred to herein as “Class
16 Members,” “Aggrieved Employees” or both.

17 6. Throughout the class and PAGA periods, Defendants have had a consistent policy
18 of (1) unlawfully denying Representative Plaintiff, Aggrieved Employees and Class Members
19 statutorily-mandated meal and rest periods, (2) failing to pay these workers’ wages in the event of
20 such failures, (3) willfully failing to pay these workers at least the minimum wage for all hours
21 worked, (4) willfully failing to pay these workers’ overtime wages at the correct rate, (5) willfully
22 failing to provide these workers with accurate semimonthly itemized wage statements reflecting
23 the total number of hours each worked, the applicable deductions, and the applicable hourly rates
24 in effect during the respective pay periods, and (6) willfully failing to pay compensation in a
25 prompt and timely manner to those workers whose employment with Defendants have terminated.

26 7. Defendants operate/operated a chain of nursing and rehabilitation centers within
27 California for which Representative Plaintiff worked as non-exempt a medication technician.
28 Representative Plaintiff is informed and believes and, on that basis, alleges that, within the class

1 and PAGA periods, Defendants employed scores of individuals in California to perform medical
2 services, employment positions which did not, and currently do not, meet any known test for
3 exemption from the payment of minimum and/or overtime wages and/or the entitlement to meal
4 or rest periods.

5 8. Despite actual knowledge of these facts and legal mandates, Defendants have
6 enjoyed and continue to enjoy an advantage over their competition and a resultant disadvantage to
7 their workers by electing not to pay all wages due (including missed meal and rest period
8 premiums) and/or all penalties due (including "waiting time" penalties) to their California-based
9 non-exempt employees (and/or persons occupying similar positions).

10 9. Representative Plaintiff is informed and believes and, on that basis, alleges that
11 Defendants' officers knew of these facts and legal mandates yet, nonetheless, repeatedly
12 authorized and/or ratified the violation of the laws cited herein.

13 10. Despite Defendants' knowledge of their workers' entitlements in these respects,
14 Defendants failed to provide same to Representative Plaintiff, Aggrieved Employees and/or Class
15 Members, in violation of California state statutes, the applicable California Industrial Welfare
16 Commission Wage Order, and Title 8 of the California Code of Regulations. This action is brought
17 to redress and end this prolonged pattern of unlawful conduct once and for all.

18 JURISDICTION AND VENUE

19
20 11. This Court has jurisdiction over the claims brought herein for unpaid wages, other
21 damages and/or penalties, etc. under, *inter alia*, the applicable Industrial Welfare Commission
22 Wage Order (as effectuated through the California Labor Code), Title 8 of the California Code of
23 Regulations, Labor Code §§ 201-204, 226, 226.7, 512, 1174, 2699 and 2802, *inter alia*, and/or the
24 California Code of Civil Procedure § 1021.5.

25 12. This Court also has jurisdiction over the claims brought herein for injunctive relief
26 and restitution of ill-gotten benefits arising from Defendants' unfair and/or fraudulent business
27 practices under California Business & Professions Code § 17200, *et seq.*

28 13. Venue as to Defendants is proper in this judicial district pursuant to California Code

1 of Civil Procedure § 395(a). Defendants provided the aforementioned services within this County
2 where numerous Aggrieved Employees and Class Members worked, transact business, have
3 agents, and are otherwise within this Court's jurisdiction for purposes of service of process. The
4 unlawful acts alleged herein have had a direct effect on Representative Plaintiff, Aggrieved
5 Employees and those similarly situated within the State of California and within this County.

6
7 **PLAINTIFF**

8 14. Representative Plaintiff Veronica Gonzalez is a natural person who was employed
9 by defendant Sierra Health and Wellness Centers, LLC as a medication technician during the class
10 and PAGA periods.

11 15. In these capacity, Representative Plaintiff is and was entitled to full, uninterrupted
12 and statutorily-mandated meal and rest periods, payment of minimum and/or overtime wages, as
13 well as other benefits of employment as set forth herein.

14 **DEFENDANTS**

15 16. Representative Plaintiff is informed and believes and, on that basis, alleges that, at
16 all times herein relevant, defendants Sierra Health and Wellness Centers, LLC, and Does 1 through
17 100, did business within the State of California providing nursing and rehabilitation services.

18 17. Defendant Sierra Health and Wellness Centers, LLC is a limited liability company
19 formed under the laws of the State of California that does business as Sierra Health and Wellness
20 Centers.

21 18. Those defendants identified as Does 1 through 100, inclusive, are and were, at all
22 relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some or
23 each of the remaining defendants. Representative Plaintiff is informed and believes and, on that
24 basis, alleges that, at all relevant times herein mentioned, Defendants, and each of them, employed
25 and/or exercised control over the wages, hours, and/or working conditions of the Representative
26 Plaintiff, Aggrieved Employees and Class Members within the State of California.

27 19. The Representative Plaintiff is unaware of the true names and capacities of those
28 defendants sued herein as Does 1 through 100, inclusive and, therefore, sues these defendants by

1 such fictitious names. The Representative Plaintiff will seek leave of court to amend this
2 Complaint when such names are ascertained. The Representative Plaintiff is informed and believes
3 and, on that basis, alleges that each of the fictitiously-named defendants was responsible in some
4 manner for, gave consent to, ratified, and/or authorized the conduct herein alleged, and that the
5 damages/penalties hereby alleged and sought by Representative Plaintiff, Aggrieved Employees
6 and/or Class Members were proximately caused thereby.

7 20. Representative Plaintiff is informed and believes and, on that basis, alleges that, at
8 all relevant times herein mentioned, each of the defendants was the agent and/or employee of each
9 of the remaining defendants and, in doing the acts herein alleged, was acting within the course and
10 scope of such agency and/or employment.

11 CLASS ACTION ALLEGATIONS

12
13 21. The Representative Plaintiff brings this action individually and as a class action on
14 behalf of all persons similarly situated and proximately damaged by Defendants' conduct
15 including, but not necessarily limited to, the following Plaintiff Class:

16 "All persons employed by Defendants as non-exempt employees in
17 California on or after July 30, 2017."

18 22. Defendants' officers and directors are excluded from the Plaintiff Class.

19 23. Pursuant to California Rule of Court 3.765(b), Representative Plaintiff reserves the
20 right to amend or modify the class definition to achieve greater specificity, by further division into
21 sub-classes and/or by limitation to particular issues.

22 24. This action has been brought and may properly be maintained as a class action
23 under California Code of Civil Procedure § 382 because there is a well-defined community of
24 interest in the litigation and the proposed Class is easily ascertainable, to wit.

25 a. Numerosity: A class action is the only available method for the fair
26 and efficient adjudication of this controversy as to certain claims
27 brought herein. The members of the Plaintiff Class are so numerous
28 that joinder of all members is impractical, if not impossible, insofar
as Representative Plaintiff are informed and believe and, on that
basis, allege that the Plaintiff Class totals thousands of workers, thus
meeting the numerosity requirement. Membership in the Class will

be determined upon analysis of employee and payroll, among other, records required to be maintained by Defendants.

- b. Commonality: The Representative Plaintiff and Class Members share a community of interests in that there are numerous common questions and issues of fact and law which predominate over any questions and issues solely affecting individual members, including, but not necessarily limited to:
- 1) Whether Defendants maintained a policy and/or practice of failing to provide employees with meal and/or periods and/or failing to pay premium wages to Class Members in the event of such failures;
 - 2) Whether Defendants failed to pay minimum wages to Class Members for all time worked;
 - 3) Whether Defendants failed to pay overtime wages to Class Members for all hours worked beyond 40 in a workweek and/or eight in a workday;
 - 4) Whether Defendants violated California Labor Code §§ 201-204 by failing to pay wages due and owing each pay period and/or at the time that certain Class Members' employment with Defendants terminated;
 - 5) Whether Defendants violated California Labor Code § 226 by failing to provide accurate semimonthly itemized statements to Class Members of their amounts of gross and net wages, and total hours worked by each and at all applicable hourly rates in effect during the respective pay period(s);
 - 6) Whether Defendants violated California Labor Code § 1174 by failing to keep accurate records of employees' hours of work;
 - 7) Whether Class Members are entitled to "waiting time" penalties, pursuant to California Labor Code § 203;
 - 8) Whether Defendants violated California Business and Professions Code § 17200, *et seq.* by failing to provide meal and/or rest breaks, all wages due to Class Members working eligible shifts.
- c. Typicality: The Representative Plaintiff' claims are typical of the claims of Class Members. The Representative Plaintiff and Class Members sustained damages arising out of and caused by Defendants' common course of conduct in violation of law, as alleged herein.
- d. Adequacy of Representation: The Representative Plaintiff in this class action are adequate representatives of the Plaintiff Class in that the Representative Plaintiff' claims are typical of those of the

1 Plaintiff Class and the Representative Plaintiff have the same
2 interest in the litigation as the Class Members. The Representative
3 Plaintiff are committed to vigorous prosecution of this case and have
4 retained competent counsel who are experienced in conducting
5 litigation of this nature. The Representative Plaintiff are not subject
6 to any individual defenses unique from those applicable to the Class
7 as a whole. The Representative Plaintiff anticipate no management
8 difficulties in this litigation.

- 9 e. Superiority of Class Action: Since the damages suffered by
10 individual Class Members, while not inconsequential, may be
11 relatively small, the expense and burden of individual litigation by
12 each member makes or may make it impractical for Class Members
13 to seek redress individually for the wrongful conduct alleged herein.
14 Should separate actions be brought, or be required to be brought, by
15 each individual Class Member, the resulting multiplicity of lawsuits
16 would cause undue hardship and expense for the Court and the
17 litigants. The prosecution of separate actions would also create a risk
18 of inconsistent rulings which might be dispositive of the interests of
19 other Class Members who are not parties to the adjudications and/or
20 may substantially impede their ability to adequately protect their
21 interests.

22 COMMON FACTUAL ALLEGATIONS

23 25. Representative Plaintiff, Aggrieved Employees and Class Members are and/or were
24 non-exempt medication technicians and/or persons occupying similar positions who worked for
25 Defendants at Defendants' customers' sites in California within the relevant time period. In these
26 roles, Representative Plaintiff, Aggrieved Employees and Class Members provided nursing and
27 rehabilitation services including administers prescribed medications to patients, maintains related
28 medical records, observe patience and reports to manager.

29 26. As described herein, Defendants knowingly failed to adequately compensate
30 Representative Plaintiff, Aggrieved Employees and Class Members for all wages earned
31 (including premium wages such as compensation for missed meal and/or rest periods) under the
32 applicable IWC Wage Order, the applicable California Code of Regulations provisions and
33 provisions of the California Labor Code, thereby enjoying a significant competitive edge over
34 other service providers.

35 27. Defendants have declined to pay these wages, even upon their workers'
36 terminations from or their resignation of employment, in blatant violation of California Labor
37 Code § 201 and/or § 202.

1 28. California Labor Code §§ 201 and 202 require Defendants to pay severed
2 employees all wages due and owed immediately upon discharge or within 72 hours of resignation
3 of those positions, in most circumstances. California Labor Code § 203 provides that an employer
4 who willfully fails to timely pay such wages must, as a penalty, continue to pay each subject
5 employee's wages until the back wages are paid in full or an action is commenced, and the payment
6 of such penalty shall continue for a period of time up to 30 days.

7 29. Furthermore, despite knowledge of these workers' entitlement to compensation for
8 all hours worked, Defendants violated California Labor Code § 1174(d) by failing to provide or
9 require the use, maintenance or submission of time records by Representative Plaintiff, Aggrieved
10 Employees and Class Members. Defendants also failed to provide these workers with accurate
11 semimonthly itemized statements of the total number of hours worked by each, and all applicable
12 hourly rates in effect during each pay period, in violation of California Labor Code § 226. In failing
13 to provide the required documents, Defendants have not only failed to pay their workers the full
14 amount of compensation due, but have also, at least largely, shielded themselves from their
15 employees' scrutiny by concealing the magnitude and financial impact of their wrongdoing that
16 such documents might otherwise have led workers to discover.

17 30. Representative Plaintiff, Aggrieved Employees and all persons similarly situated
18 are entitled to unpaid compensation, yet, to date, have not received such compensation despite
19 many of them having been terminated by Defendants and/or resigned from Defendants' employ.
20 More than 30 days have passed since certain Aggrieved Employees and Class Members have left
21 Defendants' employ.

22 31. As a consequence of Defendants' willful conduct in not paying former employees'
23 compensation for all hours worked in a prompt and timely manner, certain members of the Plaintiff
24 Class are entitled to up to 30 days wages as a penalty under California Labor Code § 203, together
25 with attorneys' fees and costs.

26 32. As a direct and proximate result of Defendants' unlawful conduct, as set forth
27 herein, Representative Plaintiff and Class Members have sustained damages, as described above,
28 including the loss of earnings for hours worked on behalf of Defendants, in an amount to be

1 established at trial. As a further direct and proximate result of Defendants' unlawful conduct, as
2 set forth herein, certain Class Members are entitled to recover "waiting time" penalties (pursuant
3 to California Labor Code § 203) and penalties for failure to provide semimonthly statements of
4 hours worked and all applicable hourly rates (pursuant to California Labor Code § 226) in an
5 amount to be established at trial. As a further direct and proximate result of Defendants' unlawful
6 conduct, as set forth herein, Representative Plaintiff, Aggrieved Employees and Class Members
7 are also entitled to recover costs and attorneys' fees pursuant to statute.

8 33. Representative Plaintiff seeks injunctive relief prohibiting Defendants from
9 engaging in the complained-of illegal labor acts and practices in the future. Representative Plaintiff
10 also seeks restitution of costs incurred by Representative Plaintiff and Class Members under
11 California's Unfair Competition Law. Unless enjoined, Defendants' unlawful conduct will
12 continue unchecked, while their non-exempt workers bear the financial brunt of Defendants'
13 unlawful conduct.

14 34. Representative Plaintiff Veronica Gonzalez has complied with the procedures
15 necessary to maintain a civil action against Defendants for violation of California's Private
16 Attorneys General Act, as specified in California Labor Code § 2699.3.

17 35. On July 30, 2021, Representative Plaintiff Veronica Gonzalez served and filed a
18 notice upon the California Labor and Workforce Development Agency ("LWDA") and Defendants
19 in compliance with Labor Code §§ 2699, *et seq.*

20
21 **FIRST CAUSE OF ACTION**
22 **UNLAWFUL FAILURE TO PAY WAGES**
23 **(California Labor Code §§ 200-204, 510, 558, 1194 and 1198; IWC Wage Order)**

24 36. Each and every allegation of the preceding paragraphs is incorporated in this cause
25 of action with the same force and effect as though fully set forth herein.

26 37. Throughout the class period, Representative Plaintiff, Aggrieved Employees and
27 Class Members performed work for Defendants, oftentimes in excess of eight hours in a workday
28 and/or 40 hours in a workweek. The number of hours will be proven at trial.

1 38. Throughout the class period, Defendants refused to compensate Representative
2 Plaintiff, Aggrieved Employees and Class Members for all of the wages earned, in violation of the
3 applicable IWC Wage Order, the applicable California Code of Regulations provisions and
4 provisions of the California Labor Code.

5 39. Throughout the class period, Defendants were aware of, and were under a duty to
6 comply with, the overtime provisions of the California Labor Code including, but not limited to,
7 California Labor Code §§ 510, 1194, and 1198.

8 40. California Labor Code § 510(a), in pertinent part, provides:

9 Any work in excess of eight hours in one workday and any work in
10 excess of 40 hours in any one workweek and the first eight hours
11 worked on the seventh day of work in any one workweek shall be
compensated at the rate of no less than one and one-half times the
regular rate of pay for an employee.

12 41. California Labor Code § 1194(a), in pertinent part, provides:

13 Notwithstanding any agreement to work for a lesser wage, any
14 employee receiving less than the legal minimum wage or the legal
15 overtime compensation applicable to the employee is entitled to
recover in a civil action the unpaid balance of the full amount of this
16 minimum wage or overtime compensation, including interest
thereon, reasonable attorneys' fees, and costs of suit.

17 42. California Labor Code § 1198, in pertinent part, provides:

18 The maximum hours of work and the standard conditions of labor
19 fixed by the commission shall be the maximum hours of work and
20 the standard conditions of labor for employees. The employment of
any employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful.

21 43. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
22 which an employee is subject to the control of the employer and includes all the time the employee
23 is suffered or permitted to work, whether or not required to do so.

24 44. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
25 employees at least the minimum wage set forth therein for all hours worked, which consist of all
26 hours that an employer has actual or constructive knowledge that employees are working.

27 45. By refusing to compensate Representative Plaintiff, Aggrieved Employees and
28 Class Members for overtime wages earned and/or pay levels meeting the California minimum

1 wage, Defendants violated those California Labor Code provisions cited above as well as the
2 applicable IWC Wage Order and California Code of Regulations provisions.

3 46. Defendants' conduct, as heretofore detailed, represents an underpayment of wages
4 pursuant to California Labor Code §§ 218, *et seq.*, 225.5, 558, 1182.12, 1194.2, 1197, 1197.1 and
5 1198, for which Representative Plaintiff and Class Members seek damages and/or penalties
6 according to proof.

7 47. As a direct and proximate result of Defendants' unlawful conduct, as set forth
8 herein, Representative Plaintiff and Class Members have sustained damages, including a loss of
9 earnings for hours worked (including overtime hours worked) on behalf of Defendants, in an
10 amount to be established at trial. As a further direct and proximate result of Defendants' unlawful
11 conduct, as set forth herein, Representative Plaintiff and Class Members are entitled to recover
12 penalties in amounts to be established at trial, as well as interest, liquidated damages, restitution,
13 attorneys' fees and costs, pursuant to statute(s).

14
15 **SECOND CAUSE OF ACTION**
16 **FAILURE TO PROVIDE MEAL AND REST PERIODS**
(California Labor Code §§ 226.7 and 512)

17 48. Each and every allegation of the preceding paragraphs is incorporated in this cause
18 of action with the same force and effect as though fully set forth herein.

19 49. At all relevant times, Defendants were aware of and were under a duty to comply
20 with California Labor Code § 226.7 and §512.

21 50. California Labor Code § 226.7 provides:

22 (a) No employer shall require any employee to work during any
23 meal or rest period mandated by an applicable order of the Industrial
Welfare Commission.

24 (b) If an employer fails to provide an employee a meal period or
25 rest period in accordance with an applicable order of the Industrial
Welfare Commission, the employer shall pay the employee one
26 additional hour of pay at the employee's regular rate of
27 compensation for each work day that the meal or rest period is not
28 provided.

1 51. Moreover, California Labor Code § 512(a) provides:

2 An employer may not employ an employee for a work period of
3 more than five hours per day without providing the employee with
4 a meal period of not less than 30 minutes, except that if the total
5 work period per day of the employee is no more than six hours, the
6 meal period may be waived by mutual consent of both the employer
7 and employee. An employer may not employ an employee for a
8 work period of more than 10 hours per day without providing the
9 employee with a second meal period of not less than 30 minutes,
10 except that if the total hours worked is no more than 12 hours, the
11 second meal period may be waived by mutual consent of the
12 employer and the employee only if the first meal period was not
13 waived.

14 52. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that
15 employers provide all applicable meal and/or rest periods to non-exempt employees.

16 53. Section 11 of the applicable IWC Wage Order provides:

17 (A) No employer shall employ any person for a work period of more
18 than five (5) hours without a meal period of not less than 30
19 minutes...

20 (B) An employer may not employ an employee for a work period of
21 more than ten (10) hours per day without providing the
22 employee with a second meal period of not less than 30
23 minutes...

24 (C) If an employer fails to provide an employee a meal period in
25 accordance with the applicable provisions of this order, the
26 employer shall pay the employee one (1) hour of pay at the
27 employee's regular rate of compensation for each workday that
28 the meal period is not provided.

54. Moreover, Section 12 of the applicable IWC Wage Order provides:

(A) Every employer shall authorize and permit all employees to
take rest periods, which insofar as practicable shall be in the middle
of each work period. The authorized rest period time shall be based
on the total hours worked daily at the rate of ten (10) minutes net
rest time per four (4) hours or major fraction thereof

(B) If an employer fails to provide an employee a rest period in
accordance with the applicable provisions of this order, the
employer shall pay the employee one (1) hour of pay at the
employee's regular rate of compensation for each workday that the
rest period is not provided.

1 55. Representative Plaintiff, Aggrieved Employees and Class Members were not
2 provided with meal periods of at least 30 minutes for each five-hour work period and/or rest
3 periods of at least net 10 minutes for each four-hour work period, or major fraction thereof. These
4 violations of law were the result of, *inter alia*, Defendants' policies of: (1) not scheduling a meal
5 period as a part of Representative Plaintiff and each Aggrieved Employee's and Class Member's
6 work shift, (2) not allowing these employees to take meal and rest periods until they were released
7 by their supervisors or other medical professionals, (3) understaffing client sites in a manner that
8 made it difficult to enjoy timely, full and uninterrupted meal and/or rest periods, and (4) demanding
9 a medication technician to remain on duty at assigned posts at all times. On many occasions, these
10 medication technicians/medical professionals missed meal and rest breaks altogether, remained
11 "on call" during the pendency of otherwise ostensible break periods, were compelled to wait well
12 beyond the fifth hour to take their meal periods, were interrupted during said breaks and/or were
13 required to "piggyback" breaks in a manner that violated California law.

14 56. By failing to consistently provide full, on-time, uninterrupted and duty-free thirty-
15 minute meal periods and/or net 10-minute rest periods to Representative Plaintiff, Aggrieved
16 Employees and Class Members, Defendants violated the California Labor Code, applicable IWC
17 Wage Order provisions and the applicable California Code of Regulations provisions.

18 57. Representative Plaintiff is informed and believes and, on that basis, alleges that
19 Defendants have either never paid the one hour of compensation to any Aggrieved Employee or
20 Class Member due to Defendants' violations of the applicable IWC Wage Order, the applicable
21 California Code of Regulations provisions and provisions of the California Labor Code and/or
22 have insufficiently paid these premiums.

23 58. As a direct and proximate result of Defendants' unlawful conduct, as set forth
24 herein, Representative Plaintiff and Class Members have sustained damages, including lost
25 compensation resulting from missed meal and/or rest periods, in an amount to be established at
26 trial. As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
27 Representative Plaintiff and Class Members are entitled to recover penalties in amounts to be
28 established at trial, as well as interest, restitution, attorneys' fees and costs, pursuant to statute.

THIRD CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(California Labor Code §§ 226 and 1174)

59. Each and every allegation of the preceding paragraphs is incorporated in this cause of action with the same force and effect as though fully set forth herein.

60. California Labor Code § 226(a) provides:

Each employer shall semimonthly, or at the time of each payment of wages, furnish each of his or her employees either as a detachable part of the check, draft or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized wage statement in writing showing: (1) gross wages earned; (2) total number of hours worked by each employee whose compensation is based on an hourly wage; (3) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (4) net wages earned; (5) the inclusive date of the period for which the employee is paid; (6) the name of the employee and his or her social security number; and (7) the name and address of the legal entity which is the employer.

61. Moreover, California Labor Code § 226(e) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

62. Finally, California Labor Code § 1174(d) provides:

Every person employing labor in this state shall. . . [k]eep, at a central location in the state...payroll records showing the hours worked daily by and the wages paid to...employees.... 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 than two years.

63. Defendants have failed to provide timely and accurate itemized wage statements to the Representative Plaintiff, Aggrieved Employees and Class Members in accordance with, *inter alia*, California Labor Code § 201-204, 226, 226.3, 226.7, 512, 1174, 1174.5 and 2810.5. Representative Plaintiff is informed and believes and, on that basis, alleges that none of the statements provided by Defendants accurately reflected actual gross wages earned, net wages

1 earned or the appropriate deductions of Representative Plaintiff, Aggrieved Employees or Class
2 Members.

3 64. Specifically, Defendants failed to comply with Labor Code section 226(a) as “gross
4 wages earned,” “total hours worked by the employee,” “net wages earned,” and/or “all applicable
5 hourly rates in effect during the pay period and the corresponding number of hours worked at each
6 hourly rate by the employee” were not accurately reflected in the wage statements of
7 Representative Plaintiff, Aggrieved Employees and/or Class Members, to wit: certain hours
8 worked, and certain premiums due as a result of overtime hours worked and/or failures to provide
9 and/or make available meal and rest breaks were omitted.

10 65. As a direct and proximate result of Defendants’ unlawful conduct, as set forth
11 herein, Representative Plaintiff and Class Members are entitled to recover penalties in amounts to
12 be established at trial, as well as attorneys’ fees and costs, pursuant to statute(s).

13
14 **FOURTH CAUSE OF ACTION**
15 **FAILURE TO PAY WAGES ON TERMINATION**
16 **(California Labor Code § 203)**

17 66. Each and every allegation of the preceding paragraphs is incorporated in this cause
18 of action with the same force and effect as though fully set forth herein.

19 67. California Labor Code § 203 provides that:

20 If an employer willfully fails to pay, without abatement or reduction, in
21 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
22 employee who is discharged or who quits, the wages of the employee shall
23 continue as a penalty from the due date thereof at the same rate until paid or
24 until an action therefor is commenced; but the wages shall not continue for
25 more than 30 days.

26 68. Numerous Aggrieved Employees and Class Members were employed by
27 Defendants during the class period and were, thereafter, terminated or resigned from their
28 positions, yet they were not paid all premium (e.g., overtime, meal/rest period violations) wages
due upon said termination or within 72 hours of said resignation of employment therefrom. Said
non-payment was the direct and proximate result of a willful refusal to do so by Defendants.

69. More than 30 days have elapsed since certain Aggrieved Employees and Class Members were involuntarily terminated or voluntarily resigned from Defendants' employ.

70. As a direct and proximate result of Defendants' willful conduct in this regard, affected Class Members are entitled to recover "waiting time" penalties of up to thirty days' wages pursuant to California Labor Code § 203 and 256 in an amount to be established at trial, as well as attorneys' fees and costs, pursuant to statute.

FIFTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT
(California Business & Professions Code §§ 17200-17208)

71. Each and every allegation of the preceding paragraphs is incorporated in this cause of action with the same force and effect as though fully set forth herein.

72. Representative Plaintiff brings this cause of action seeking equitable and statutory relief to stop Defendants' misconduct, as complained of herein, and seeks restitution of the amounts Defendants acquired through the unfair, unlawful and/or fraudulent business practices described herein.

73. Defendants' knowing conduct, as alleged herein, constitutes an unlawful and/or fraudulent business practice, as set forth in California Business & Professions Code §§ 17200-17208. Specifically, Defendants conducted business activities while failing to comply with the legal mandates cited herein.

74. Defendants have clearly established a policy of accepting a certain amount of collateral damage, as represented, *inter alia*, by the damages to the Representative Plaintiff and Class Members herein alleged, as incidental to Defendants' business operations, rather than accept the alternative costs of full compliance with fair, lawful and honest business practices, ordinarily borne by their responsible competitors and as set forth in legislation and the judicial record.

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SIXTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT CLAIM
(California Labor Code §§ 2699, et seq.)

75. Each and every allegation of the preceding paragraphs is incorporated in this cause of action with the same force and effect as though fully set forth herein.

76. California Labor Code § 2699(a) provides, in pertinent part:

Notwithstanding any other provision of the law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an Aggrieved Employee on behalf of themselves or herself and other current or former employees. . .

77. Representative Plaintiff and each and every other non-exempt medical professional working in California for Defendants within one year of the exhaustion of the administrative prerequisites under the California Private Attorneys General Act, as described herein, are “Aggrieved Employees,” as defined by California Labor Code § 2699(c), because she/they was/were employed by Defendants and were among the employees against whom the violations of law articulated in this Complaint were committed.

78. These Aggrieved Employees share each and every one of the factual underpinnings and predicate violations articulated in the preceding paragraphs of this Complaint with Class Members and the Representative Plaintiff.

79. As set forth above, one or more Representative Plaintiff has met all of the requirements set forth in California Labor Code § 2699.3 necessary to maintain a civil action against Defendants for violations of (and/or recovery on behalf of the State of California under) California’s Private Attorneys General Act.

80. Representative Plaintiff Veronica Gonzalez brings this action on direct and/or indirect behalf of all Aggrieved Employees, alleging violations of the California Labor Code provisions cited in the preceding paragraphs.

81. As a direct and proximate result of Defendants’ unlawful conduct, as set forth herein, Representative Plaintiff, Aggrieved Employees and the State of California are entitled to

1 recover penalties as provided by California Labor Code § 2699, in an amount to be established at
2 trial, as well as costs and attorneys' fees, pursuant to statute(s).

3
4 **RELIEF SOUGHT**

5 **WHEREFORE, the Representative Plaintiff**, on behalf of themselves, in a qui tam
6 representative capacity and/or behalf of the proposed Plaintiff Class, pray for judgment and the
7 following specific relief against Defendants, and each of them, jointly and separately, as follows:

8 1. That the Court declare, adjudge and decree that this action is a proper class action
9 and certify the proposed Class and/or any other appropriate subclasses under California Code of
10 Civil Procedure § 382;

11 2. That the Court declare, adjudge and decree that Defendants willfully violated their
12 legal duties to pay all wages due under the California Labor Code, the applicable California
13 Industrial Welfare Commission Wage Order and the applicable California Code of Regulations
14 provisions;

15 3. That the Court make an award to the Representative Plaintiff and Class Members
16 of one hour of pay at each employee's regular rate of compensation for each workday that a meal
17 period was not adequately provided;

18 4. That the Court make an award to the Representative Plaintiff and Class Members
19 of one hour of pay at each employee's regular rate of compensation for each workday that a rest
20 period was not adequately authorized and permitted;

21 5. That the Court make an award to the Representative Plaintiff and Class Members
22 of penalties, pursuant to California Labor Code §§ 203, 226, 558 and 1174.5 and/or liquidated
23 damages pursuant to § 1194.2, in amounts to be proven at trial;

24 6. That the Court order Defendants to pay restitution to the Representative Plaintiff
25 and Class Members due to Defendants' unlawful activities, pursuant to California Business and
26 Professions Code §§ 17200-17208;

27 7. That the Court further enjoin Defendants, ordering them to cease and desist from
28 unlawful activities in violation of California Business and Professions Code §§ 17200, *et seq.*;

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1 8. For interest on the amount of any and all economic losses, at the prevailing legal
2 rate(s);

3 9. That the Court declare, adjudge and decree that this action is a proper representative
4 action and that one or more Representative Plaintiff has standing to pursue it, pursuant to California
5 Labor Code § 2699, *et seq.*;

6 10. That the Court make an award of civil penalties to Aggrieved Employees and the
7 State of California, pursuant to California Labor Code § 2699, *et seq.*;

8 11. For reasonable attorneys' fees, pursuant to California Code of Civil Procedure §
9 1021.5, and Labor Code §§ 218.5 and/or 2699, *et seq.*;

10 12. For costs of suit and any and all such other relief as the Court deems just and proper;
11 and

12 13. For all other Orders, findings and determinations identified and sought in this
13 Complaint.

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15 **JURY DEMAND**

16 Representative Plaintiff, individually and on behalf of all other persons similarly situated
17 hereby demand a trial by jury on all issues triable by jury.

18
19 Dated: October 1, 2021

COLE & VAN NOTE

20
21 By: 

Cody Bolce, Esq.
Attorneys for Representative Plaintiff

PROOF OF SERVICE

I am over 18 years of age, not a party to the above-captioned action, and am employed by the law firm of Cole & Van Note, 555 12th St., Suite 1725, Oakland, California 94607.

On this date, I served a copy of:

FIRST AMENDED COMPLAINT FOR DAMAGES, DECLARATORY AND INJUNCTIVE RELIEF, PENALTIES AND RESTITUTION

☒	By depositing the document(s) with the U.S. Postal Service, with postage fully prepaid, addressed as indicated below, in the ordinary course of business.
☐	By facsimile transmission to the fax number(s) below, before 5:00 p.m. PST.
☐	By placing the document(s) in a sealed Federal Express envelope, affixing a pre-paid air bill and delivering it to a Federal Express agent.
☐	By personal delivery.
☒	By e-mail transmission to the e-mail address(es) below.
☐	By electronic filing using the CM/ECF System which will send a Notice of Electronic Filing to the email address(es) listed in the Electronic Mail Notice List.
☐	By uploading the document(s) to the third-party document management/service company, court-approved for purposes of this litigation.
☐	By electronic submission to the Labor and Workforce Development Agency.

on the following person(s):

Robert L. Rediger, Esq.
Justin R. Rediger, Esq.
REDIGER LABOR LAW LLP
555 Capitol Mall, Suite 1240
Sacramento, CA 958145
Email: rlr@rediger.law
Email: jrr@rediger.law

I declare under penalty of perjury under the laws of the United States and the State of California the foregoing is true and correct. Executed in Oakland, California on October 14, 2021.



Nicole Randle

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