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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

BRITNEY GUEDON, on behalf of herself and
all others similarly situated;

Plaintiffs,

v.

NEOGREEN SOLUTIONS, INC., a California
Corporation doing business as NEOGEN
CARE, ANJU SATHEESH, an individual, and
DOES 2 through 10, inclusive,

Defendants.

Case No.: RG21102962

CLASS ACTION

**SECOND AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE RELIEF**

1. **FAILURE TO PAY MINIMUM WAGES** (Labor Code §§ 226.2, 1182.11-1182.13, 1194, 1194.2, 1197 & 1198; Wage Order No. 4);
2. **FAILURE TO PAY OVERTIME** (Labor Code §§ 510 & 1194; Wage Order No. 4);
3. **FAILURE TO PROVIDE OFF-DUTY MEAL PERIODS** (Labor Code §§ 226.7 & 512; Wage Order No. 4);
4. **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS** (Labor Code §§ 226.2 & 226.7; Wage Order No. 4);
5. **FAILURE TO REIMBURSE BUSINESS EXPENSES** (Labor Code § 2802);
6. **FAILURE TO FURNISH ADEQUATE WAGE STATEMENTS** (Labor Code §§ 226, 226.2 & 226.3; Wage Order No. 4);
7. **WAITING TIME PENALTIES** (Labor Code §§ 201, 202 & 203)
8. **UNLAWFUL BUSINESS PRACTICES** (Business & Professions Code §§ 17200 *et seq.*); and
9. **VIOLATIONS OF THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004** (Labor Code § 2698, *et seq.*)

DEMAND FOR JURY TRIAL

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I. INTRODUCTION

1. This is a class action under Code of Civil Procedure section 382 and a representative action under Labor Code section 2698, *et seq.*, brought by plaintiff BRITNEY GUEDON (“Plaintiff”) against NEOGREEN SOLUTIONS, INC., a California Corporation doing business as NEOGEN CARE (“NEOGREEN”) and ANJU SATHEESH, an individual (collectively “Defendants”).

2. Plaintiff seeks to represent a class of all individuals whom Defendants employed as nurses who worked for Defendants in California from June 23, 2017 to the present (the “Class” or “Class Members”).

3. Defendants are in the healthcare business. Defendants provide home health care to its patients. Plaintiff and Class Members are nurses who provided this critical care to Defendants’ patients at their homes in Alameda County and throughout the greater Bay Area.

4. Defendants committed various violations of California wage and hour law throughout Plaintiff’s and Class Members’ employment. Defendants have sought to avoid various duties and obligations owed to employees under the California Labor Code, Industrial Welfare Commission Wage Order No. 4 (“Wage Order No. 4”), and the General Minimum Wage Order (“Minimum Wage Order”) including but not limited to failure to: (1) Pay minimum wages; (2) Pay overtime; (3) Provide meal periods; (4) Authorize and permit rest periods; (5) Reimburse business expenses; (6) Furnish adequate wage statements; and (7) Pay all wages upon separation.

5. Plaintiff brings claims on behalf of Class Members for unpaid minimum and overtime wages, liquidated damages, payment for missed meal and rest periods, unreimbursed business expenses, statutory and civil penalties, interest, and attorneys’ fees and costs under Labor Code sections 203, 218.5, 2802, 1194, 2699, and Code of Civil Procedure section 1021.5. Plaintiff, on behalf of herself and Class Members, also seeks equitable and injunctive relief for these violations pursuant to Business and Professions Code sections 17200-17208 (referred to herein as the “UCL”).

6. Plaintiff also brings a claim seeking civil penalties under the Private Attorneys General Act, Labor Code sections 2698 *et seq.* (“PAGA”).

1 **II. JURISDICTION**

2 7. Venue is proper in this judicial district, pursuant to Code of Civil Procedure section
3 395(a). Defendants employ or have employed Plaintiff and Class Members doing business out of
4 their headquarters in the city of Hayward, which is located within Alameda County, California.
5 The unlawful acts alleged herein have occurred in and have a direct effect on Plaintiff and those
6 similarly situated within the State of California and the County of Alameda.

7 8. This Court has jurisdiction over this class action pursuant to Article 6, section 10 of
8 the California Constitution and California Code of Civil Procedure section 410.10.

9 9. On information and belief, Plaintiff's and Class Members' monetary claims total
10 less than \$75,000.00 per person.

11 **III. PARTIES**

12 **A. PLAINTIFF**

13 10. Plaintiff and Class Members are current or former nurses who were employed by
14 Defendants at some time during the period beginning June 23, 2017 to the present (the "Class
15 Period").

16 11. Plaintiff is a resident of California and worked for Defendants as a nurse from
17 approximately August 2019 to May 2021.

18 **B. DEFENDANTS**

19 12. Defendant NEOGREEN SOLUTIONS, INC. is a California Corporation doing
20 business as NEOGEN CARE. Plaintiff is informed and believes, and on that basis alleges, that
21 NEOGREEN maintains its headquarters in Hayward, California located in Alameda County and
22 conducts business throughout the State of California. NEOGREEN is and at all times relevant
23 herein, has been an employer covered by the Labor Code and Wage Order No. 4.

24 13. Defendant ANJU SATHEESH, an individual, is, on information and belief, an adult
25 resident of Pleasanton, California. Defendant ANJU SATHEESH was, during the relevant time
26 period, the sole member and/or manager and/or Chief Executive Officer, Secretary, and Chief
27 Financial Officer on NEOGREEN SOLUTIONS, INC.'s statement of information filed with the
28 California Secretary of State. At all times relevant herein Defendant ANJU SATHEESH was

1 Plaintiff's and Class Members' employer covered by the Labor Code, Wage Order No. 4, and the
2 Minimum Wage Order. Plaintiff is informed and believes that Defendant ANJU SATHEESH is a
3 joint employer, working as a joint enterprise with NEOGREEN. Defendant ANJU SATHEESH
4 controls and is intimately involved in the day-to-day operations of NEOGREEN and both
5 determined and instituted the unlawful wage and hour violations alleged herein. Defendant ANJU
6 SATHEESH has violated or caused to be violated the provisions of Wage Order No. 4 regulating
7 minimum wages and/or hours and days of work as well as Labor Code §§ 203, 226, 226.7, 1194,
8 2802. As such, she is personally liable for the Wage Order No. 4 and Labor Code violations cited
9 herein pursuant to Labor Code § 558.1.

10 14. The true names and capacities, whether individual, corporate, associate, or
11 otherwise, of Defendants sued herein as DOES 2 through 10, inclusive, are currently unknown to
12 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure
13 section 474. Plaintiff is informed and believes, and based thereon allege, that each of the
14 defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts
15 referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
16 names and capacities of the defendants designated hereinafter as DOES when such identities
17 become known. Plaintiff is informed and believes, and based thereon allege, that each of the
18 defendants designated herein as DOE is legally responsible in some manner for the events and
19 happenings referred to herein and caused injury and damage proximately thereby to Plaintiff as
20 alleged herein. Each reference in this Complaint to "Defendants," or a specifically named
21 defendant, refers also to all defendants sued under fictitious names.

22 15. Plaintiff is informed and believe, and based thereon alleges, that at all times herein
23 mentioned each of the defendants are and were the agent, employee and/or servant of each of the
24 remaining defendants, and in doing the things hereinafter alleged was acting within the scope of
25 such agency, employment, and servitude, with the knowledge and consent of each of the
26 defendants. Whenever this Complaint makes reference to a defendant, such allegations shall be
27 deemed to mean the acts of all defendants acting individually, jointly and/or severally.
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1 **IV. STATEMENT OF FACTS**

2 16. Defendants are in the health care business. Defendants required Plaintiff and Class
3 Members to provide care to Defendant's patients in their homes. According to Defendants' website
4 Plaintiff and Class Members "are tasked with delivering expert, compassionate, and personal care
5 that is seminal to improving the health and well being of the patient entrusted to our care."

6 17. Plaintiff is informed and believes and thereon alleges that, throughout the relevant
7 time period of this action, Defendants have employed at least one hundred (100) Class Members.

8 18. At all times relevant hereto, the California Labor Code and Wage Order No. 4 have
9 applied to Plaintiff and Class Members.

10 19. Plaintiff is informed and believes and thereon alleges that, through common
11 practices, policies and/or schemes, Defendants paid Plaintiff and Class Members on a piece rate
12 basis and failed to pay them minimum and overtime wages, and compensation for missed meal and
13 rest periods in order to systematically deprive them of the benefits and protections applicable to
14 employees under California law.

15 20. Plaintiff's and Class Members' primary job duties involved providing home health
16 nursing to patients.

17 21. Defendants controlled all work details, including Plaintiff's and Class Members'
18 respective schedules and work locations.

19 22. Based on the foregoing and other relevant factors, Plaintiff and other Class
20 Members were Defendants' employees.

21 23. Plaintiff and Class Members regularly worked over eight (8) hours per day and forty
22 (40) hours per week.

23 24. Defendants paid Plaintiff and Class Members on a piece rate basis. Defendants
24 failed to pay Plaintiff and Class Members separately for their rest periods. Defendants also failed to
25 pay Plaintiff and Class Members for nonproductive time such as traveling to and from a patient's
26 home and time completing the required charting for each patient. Defendants also failed to properly
27 pay Class Members overtime.
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1 25. Defendants required Plaintiff and Class Members to continuously work without
2 authorizing or providing paid rest periods. Plaintiff and Class Members regularly worked more
3 than three-and-one-half (3½) hours without being authorized or permitted to take a paid ten (10)
4 minute rest period. Defendants failed to pay one additional hour of pay at Plaintiff's and Class
5 Members' respective regular rates of compensation for each workday that they were not provided a
6 rest period.

7 26. Defendants required Plaintiff and Class Members to continuously drive and serve
8 numerous customers in certain time frames throughout the day without providing proper off-duty
9 meal periods. Plaintiff and Class Members regularly worked more than five (5) hours per day
10 without receiving an adequate off-duty meal period of at least thirty (30) minutes during which
11 they were relieved of all duties. Defendants also failed to provide Plaintiff and other Class
12 Members with a second meal period of not less than thirty (30) minutes during which they are
13 relieved of all duties when they worked more than ten (10) hours per day. Defendants failed to pay
14 one additional hour of pay at Plaintiff's and Class Members' respective regular rates of
15 compensation for each workday Defendants did not provide them with an adequate meal period.

16 27. Defendants failed to reimburse Plaintiff and Class Members for business-related
17 expenses. For instance, Defendants required Plaintiff and Class Members to use their personal
18 vehicle, cell phone devices, and equipment for work-related purposes, but failed to reimburse
19 Plaintiff and Class Members for these business-related expenses.

20 28. Defendants also failed to provide Plaintiff and Class Members with adequate
21 itemized wage statements. For example, the wage statements provided by Defendants to Plaintiff
22 and Class Members do not adequately include all hours worked. Defendants also failed to provide
23 Class Members who were paid a piece rate with wage statements indicating the number of piece-
24 rate units earned and applicable piece rates, separate pay for rest periods and non-productive time.

25 29. Defendants did not pay Plaintiff and Class Members all wages owed at the time of
26 termination.

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V. CLASS ACTION ALLEGATIONS

30. Except as to the PAGA claim set forth below, Plaintiff brings this lawsuit as a class action pursuant to Code of Civil Procedure section 382 on behalf of herself and all similarly situated employees.

31. The class that Plaintiff seeks to represent is defined as:

The Class: All individuals whom Defendants employed as nurses who worked for Defendants in California from June 23, 2021 to the present.

32. The claims herein have been brought and may properly be maintained as a class action under Code of Civil Procedure section 382 because there is a well-defined community of interest among Class Members with respect to the claims asserted herein and the Class is easily ascertainable:

a. Ascertainability and Numerosity: The potential members of the Class as defined herein are so numerous that joinder would be impracticable. Plaintiff is informed and believes, and based thereon alleges, that Defendants have employed at least one hundred (100) Class Members during the Class Period. The names and addresses of the Class Members are available from Defendants. Notice can be provided to the Class Members via first class mail using techniques and a form of notice similar to those customarily used in class action lawsuits of this nature.

b. Commonality: There are questions of law and fact common to Plaintiff and the Class that predominate over any questions affecting only individual members of the Class.

These common questions of law and fact include, without limitation:

- i. Whether Defendants have violated Labor Code sections 1182.11-1182.13, 1194, 1194.2, 1197 and 1198, Wage Order No. 4, and the Minimum Wage Order by failing to pay Class Members the minimum wage for all hours worked;
- ii. Whether Defendants have violated Labor Code sections 226.2 by failing to pay Class Members the minimum wage for nonproductive work performed and for rest periods;

- 1 iii. Whether Defendants have violated Labor Code sections 510 and 1194 and
2 Wage Order 4 by failing to pay Class Members overtime wages;
- 3 iv. Whether Defendants have violated Labor Code section 226.7 and Wage Order
4 No. 4 by failing to authorize and permit Class Members paid rest periods;
- 5 v. Whether Defendants have violated Labor Code sections 226.7 and 512, and
6 Wage Order No. 4 by failing to provide Class Members meal periods;
- 7 vi. Whether Defendants have violated Labor Code section 2802 by failing to
8 reimburse Plaintiff and Class Members for business expenses;
- 9 vii. Whether Defendants have violated Labor Code sections 226 and 226.2 by
10 failing to issue Class Members with adequate and legally compliant wage
11 statements;
- 12 viii. Whether Defendants have violated Labor Code sections 201-203 by failing,
13 upon termination, to timely pay Class Members wages that were due;
- 14 ix. Whether the violations set forth in subsections i-viii set forth immediately
15 above constitute an unlawful, unfair, and/or fraudulent business practice under
16 Business and Professions Code Section 17200, *et seq.*;
- 17 x. What relief is necessary to remedy Defendants' unfair and unlawful conduct as
18 herein alleged; and
- 19 xi. Other questions of law and fact.
- 20 c. Typicality: Plaintiff's claims are typical of the claims of the Class: She was employed
21 by Defendants as a nurse during the Class Period in California. Plaintiff and all
22 members of the Class have sustained injuries-in-fact due to their damages arising out of
23 and caused by Defendants' common course of conduct in violation of law, as alleged
24 herein.
- 25 d. Adequacy of Representation: Plaintiff is a member of the Class that she seeks to
26 represent, and will fairly and adequately represent and protect the interests of Class
27 Members. Counsel representing Plaintiff is competent and experienced in litigating
28 wage and hour class actions.

1 e. Superiority of Class Action: A class action is superior to other available means for the
2 fair and efficient adjudication of this controversy. Individual joinder of all Class
3 Members is not practicable, and questions of law and fact common to the Class
4 predominate over any questions affecting only individual members of the Class. Class
5 Members have suffered injury and are entitled to recover by reason of Defendants'
6 illegal policies and/or practices as alleged herein. Class action treatment will allow
7 those similarly situated persons to litigate their claims in the manner that is most
8 efficient and economical for the parties and the judicial system. Further, the
9 prosecution of separate actions against Defendants by individual Class Members would
10 create a risk of inconsistent or varying adjudications that would establish incompatible
11 standards of conduct for Defendants.

12 VI. DAMAGES

13 33. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff and
14 similarly situated Class Members are owed, among other things, minimum and overtime wage
15 compensation plus interest and liquidated damages, payments for meal and rest period violations,
16 reimbursement for business expenses, waiting time penalties, and other statutory penalties, in an
17 amount that exceeds \$25,000, the precise amount of which will be proven at trial.

18 VII. CAUSES OF ACTION

19 FIRST CAUSE OF ACTION

20 **FAILURE TO PAY MINIMUM WAGE FOR ALL HOURS WORKED** 21 **(Labor Code §§ 226.2, 1182.11-1182.13, 1194, 1194.2, 1197 & 1198;** 22 **Wage Order No. 4; Minimum Wage Order)**

23 34. The allegations of each of the preceding paragraphs are realleged and incorporated
24 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the
25 above-described Class of similarly situated nurses who were employed by Defendants in
26 California.

27 35. Throughout the Class Period, Labor Code sections 226.2, 1182.11-1182.13, 1194,
28 1194.2, 1197, 1198, Wage Order No. 4, and the General Minimum Wage Order were in full force

1 and effect and required Defendants to pay non-exempt employees at least the applicable minimum
2 wage for all hours worked.

3 36. Throughout the Class Period, as a result of the policies and practices set forth
4 herein, Defendants failed to pay Plaintiff and Class Members, and continually fail to pay them,
5 minimum wages as required by law for all of their hours worked.

6 37. Employees paid on a piece rate basis are entitled to pay for all hours worked,
7 including at least the minimum wage for all non-productive work.

8 38. Pursuant to Labor Code section 226.2 employees paid on a piece-rate basis must be
9 compensated separately for rest periods and non-productive time.

10 39. Defendants failed to pay Plaintiff and Class Members at least the minimum wage
11 for non-productive work and also failed to compensate them separately for rest periods.

12 40. As a direct and proximate result of Defendants' acts and/or omissions, Plaintiff and
13 Class Members have suffered economic damages in amounts to be determined at trial.

14 41. Labor Code section 1194(a) provides that an employee who has not been paid
15 minimum wages as required by section 1197 may recover the unpaid balance of the full amount of
16 such wages, interest thereon, attorneys' fees and the costs of suit.

17 42. Labor Code section 1194.2 provides that employees who have not been paid at least
18 minimum wages for their hours worked are entitled to recover liquidated damages in an amount
19 equal to the minimum wages that Defendants unlawfully failed to pay them in amounts according
20 to proof at the time of trial.

21 43. Labor Code § 558.1(a) provides for liability for an "other person acting on behalf of
22 an employer[] who violates, or causes to be violated, any provision regulating minimum wages or
23 hours and days of work in any order of the Industrial Welfare Commission . . . or [Labor Code]
24 Section. . . 1194." Labor Code § 558.1(b) provides that an "other person" is "a natural person who
25 is an owner, director, officer, or managing agent" of an employer.

26 44. On information and belief, Defendant ANJU SATHEESH is and was, at relevant
27 times, an owner, director, officer, or managing agent of Defendant NEOGREEN and violated or
28 caused to be violated the provisions regulating minimum wages or hours and days of work in Wage

1 Order No. 4 and Labor Code § 1194. Therefore, Defendant ANJU SATHEESH is individually
2 liable for these violations.

3 45. Plaintiff, on behalf of herself and the Class requests restitution of unpaid wages and
4 other relief as described below.

5 **SECOND CAUSE OF ACTION**
6 **FAILURE TO PAY OVERTIME**
7 **(Labor Code §§ 510 & 1194; Wage Order No. 4)**

8 46. The allegations of each of the preceding paragraphs are realleged and incorporated
9 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the
10 above-described Class of similarly situated nurses who were employed by Defendants in
11 California.

12 47. Throughout the Class Period, Defendants have required and permitted Plaintiff and
13 Class Members to work in excess of eight (8) hours per day and forty (40) hours per week.

14 48. Defendants' piece rate based pay did not compensate Plaintiff and Class Members
15 for overtime when Plaintiff and Class Members regularly worked over eight (8) hours per day and
16 forty (40) hours per week.

17 49. Labor Code section 1194(a) provides that an employee who has not been paid
18 overtime wages may recover the unpaid balance of the full amount of such wages, interest thereon,
19 attorneys' fees and the costs of suit.

20 50. By failing to pay overtime compensation to Plaintiff and Class Members,
21 Defendants have violated Labor Code section 510 and Wage Order No. 4 section 3.

22 51. Labor Code § 558.1(a) provides for liability for an "other person acting on behalf of
23 an employer[] who violates, or causes to be violated, any provision regulating minimum wages or
24 hours and days of work in any order of the Industrial Welfare Commission . . . or [Labor Code]
25 Section. . . 1194." Labor Code § 558.1(b) provides that an "other person" is "a natural person who
26 is an owner, director, officer, or managing agent" of an employer.

27 52. On information and belief, Defendant ANJU SATHEESH is and was, at relevant
28 times, an owner, director, officer, or managing agent of Defendant NEOGREEN and violated or

1 caused to be violated the provisions regulating minimum wages or hours and days of work in Wage
2 Order 4 and Labor Code § 1194. Therefore, Defendant ANJU SATHEESH is individually liable
3 for these violations.

4 53. Plaintiff, on behalf of herself and the Class requests restitution of unpaid overtime
5 wages and other relief as described below.

6 **THIRD CAUSE OF ACTION**
7 **FAILURE TO PROVIDE MEAL PERIODS**
8 **(Labor Code §§ 226.7 & 512; Wage Order No. 4)**

9 54. The allegations of each of the preceding paragraphs are realleged and incorporated
10 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the
11 above-described Class of similarly situated nurses who were employed by Defendants in
12 California.

13 55. Plaintiff and Class Members have regularly worked in excess of five (5) hours per
14 day without being permitted to take a thirty (30) minute meal period as required by Labor Code
15 sections 226.7 and 512 and Wage Order No. 4, section 11(A).

16 56. Plaintiff and Class Members have regularly worked in excess of ten (10) hours a day
17 without being permitted to take a second thirty (30) minute meal period as required by Labor Code
18 sections 226.7 and 512 and Wage Order No. 4, section 11(B).

19 57. Pursuant to Labor Code section 226.7(c) and Wage Order No. 4 section 11(D),
20 Defendants are liable for one hour of additional pay at Plaintiff and Class Members' respective
21 regular rate of pay for each workday Defendants failed to provide meal periods to Plaintiff and
22 Class Members.

23 58. By violating Labor Code section 226.7 and Wage Order No. 4, section 11,
24 Defendants are also liable for interest under California Civil Code section 3287.

25 59. Labor Code § 558.1(a) provides for liability for an "other person acting on behalf of
26 an employer[] who violates, or causes to be violated, any provision regulating minimum wages or
27 hours and days of work in any order of the Industrial Welfare Commission . . . or [Labor Code]
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1 Section. . . 1194.” Labor Code § 558.1(b) provides that an “other person” is “a natural person who
2 is an owner, director, officer, or managing agent” of an employer.

3 60. On information and belief, Defendant ANJU SATHEESH is and was, at relevant
4 times, an owner, director, officer, or managing agent of Defendant NEOGREEN and violated or
5 caused to be violated the provisions regulating minimum wages or hours and days of work in Wage
6 Order No. 4 and Labor Code § 226.7. Therefore, Defendant ANJU SATHEESH is individually
7 liable for these violations.

8 61. Plaintiff, on behalf of herself and the Class requests restitution of unpaid meal
9 period premiums and other relief as described below.

10 **FOURTH CAUSE OF ACTION**
11 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**
12 **(Labor Code §§ 226.2 & 226.7; Wage Order No. 4)**

13 62. The allegations of each of the preceding paragraphs are realleged and incorporated
14 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the
15 above-described Class of similarly situated nurses who were employed by Defendants in
16 California.

17 63. Plaintiff and Class Members have regularly worked in excess of three and one-half
18 (3½) hours a day without being permitted to take at least a ten (10) minute paid rest period for
19 every three and one-half (3½) hours worked, or major fraction thereof, as required by Wage Order
20 No. 4, section 12(A) and Labor Code section 226.7.

21 64. Pursuant to Labor Code section 226.2 employees paid on a piece-rate basis must be
22 compensated separately for rest periods.

23 65. Defendants failed to permit proper paid rest periods to Plaintiff and Class Members
24 and failed to compensate Class Members separately for rest periods.

25 66. Accordingly, Defendants are liable to Plaintiff and Class Members for one hour of
26 additional pay at the regular rate of compensation for each workday a rest period violation
27 occurred, pursuant to Labor Code section 226.7(c) and Wage Order No. 4, section 12(B).
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67. By violating Labor Code section 226.7 and Wage Order No. 4, section 11, Defendants are also liable for interest under California Civil Code section 3287.

68. Labor Code § 558.1(a) provides for liability for an “other person acting on behalf of an employer[] who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission . . . or [Labor Code] Section. . . 1194.” Labor Code § 558.1(b) provides that an “other person” is “a natural person who is an owner, director, officer, or managing agent” of an employer.

69. On information and belief, Defendant ANJU SATHEESH is and was, at relevant times, an owner, director, officer, or managing agent of Defendant NEOGREEN and violated or caused to be violated the provisions regulating minimum wages or hours and days of work in Wage Order No. 4 and Labor Code § 226.7. Therefore, Defendant ANJU SATHEESH is individually liable for these violations.

70. Plaintiff, on behalf of herself and the Class requests restitution of unpaid rest period premiums and other relief as described below.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES (Labor Code § 2802)

71. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the above-described Class of similarly situated nurses who were employed by Defendants in California.

72. Labor Code section 2802(a) states that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer . . .”

73. Labor Code section 2802(b) states that “[a]ll awards made by a court . . . for reimbursement of necessary expenditures under this section shall carry interest at the same rate as

1 judgments in civil actions. Interest shall accrue from the date on which the employee incurred the
2 necessary expenditure or loss.”

3 74. Labor Code section 2802(c) states that “[f]or purposes of this section, the term
4 “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to,
5 attorney’s fees incurred by the employee enforcing the rights granted by this section.”

6 75. Plaintiff and Class Members incurred necessary business-related costs that were not
7 fully reimbursed by Defendants, including, but not limited to, personal vehicle, cell phone devices,
8 and equipment for work-related purposes, required for work.

9 76. In violation of Labor Code section 2802, Defendants failed to reimburse or
10 indemnify Plaintiff and Class Members for their expenses due to Defendants’ knowing and
11 intentional failure to reimburse necessary business expenditures in connection with Plaintiff’ and
12 Class Members’ work and job duties.

13 77. As a direct result, Plaintiff and Class Members have suffered and continue to suffer
14 loss, and therefore seek complete reimbursement and indemnification of necessary business
15 expenditures or losses, interest thereon at the required rate, and all reasonable costs in enforcing the
16 rights under Labor Code section 2802, including but not limited to, attorneys fees.

17 78. Labor Code § 558.1(a) provides for liability for an “other person acting on behalf of
18 an employer[] who violates, or causes to be violated, any provision regulating minimum wages or
19 hours and days of work in any order of the Industrial Welfare Commission . . . or [Labor Code]
20 Section. . . 1194.” Labor Code § 558.1(b) provides that an “other person” is “a natural person who
21 is an owner, director, officer, or managing agent” of an employer.

22 79. On information and belief, Defendant ANJU SATHEESH is and was, at relevant
23 times, an owner, director, officer, or managing agent of Defendant NEOGREEN and violated or
24 caused to be violated the provisions regulating minimum wages or hours and days of work in Wage
25 Order No. 4 and Labor Code § 2802. Therefore, Defendant ANJU SATHEESH is individually
26 liable for these violations.

27 80. Plaintiff, on behalf of herself and the Class requests restitution of unpaid rest period
28 premiums and other relief as described below.

SIXTH CAUSE OF ACTION

**FAILURE TO FURNISH ADEQUATE WAGE STATEMENTS
(Labor Code §§ 226, 226.2, 226.3; Wage Order No. 4)**

81. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the above-described Class of similarly situated nurses who were employed by Defendants in California.

82. Labor Code sections 226(a), 226(a)(2), and Wage Order No. 4 section 7 require employers, semi-monthly or at the time of payment, to furnish employees a statement showing gross and net wages earned and total hours worked. In addition, pursuant to Labor Code sections 226 and 226.2, employers are required to furnish an employee paid on a piece-rate basis with a statement itemizing the number of piece-rate units, the applicable piece rates of pay, and gross wages paid for rest period and non-productive time.

83. An employee suffering injury as the result of a knowing and intentional failure of an employer to comply with Labor Code section 226(a) may recover the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurs and one hundred dollars (\$100.00) for each violation in a subsequent pay period, not to exceed the aggregate penalty of four thousand dollars (\$4,000.00) and is entitled to an award of costs and reasonable attorney's fees pursuant to Labor Code section 226(e)(1).

84. Defendants knowingly and intentionally failed to furnish Plaintiff and Class Members with legally compliant wage statements in accordance with Labor Code sections 226, 226.2 and Wage Order No. 4. Defendants failed to provide Plaintiff and Class Members with a statement itemizing the number of piece-rate units, the applicable piece rates of pay, and gross wages paid for rest periods and non-productive time. Defendants failed to furnish Plaintiff and Class Members with adequate wage statements showing gross and net wages earned and total hours worked.

85. Labor Code § 558.1(a) provides for liability for an "other person acting on behalf of an employer[] who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission . . . or [Labor Code]

1 Section. . . 1194.” Labor Code § 558.1(b) provides that an “other person” is “a natural person who
2 is an owner, director, officer, or managing agent” of an employer.

3 86. On information and belief, Defendant ANJU SATHEESH is and was, at relevant
4 times, an owner, director, officer, or managing agent of Defendant NEOGREEN and violated or
5 caused to be violated the provisions regulating minimum wages or hours and days of work in Wage
6 Order No. 4 and Labor Code § 226. Therefore, Defendant ANJU SATHEESH is individually
7 liable for these violations.

8 87. Plaintiff, on behalf of herself and the Class requests restitution of wage statement
9 penalties and other relief as described below.

10 **SEVENTH CAUSE OF ACTION**

11 **WAITING TIME PENALTIES**
12 **(Labor Code §§ 201, 202 & 203)**

13 88. The allegations of each of the preceding paragraphs are realleged and incorporated
14 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the
15 above-described Class of similarly situated nurses who were employed by Defendants in
16 California.

17 89. Labor Code section 201 requires an employer who discharges an employee to pay
18 all compensation due and owing to said employee immediately upon discharge. Labor Code
19 section 202 requires an employer to promptly pay compensation due and owing to said employee
20 within seventy-two hours of that employee’s termination of employment by resignation. Labor
21 Code section 203 provides that if an employer willfully fails to pay compensation promptly upon
22 discharge or resignation, as required under sections 201 and 202, then the employer is liable for
23 waiting time penalties in the form of continued compensation for up to thirty work days.

24 90. Defendants willfully failed and refused, and continue to willfully fail and refuse, to
25 timely pay compensation and wages, including minimum and overtime wages, to Plaintiff and to
26 all other Class Members who are no longer employed by Defendants, as required by Labor Code
27 sections 201-202. As a result, Defendants are liable to Plaintiff and other Class Members whose
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1 are no longer employed by Defendants for waiting time penalties, together with interest thereon
2 and attorneys' fees and costs, under Labor Code section 203.

3 91. Labor Code § 558.1(a) provides for liability for an "other person acting on behalf of
4 an employer[] who violates, or causes to be violated, any provision regulating minimum wages or
5 hours and days of work in any order of the Industrial Welfare Commission . . . or [Labor Code]
6 Section. . . 1194." Labor Code § 558.1(b) provides that an "other person" is "a natural person who
7 is an owner, director, officer, or managing agent" of an employer.

8 92. On information and belief, Defendant ANJU SATHEESH is and was, at relevant
9 times, an owner, director, officer, or managing agent of Defendant NEOGREEN and violated or
10 caused to be violated the provisions regulating minimum wages or hours and days of work in Wage
11 Order No. 4 and Labor Code § 203. Therefore, Defendant ANJU SATHEESH is individually
12 liable for these violations.

13 93. Plaintiff, on behalf of herself and the Class requests restitution of waiting time
14 penalties and other relief as described below.

15 **EIGHTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION AND UNFAIR BUSINESS PRACTICES**
17 **(Business & Professions Code §§ 17200 *et seq.*)**

18 94. The allegations of each of the preceding paragraphs are realleged and incorporated
19 herein by reference, and Plaintiff alleges as follows a cause of action on behalf of herself and the
20 above-described Class of similarly situated nurses who were employed by Defendants in
21 California.

22 95. Defendants' failure to pay legally required compensation, authorize and permit meal
23 and rest periods, provide adequate wage statements, and pay all wages due upon the termination, as
24 alleged above, constitute unlawful and/or unfair activities prohibited by Business and Professions
25 Code section 17200. Plaintiff reserves the right to identify additional unfair and unlawful practices
26 by Defendants as further investigation and discovery warrants.

27 96. Moreover, Business and Professions Code section 17203 provides that the Court
28 may restore to an aggrieved party any money or property acquired by means of unlawful and unfair

1 business practices. Plaintiff seeks a court order requiring an audit and accounting of the payroll
2 records to determine the amount of restitution of all unpaid wages owed to herself and Class
3 Members, as well as a determination of the amount of funds to be paid to current and former
4 employees that can be identified and located pursuant to a court order and supervision.

5 97. Plaintiff and all Class Members are persons who have suffered injury in fact as a
6 result of Defendants' unfair competition within the meaning of Business and Professions Code
7 section 17204, and who comply with the requirements of Code of Civil Procedure section 382, as
8 set forth above, and therefore have standing to bring this claim for injunctive relief, restitution, and
9 other appropriate equitable relief.

10 98. As a result of its unlawful and/or unfair acts, Defendants have reaped and continue
11 to reap unfair benefits and illegal profits at the expense of Plaintiff and proposed Class Members.
12 Defendants should be enjoined from this activity and made to restore to Plaintiff and proposed
13 Class Members their wrongfully withheld wages, interest thereon, and related statutory penalties,
14 pursuant to Business and Professions Code sections 17202 and 17203.

15 99. Private enforcement of these rights is necessary, as no other agency has raised a
16 claim to protect these workers. There is a financial burden incurred in pursuing this action that
17 would be unjust to place upon Plaintiff, as the burden of enforcing workforce-wide rights is
18 disproportionately greater than that of enforcing only Plaintiff's individual claims. Additionally,
19 Plaintiff is a low-income worker who cannot afford to spend part of his wages on enforcing others'
20 wage rights. Therefore, it would be against the interests of justice to force payment of attorneys'
21 fees from Plaintiff's recovery in this action. Accordingly, attorneys' fees are appropriate and
22 sought pursuant to the Code of Civil Procedure section 1021.5.

23 100. Plaintiff, on behalf of herself and the Class requests restitution of unpaid wages and
24 other relief as described below, request restitution of unpaid wages, wage premiums, injunctive
25 relief and other relief as described below.

NINTH CAUSE OF ACTION

**PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698 *et seq.*)**

101. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference. Plaintiff alleges as follows a representative cause of action on behalf of herself and all other aggrieved employees.

102. Pursuant to Labor Code section 2699.3(a), on July 2, 2021, Plaintiff gave notice by electronic filing and by certified mail to Defendant NEOGREEN, and the Labor and Workforce Development Agency ("LWDA") of the factual and legal basis for the labor law violations alleged in this complaint. The LWDA has not provided notice pursuant to Labor Code section 2699.3(a)(2)(A), and 65 calendar days have passed since the postmark date of Plaintiff's LWDA notice. Therefore, Plaintiff is entitled to commence a civil action pursuant to Labor Code section 2699.

103. Pursuant to Labor Code section 2699.3(a), on July 29, 2022, Plaintiff gave a first amended notice by electronic filing and by certified mail to Defendants, and the Labor and Workforce Development Agency ("LWDA") of the factual and legal basis for the labor law violations alleged in this complaint. The LWDA has not provided notice pursuant to Labor Code section 2699.3(a)(2)(A), and 65 calendar days have passed since the postmark date of Plaintiff's LWDA notice. Therefore, Plaintiff is entitled to commence a civil action pursuant to Labor Code section 2699.

104. Labor Code section 2699(f) provides, in pertinent part: "For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation."

105. Labor Code section 2699(g)(1) provides, in pertinent part: [A]n aggrieved employee may recover the civil penalty described in subdivision (f) in a civil action . . . filed on behalf of himself or herself and other current or former employees against whom one or more of the alleged

1 violations was committed. Any employee who prevails in any action shall be entitled to an award
2 of reasonable attorney's fees and costs.

3 106. Plaintiff is an aggrieved employee as defined by Labor Code section 2699(a).

4 107. Plaintiff's cause of action under Labor Code section 2698, *et seq.* is based on the
5 following allegations:

- 6 a. Violations of Labor Code section 558 for failing to pay wages due. Specifically,
7 Defendants do not pay wages to Plaintiff and other aggrieved employees for all hours
8 worked as required by Labor Code sections 226.2, 1194, 1194.2, 1197, and 1198.
- 9 b. Violations of Labor Code sections 226.2, 558, 1182.11-1182.13, 1194, 1194.2, 1197,
10 1197.1 and 1198 for failing to pay at least the minimum wage and for all hours
11 worked. Defendants do not pay at least the minimum wage to Plaintiff and other
12 aggrieved employees for all hours worked, as a result of failing to pay Plaintiff and
13 other aggrieved employees for non-productive time and separately for rest periods.
- 14 c. Violations of Labor Code sections 510, 558 and 1194 for failing to pay overtime.
15 Defendants do not pay overtime to Plaintiff and other aggrieved employees as a result
16 of failing to pay Plaintiff and other aggrieved employees for non-productive time and
17 separately for rest periods.
- 18 d. Violations of Labor Code section 558 for failing to pay wages due, including those for
19 missed meal periods as required by Labor Code sections 226.7 and 512 and IWC
20 Wage Order 4, section 11. Specifically, Defendants do not pay one additional hour of
21 pay to Plaintiff and other aggrieved employees at their regular rate of pay for a missed
22 meal period.
- 23 e. Violations of Labor Code section 558 for failing to pay wages due, including those for
24 missed rest periods as required by Labor Code section 226.7 and IWC Wage Order 4,
25 section 12. Specifically, Defendants do not pay one additional hour of pay to Plaintiff
26 and other aggrieved employees at their regular rate of compensation for each missed
27 rest period.
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- 1 f. Violations of Labor Code sections 226(a), 226.2, and 226.3 and IWC Wage Order 4
2 section 7 for failing to provide adequate itemized wage statements that include,
3 among other things, the correct hours worked, rates of pay, pieces, piece rate, total
4 rest and recovery periods, the rate of compensation, and the gross wages paid for
5 those periods during the pay period, and total hours worked.
- 6 g. Violations of Labor Code sections 201 through 203, requiring the timely payment of
7 wages. Defendants have not timely paid Plaintiff and those other aggrieved
8 employees who are no longer employed with Defendants all wages owed and due at
9 the time of termination of their employment.
- 10 h. Violations of Labor Code sections 204 and 210, based on Defendants' failure to pay
11 Plaintiff and other aggrieved employees all wages owed on their regular payday.
- 12 i. Violations of Labor Code section 2800 and 2802 by failing to reimburse Plaintiff and
13 aggrieved employees for business-related expenses as a direct consequence of the
14 discharge of their job duties for the benefit of Defendants. For example, Defendants
15 required Plaintiff and aggrieved employees to use their personal vehicle, cell phone
16 devices, and equipment for work-related purposes for their work. However,
17 Defendants have not reimbursed Plaintiff and aggrieved employees for all business-
18 related expenses.

19 108. As a direct and proximate result of Defendants' unlawful practices and policies,
20 Plaintiff and other aggrieved employees have suffered and continue to suffer monetary losses.

21 109. Plaintiff, on behalf of herself and all other aggrieved employees, requests civil
22 penalties against Defendants for violations of the Labor Code, as provided under Labor Code
23 section 2699(f), plus reasonable attorneys' fees and costs, as provided under Labor Code section
24 2699(g)(1), in amounts to be proven at trial.

25 **VIII. REQUEST FOR JURY TRIAL**

26 Plaintiff requests a trial by jury on behalf of herself and the above-described Class.
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1 **IX. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of herself and the above-described Class requests relief
3 from Defendants as follows:

- 4 a. Certification of the above-described Class as a class action, pursuant to Code of Civil
5 Procedure section 382;
- 6 b. Certification of the above-described Class as a representative class under Business and
7 Professions Code section 17200;
- 8 c. Provision of Class Notice to all Class Members who worked for Defendants during the
9 Class Period;
- 10 d. A declaratory judgment that Defendants have knowingly and intentionally violated the
11 Business and Professions Code sections 17200-17208, by the conduct set forth above.
- 12 e. A declaratory judgment that Defendants' violations as described above were willful;
- 13 f. An equitable accounting to identify, locate, and restore to all Class Members the wages
14 and interest that are due;
- 15 g. An award to Plaintiff and Class Members of damages in the amount of unpaid minimum
16 and overtime wages pursuant to Labor Code section 226.2 and 1194, including interest
17 thereon, subject to proof at trial;
- 18 h. An award pursuant to Labor Code section 1194.2 to Plaintiff and Class Members of
19 liquidated damages due to Defendants' failure to pay the minimum wage;
- 20 i. An award to Plaintiff and Class Members of meal and rest period premiums pursuant to
21 Labor Code section 226.7 for failure to provide meal and rest periods, including interest
22 thereon;
- 23 j. An award to Plaintiff and Class Members of reimbursement for business expenses
24 pursuant to Labor Code section 2802;
- 25 k. An award of penalties pursuant to Labor Code section 226 to Plaintiff and Class
26 Members for failing to provide lawful itemized wage statements;
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- 1 l. An award of payments due as waiting time penalties as to Plaintiff and those Class
2 Members who are no longer employed by Defendants, pursuant to Labor Code section
3 203;
- 4 m. An order requiring Defendants to pay restitution of all amounts owed to Plaintiff and
5 Class Members for Defendants' failure to pay legally required minimum and overtime
6 wages, meal and rest period premiums, and interest thereon, in an amount according to
7 proof, pursuant to Business & Professions Code section 17203; an award to Plaintiff,
8 other aggrieved employees and the State of California of civil penalties under Labor
9 Code section 2699(f);
- 10 n. An award to Plaintiff and Class Members of reasonable attorneys' fees and costs,
11 pursuant to Code of Civil Procedure section 1021.5 and Labor Code sections 203,
12 218.5, 226(e), 1194, 2802, 2699(g)(1) and/or other applicable law; and
- 13 o. An award to Plaintiff and Class Members of such other and further relief as this Court
14 deems just and proper.

15 DATED: December 6, 2022

HUNTER PYLE LAW

16
17 By: 
18 Hunter Pyle

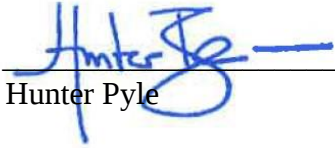
19 Attorneys for Plaintiff and the Putative Class
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, on behalf of herself and the proposed Class, hereby demands a jury trial in this
3 matter for all claims so triable.
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5 DATED: December 6, 2022

HUNTER PYLE LAW

6
7 By:  _____

Hunter Pyle

8 Attorneys for Plaintiff and the Putative Class
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