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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Aida Cruz, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

ALEXANDRA GISELLE IRIAN, an)
individual, and on behalf of all current and)
former aggrieved employees,)

Plaintiff,)

v.)

VIKING THERAPEUTICS, INC., a)
Delaware Corporation; BRIAN LIAN, an)
individual; DOES 1 through 50, inclusive,)

Defendants.)

CASE NO. : 37-2021-00052074-CU-OE-CTL

**REPRESENTATIVE COMPLAINT
FOR VIOLATION OF LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004, LABOR SECTION
2698, ET SEQ. (PAGA)**

DEMAND FOR JURY TRIAL

2. Plaintiff is an individual residing in the State of California, County of San Diego.

3. Defendant Viking Therapeutics, Inc. (“Defendant”) is a Delaware corporation and its principal place of business is in San Diego, California. Defendant is a biopharmaceutical company that develops therapeutics for metabolic and endocrine disorders.

4. Defendant Brian Lian is an individual residing in the State of California, County of San Diego. Defendant Lian is the Chief Executive Officer (CEO) of Defendant Viking Therapeutics, Inc., and was at all times mentioned herein an owner, officer, director, and/or managing agent of the Defendant Vikings Therapeutics, Inc.

5. At all times herein mentioned, Defendants Viking Therapeutics, Inc. and Lian employed Plaintiff and the other aggrieved employees and Defendants were their “employer” as that term is defined in the California Labor Code and the applicable California Industrial Wage Commission (“IWC”) Order(s).

6. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as DOES 1 through 50, whether individual, corporate, associate, or otherwise and therefore sues such Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that the Labor Code violations herein were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

7. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of

1 the remaining Defendants, including each Doe Defendant, in doing the things herein alleged,
2 while at all times acting within the course and scope of such agency, service, employment
3 partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged
4 herein, was acting both individually and within the course and scope of such agency and/or
5 employment, with the knowledge and/or consent of the remaining Defendants.

6 8. Plaintiff further alleges that Defendants, including each Doe Defendant identified
7 as DOES, directly or indirectly controlled or affected the terms, classification, wages, working
8 hours, and conditions of employment of Plaintiff and the other aggrieved employees so as to
9 make each of said Defendants employers and as employers liable under the statutory provisions
10 set forth herein.

11 9. Defendants Viking Therapeutics, Inc. and Brian Lian and DOES 1 through 50 will
12 hereinafter collectively be referred to as “Defendants.”

13 **JURISDICTION AND VENUE**

14 10. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

15 11. This is a representative action brought under California Labor Code section 2698,
16 et seq. The civil penalties in controversy exceed the minimal jurisdiction limits of the Superior
17 Court and will be established according to proof at trial.

18 12. This Court has jurisdiction under Article VI, Section 10 of the California
19 Constitution that grants the superior court “original jurisdiction in all other causes” except
20 those given by statute to other courts. The statutes underlying this action do not specify any
21 other basis for jurisdiction.

22 13. This Court has jurisdiction over Defendants because, upon information and
23 belief, Defendants are citizens of California, have sufficient minimum contacts in
24 California, or Defendants have intentionally availed themselves of the California market so
25 as to render the exercise of jurisdiction over them by the California courts consistent with
26 traditional notions of fair play and substantial justice.

27 14. Venue is proper in this Court because, upon information and belief,
28 Defendants live, maintain offices, have agents, and/or transact business in the State of

California, including the County of San Diego. The majority of the acts and omissions alleged herein relating to Plaintiff and the other aggrieved employees took place in the State of California, including the County of San Diego.

GENERAL ALLEGATIONS

15. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

16. At all relevant times set forth herein, Defendants employed Plaintiff and other aggrieved employees in the State of California.

17. Defendants, jointly and severally, employed Plaintiff as an administrative assistant in the State of California, County of San Diego from October 2019 to May 2021.

18. Defendants hired Plaintiff and other aggrieved employees and permitted and suffered them to work, but misclassified them, failed to compensate them for all hours worked, failed to provide proper meal periods and rest breaks or premium compensation in lieu thereof, failed to provide accurate itemized wage statements, failed to pay all wages at the time of termination, and failed to reimburse all business expenses, among other violations described herein.

19. Defendants had the authority to hire and fire Plaintiff and other aggrieved employees, establish the terms and conditions of their employment, and determine their compensation and manage their daily employment activities. Defendants exercised sufficient authority over Plaintiff's and the other aggrieved employees' employment for them to be joint employers of Plaintiff and the other aggrieved employees.

20. Plaintiff is informed and believes, and based thereon alleges, that Defendants subjected their employees to uniform wage and hour policies and practices that deprived them of full compensation for all hours worked, including reimbursement. The practices included, but are not limited to, misclassifying Plaintiff and other aggrieved employees as exempt, not paying Plaintiff and other aggrieved employees for all hours worked, including all overtime hours worked, not providing Plaintiff and other aggrieved employees with state mandated meal and rest periods or paying premium compensation in lieu thereof, not providing Plaintiff and other aggrieved employees with accurate itemized wage statements, not compensating Plaintiff and

1 other aggrieved employees all wages due and owing at the time of separation of employment, not
2 reimbursing aggrieved employees for all necessary business expenditures incurred in direct
3 consequence of the discharge of their duties, and requiring Plaintiff and other aggrieved
4 employees to agree in writing to unlawful employment terms and conditions, all in in violation of
5 California law.

6 21. Plaintiff worked part-time for Defendants and then was offered a full-time
7 position of administrative assistant. Plaintiff accepted the position, which Defendants classified
8 and treated as nonexempt. Plaintiff performed a variety of secretarial tasks at Defendants'
9 direction and control. Plaintiff worked hard for Defendants. She worked overtime when
10 necessary. And she often had to delay or cut short her meal and rest breaks to ensure a quality
11 and timely completion of the tasks assigned to her. Despite having to frequently delay and cut
12 short the length of her meal and rest breaks, Defendants failed to compensate Plaintiff with
13 premium payments in lieu of these improper breaks in violation of California law.

14 22. In or around December 2020, Defendants changed Plaintiff's classification from
15 nonexempt to salary exempt. Upon information and belief, Defendants changed Plaintiff's
16 classification to circumvent its overtime, meal period, rest period, record keeping and wage
17 statement duties and obligations.

18 23. Plaintiff's duties did not change when Defendants reclassified Plaintiff's position.
19 Plaintiff still did not manage any employees; she did not hire or fire employees; she did not train
20 any employees; she did not set her own or other employees' work schedules; nor did she play
21 any role in the development of Defendants' company policies and procedures. Instead, Plaintiff
22 primarily performed nonexempt tasks at the direction and control of Defendants. Plaintiff did not
23 regularly exercise discretion and independent judgment in the performance of her primary duties
24 and obligations.

25 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
27 receive certain wages for overtime compensation. Plaintiff and the other aggrieved employees
28 worked in excess of 8 hours in a day and 40 hours in a week and, thus, were entitled to receive

overtime compensation. But Plaintiff and aggrieved employees were not paid for all overtime hours worked and/or at the appropriate overtime rate.

25. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other aggrieved employee's regular rate of pay when a meal period was missed, late or interrupted, and they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other aggrieved employee's regular rate of pay when an improper meal period occurred.

26. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiff's and the other aggrieved employees' regular rate of pay when a rest period was missed, late or interrupted, and they did not receive all timely and uninterrupted rest periods or payment of one additional hour of pay at Plaintiff's and the other aggrieved employees' regular rate of pay when an improper rest period occurred.

27. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide Plaintiff and the other aggrieved employees the required meal periods and rest periods during the relevant time period as required under the Industrial Welfare Commission Wage Orders and thus they are entitled to any and all applicable penalties.

28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive all wages owed to them during their employment. Plaintiff and the other aggrieved employees did not receive payment of all wages, including overtime and meal and rest period premiums, within any time permissible under California Labor Code § 204.

29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive all wages owed to them upon discharge or resignation, including overtime and minimum wages and meal and rest period premiums, and they did not, in fact, receive all such wages owed

1 to them at the time of discharge.

2 30. Plaintiff is informed and believes, and based thereon alleges, that
3 Defendants knew or should have known that Plaintiff and the other aggrieved employees
4 were entitled to receive complete and accurate wage statements in accordance with
5 California law, but they did not receive complete and accurate wage statements from
6 Defendants. The deficiencies included, but were not limited to, the failure to include the
7 total number of hours worked by Plaintiff and the other aggrieved employees as well as all
8 hourly rates in effect during the applicable pay period, among other violations.

9 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 knew or should have known that Defendants had to keep complete and accurate payroll
11 records for Plaintiff and the other aggrieved employees in accordance with California law,
12 but Defendants did not keep complete and accurate payroll records.

13 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
14 required Plaintiff and aggrieved employees to agree, in writing, to unlawful employment
15 terms and conditions. Defendants knew or should have known that Defendants cannot
16 require Plaintiff and aggrieved employees to agree, in writing, to any term or condition that is
17 known by the Defendants – or any agent, manager, superintendent, or officer thereof – to be
18 prohibited by law, but Defendants knew and did require Plaintiff and other aggrieved employees
19 to agree in writing to unlawful terms and conditions, including requiring Plaintiff and aggrieved
20 employees to pay fees and administrative charges of an arbitrator, as well as prohibiting Plaintiff
21 and other aggrieved employees from bringing PAGA claims in a representative capacity.

22 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 knew or should have known that aggrieved employees were entitled to reimbursement for
24 necessary business-related expenses and costs, but they were not reimbursed for all business
25 expenses incurred discharging their duties. Upon information and belief, aggrieved employees
26 incurred expenses in direct consequence of the discharge of their duties, including having to
27 purchase and/or use their personal cell phones and data for business purposes such as
28 correspondence and communication for which they have not been reimbursed in violation of

California law.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that they had a duty to compensate Plaintiff and the other aggrieved employees pursuant to California law, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and the other aggrieved employees that they were properly denied wages.

35. At all material times set forth herein, Defendants misclassified Plaintiff and other aggrieved employees as exempt; failed to pay Plaintiff and other aggrieved employees for all hours worked, including all overtime hours worked; failed to provide Plaintiff and other aggrieved employees with state mandated meal and rest periods or paying premium compensation in lieu thereof; failed provide Plaintiff and other aggrieved employees with accurate itemized wage statements; failed to compensate Plaintiff and other aggrieved employees all wages due and owing at the time of separation of employment; failed to reimburse aggrieved employees for all necessary business expenditures incurred in direct consequence of the discharge of their duties; and requiring Plaintiff and other aggrieved employees to agree in writing to unlawful employment terms and conditions, all in in violation of California law.

36. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him [or her] under this article.”

FIRST CAUSE OF ACTION

(Violation of the Labor Code Private Attorneys General Act, Labor Code §§ 2698, et seq.)

(Against All Defendants)

37. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

38. At all times herein set forth, PAGA applied to Plaintiff’s employment with Defendants.

39. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by

the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

40. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by Defendants during the applicable statutory limitations period and suffered one or more of the Labor Code violations set forth herein. Plaintiff and the other employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and former aggrieved employees the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

41. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009).

42. Therefore, under the provisions of PAGA and Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.3, 226.7, 432.5, 510, 512(a), 558, 1102.5, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, 2804, 558, 558.1, 2699 and all applicable Wage Orders, as well as all interpretations of these laws by California Courts and administrative bodies, and any other law that is enforceable through PAGA, Defendants are liable for: (1) All statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute; and (2) Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code Section 2699(f).

43. The proper measure of penalties under PAGA is the number of violations, whether those violations were committed as against Plaintiff or any aggrieved employee, whether a party to this action or not. Further, as a PAGA action, this claim need not be certified as a class action to proceed with a company-wide recovery. (*See generally, Arias v. Superior*

1 *Court* (2009) 46 Cal.4th 969; *Williams v. Superior Court* (2017) 3 Cal.5th 531.)

2 44. Plaintiff complied with the procedures for bringing suit specified in Labor
3 Code sections 2699.3 and 2699.5. By letter postmarked July 29, 2021, Plaintiff gave
4 written notice to the California Labor and Workforce Development Agency (“LWDA”) via
5 electronic mail at PAGAfilings@dir.ca.gov, and via certified mail to Defendants, of the
6 specific provisions of the Labor Code and Wage Orders allegedly violated, including the facts
7 and theories to support the alleged violations.

8 45. Under Labor Code section 2699.3, the LWDA must give written notice by
9 certified mail to the parties that it intends to investigate the alleged violations within 65 days
10 of the date of the Plaintiff’s written notice. As of the date of this Complaint, the LWDA has not
11 provided the parties any notice of its intention to investigate Plaintiff’s claims on behalf of
12 himself and other aggrieved employees. Defendants further have not responded to Plaintiff’s
13 PAGA notice in an attempt to cure. Accordingly, Plaintiff has satisfied the administrative
14 prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against
15 Defendants for violations of California Labor Code sections 201, 202, 203, 204, 226(a),
16 226.3, 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802. Plaintiff has
17 exhausted all administrative remedies required by law.

18 46. Pursuant to Labor Code § 2699(g), and/or any and all other applicable laws,
19 Plaintiff is entitled to recover civil penalties, costs, and attorney’s fees.

20 **PRAYER**

21 WHEREFORE, Plaintiff, individually, and on behalf of other aggrieved employees
22 pursuant to the Private Attorneys General Act, prays for judgment against each Defendant,
23 jointly and severally, as follows:

- 24 1. For all civil penalties according to proof;
25 2. For reasonable attorneys’ fees and costs of suit; and
26 3. For such other and further relief as the Court deems just and proper

27 ///

28 ///

1 Dated: December 13, 2021

Respectfully submitted,

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3 LURTZ LEGAL

4 

5 By: _____

6 Marshall R. Lurtz

7 Attorneys for Plaintiff

8 Alexandra Giselle Irian

LURTZ LEGAL
3511 Camino del Rio South, Suite 101
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DEMAND FOR JURY TRIAL

Plaintiff Alexandra Giselle Irian demands a trial by jury on all claims so triable.

Dated: December 13, 2021

Respectfully submitted,

LURTZ LEGAL



By: _____
Marshall R. Lurtz
Attorneys for Plaintiff
Alexandra Giselle Irian