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Clerk of the Superior Court
By Shiela Retez, Deputy Clerk

Attorneys for Plaintiff DAMON COFFEY, Individually, and on behalf of other members of the general public similarly situated

Additional Counsel Listed on Following Page

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

DAMON COFFEY and BRANDIE LUKOFNAK, in a Representative capacity only, and on behalf of other members of the public similarly situated.

Plaintiffs

v.

SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, INC., a California Corporation and DOES 1-10, inclusive.

Defendants

CASE NO. 37-2020-00029409-CU-OE-CTL
(Proposed CLASS ACTION)

THIRD AMENDED COMPLAINT FOR:

1. **VIOLATION OF LABOR CODE §§ 226.7 and 512 (Class Claim)**
2. **VIOLATION OF LABOR CODE §§ 510, 1194 and 1197 (Class Claim);**
3. **VIOLATION OF LABOR CODE § 226 (Class Claim)**
4. **VIOLATION OF LABOR CODE §§ 2802 (Class Claim)**
5. **FAILURE TO PAY SICK WAGES IN VIOLATION OF CAL. LAB CODE §§201-204, 233, 246. (Class Claim)**
6. **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200 et seq. (Class Claim)**
7. **VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203 (Class Claim)**
8. **VIOLATION OF LABOR CODE §§ 2698 et. seq (Representative Claim)**
9. **VIOLATION OF 29 U.S.C. §§ 201, et seq.**

Demand for Jury Trial.

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12 the general public similarly situated
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COMES NOW Plaintiffs DAMON COFFEY (“COFFEY”) and BRANDIE LUKOFNAK (“LUKOFNAK”) (collectively referred to herein as “Plaintiffs”), as individuals, and on behalf of all other members of the general public similarly situated, allege their Third Amended Complaint as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Court has jurisdiction over this matter in that all parties are residents of, or do business within, the State of California and the amount in controversy exceeds the statutory minimum limit of this Court. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. Furthermore, there is no federal question at issue as Wage and Hour protections and remedies related thereto are based solely on California Law and Statutes, including the Labor Code, Civil Code, and IWC Wage Order(s). Also, the Ninth Circuit has held that, for purposes of establishing federal diversity jurisdiction, penalties pursuant to the Private Attorneys General Act of 2004 (“PAGA”) may **not** be aggregated. *Urbino v. Orkin Servs. of California, Inc.*, 726 F.3d 1118, 1122 (9th Cir. 2013).
2. Venue before this Court is proper in that Defendant SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, INC (hereinafter, “SCPMG” or “Defendants”) is a California Corporation, and is performing business in the state of California, and County of San Diego. Additionally, certain acts constituting the below violations were committed in the County of San Diego.
3. At all relevant times herein, Plaintiff COFFEY was and is an individual working in the County of San Diego, State of California.
4. Plaintiff LUKOFNAK was employed by Defendants from January of 2006 to January 25, 2021 in the County of San Diego, State of California.
5. Plaintiffs are presently unaware of the true names, capacities and liability of Defendants named herein as DOES 1 through 10, inclusive. Accordingly, Plaintiffs will seek leave of court to amend this complaint to allege their true names and capacities after the same have been ascertained.

1 6. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named
2 Defendants are responsible in some manner for the wrongs and damages as herein alleged, and
3 in so acting was functioning as the agent, servant, partner, and employee of the co-defendants,
4 and in doing the actions mentioned below, was acting within the course and scope of his or her
5 authority as such agent, servant, partner, and employee with the permission and consent of the
6 co-defendants. Plaintiffs' injuries as herein alleged were proximately caused by said
7 Defendants. Wherever it is alleged herein that any act or omission was done or committed by
8 any specially named Defendant or Defendants, Plaintiffs intend thereby to allege and do allege
9 that the same act or omission was also done and committed by each and every Defendant
10 named as a DOE, both separately and in concert or conspiracy with the named Defendant or
11 Defendants.

12 7. Plaintiffs are informed and believe and thereon allege that Defendants, and each of them,
13 including DOES 1 through 10, are and at all times herein mentioned were either individuals,
14 sole proprietorships, partnerships, registered professionals, corporations, alter egos or other
15 legal entities which were licensed to do and/or were doing business in the County of San
16 Diego, state of California at all times relevant to the subject matter of this action.

17 8. Plaintiffs bring this Class Action on behalf of themselves and a California class, defined as all
18 non-exempt persons who were employed by Defendants in the State of California at any time
19 during the Class Period (defined as July 8, 2020 through the earlier of preliminary approval or
20 February 13, 2024) ("Class Members").

21 9. Plaintiffs also bring Causes of Action numbers Four and Five on behalf of themselves and a
22 California sub-class defined as all non-exempt persons who were employed by Defendants in
23 the State of California at any during the Sub-Class Period (defined as August 21, 2016 through
24 July 7, 2020) (the "Sub-Class Members").

25 **FACTUAL BACKGROUND**

26 10. Plaintiff COFFEY has been employed by Defendants as a non-exempt employee, from
27 approximately December, 2002 through November of 2021. Throughout his employment with
28 Defendants, Plaintiff COFFEY performed his job in a capable and competent manner, and was

1 commended for doing so.

2 11. Plaintiff LUKOFNAK was employed by Defendants as a non-exempt employee, from
3 approximately January of 2006 to January 25, 2021. Throughout her employment with
4 Defendants, Plaintiff LUKOFNAK performed her job in a capable and competent manner, and
5 was commended for doing so.

6 12. Throughout the terms of their employment, Plaintiffs and all other aggrieved employees were
7 and currently are denied the benefits and protections of the Labor Code due to Defendants'
8 institutionalized pay practices, standard as to all of Defendants' California-based, nonexempt,
9 non-union employees.

10 CLASS ACTION ALLEGATIONS

11 13. As more specifically set forth below, Plaintiffs bring this action on behalf of an ascertainable
12 class and a well-defined community of interest among the class members. Code Civ. Proc. §
13 382; *Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 426, 470. Throughout the operative
14 limitations period, Plaintiffs and all other class members were denied the protections and
15 benefits of the Labor Code and Industrial Welfare Commission ("IWC") Wage Order(s) due
16 to Defendants' standard practices. Throughout their employment, Plaintiffs and all other class
17 members were and are denied full and accurate compensation, including overtime
18 compensation, in violation of, *inter alia*, Labor Code sections 510 and 1194. Plaintiffs and the
19 other class members were and are denied meal and rest periods and meal and rest period
20 payments, in violation of, *inter alia*, IWC Wage Order 5 (or any other applicable Wage Order)
21 and Labor Code sections 226.7 and 512. Defendants failed to furnish accurate itemized wage
22 statements in violation of, *inter alia*, Labor Code section 226. Defendants failed to reimburse
23 Plaintiffs and other class members for necessary business expenditures in violation of, *inter*
24 *alia*, Labor Code section 2802. Defendants failed to provide wages when due in violation of
25 Labor Code section 201, 202 and 203.

26 14. Plaintiffs bring this action on the grounds that he and other similarly situated current and
27 former employees of Defendants were and are improperly denied the mandated wages and
28 reimbursements resulting from the above-referenced violations. *Sav-On Drug Stores, Inc. v.*

1 *Superior Court* (2004) 34 Cal.4th 319. The class is believed to contain approximately Forty
2 Eight Thousand Four Hundred and Thirty Two (48,432) members.

3 15. The approximately Forty Eight Thousand Four Hundred and Thirty Two (48,432) member
4 class is ascertainable via their experience as Defendants' current or former California-based
5 employees, designated as "nonexempt" by Defendants.

6 16. Class members share a community of interest and an injury-in-fact as Defendants have violated
7 California compensation laws, depriving class members of money earned.

8 17. There are questions of fact and law common to the class that predominate over any questions
9 affecting only individual members. The questions of law and fact common to the class arising
10 from Defendants' actions include, without limitation, the following:

11 a. Whether Defendants failed to pay its employees the proper straight-time, overtime, and
12 double time wages due and owing to them;

13 b. Whether Defendants failed to provide its employees with statutorily-compliant meal
14 and/or rest periods, in violation of, *inter alia*, California Labor Code section 512 and
15 226.7, in that Defendants written policies are not compliant with California law,
16 Defendants do not allow its employees duty-free breaks, and Defendants improperly
17 "round" employees recorded Meal Periods;

18 c. Whether Defendants failed to properly provide meal and rest break premiums in
19 accordance with law;

20 d. Whether Defendants failed to properly calculate and pay its employees overtime
21 compensation or meal and rest break premiums in accordance with law by failing to
22 properly calculate, into the Regular Rate of Pay, the value of employee benefits;

23 e. Whether Defendants failed to properly reimburse its employees for necessary business
24 expenditures for, *inter alia*, cell phone costs and mileage, in violation of Labor Code
25 section 2802;

26 f. Whether Defendants failed to provide all compensation upon termination of
27 employment in violation of Labor Code sections 201-203, due, in part, to the fact that
28 Defendants failed to provide proper compensation for all hours worked, as discussed

1 above; and

2 g. Whether Defendants conduct constituted a violation of Business & Professions Code
3 section 17200 *et seq.*

4 18. The class on whose behalf this action is brought is so numerous that joinder of all parties
5 individually would be impracticable. Plaintiff brings the class action on behalf of
6 approximately Forty Eight Thousand Four Hundred and Thirty Two (48,432) nonexempt,
7 California-based current and former employees of Defendants who share a common or general
8 interest, and it would be impracticable for those employees to bring the action individually.
9 Any variations in job activities between the individual class members are legally insignificant
10 to the issues presented by this action since the central facts remain, to wit, Plaintiffs and all
11 other class members were improperly denied the benefits and protections of the Labor Code
12 and IWC Wage Order(s), by and through Defendants' standard and institutionalized practices.

13 19. There are questions of law and fact common to the class. Plaintiffs, and all class members,
14 were injured by Defendants' violations of the enumerated Labor Code sections and IWC Wage
15 Order(s). As these violations resulted from Defendants' standard and institutionalized
16 practices, questions of law and fact are common to the class.

17 20. Plaintiffs' claims in this action are typical of the class whom Plaintiffs generally represent.
18 The claims result from Defendants' standard and institutionalized practices, experienced by
19 Plaintiffs and all other class members.

20 21. Plaintiffs can fairly and adequately protect the interests of all the members of the class they
21 represents in this action. Any difference in job titles is immaterial, as Defendants used (and
22 uses) standard systems to compensate class members. Plaintiffs' experience and knowledge
23 of Defendants' "wage and hour" practices, in addition to Plaintiffs' familiarity with
24 Defendants' pay policies pertaining to the class members he represents, entitles them to
25 adequately and fairly represent the class.

26 22. Common questions predominate over questions affecting individual class members. Plaintiffs
27 and all other class members were improperly denied the benefits and protections of the Labor
28 Code and IWC Wage Order(s) by and through Defendants' standard and institutionalized

practices. Common questions of law or fact therefore “present a significant aspect of the case” and are capable of resolution “in a single adjudication.” *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1022.

23. At all times mentioned herein, Defendants are and were “employers” as that term is used within the relevant sections of the California Labor Code.

FIRST CAUSE OF ACTION
Meal and Rest Period Violations Pursuant to Labor Code §§ 226.7 and 512
Class Action
(Individually, and on behalf of the Class against Defendants and DOES 1 through 10)

24. Plaintiffs hereby incorporate by reference paragraphs 1 through 23 as though fully set forth herein.

25. Labor Code section 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and 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.

Defendants violated this section by establishing working conditions below the standard of the applicable Wage Order.

26. Under applicable California law, “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes [...] An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes” Lab. Code § 512(a); see also 8 Cal. Code Regulations. § 11050 (11)(A). Unless the employee is relieved of all duty for a full thirty (30) minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. 8 Cal. Code Regulations. § 11050 (11); *See Safeway v. Superior Court* (2015) 238 Cal.App.4th 1138, 1160.
27. California law requires employers to provide employees with a 10-minute rest break for every four hours worked, or “major fraction thereof.” 8 Cal. Code Regs. § 11050 (12).
28. An employer who fails to provide meal or rest periods as required by an applicable Wage Order must pay the employee one additional hour of pay at the employee’s regular rate of pay for

each workday that the meal or rest period was not provided. Lab. Code § 226.7(b); 8 Cal. Code Regs. § 11050 (11), (12).

29. Within the operative time period, Defendants failed to possess compliant meal and rest period policies.

30. For example, Defendants' rest period policy and practice does not provide the right for employees to "leave the premises," and actually requires the employees to "remain on premises for the duration of this rest period" where "coverage" issues require as such.

31. As a result of their rigorous work schedules, Plaintiffs and other Class members were also from time to time unable to take off duty meal breaks and were not fully relieved of duty for meal periods. Plaintiffs and other Class members were from time to time required to perform work as ordered by Defendants for more than five (5) hours during a shift without receiving an off-duty meal break. Further, Defendants failed to provide Plaintiffs and Class members with a second off-duty meal period from time to time in which these employees were required by Defendants to work ten (10) hours of work from time to time. Plaintiffs and the other Class members therefore forfeited meal breaks without additional compensation and in accordance with Defendants' corporate policy and practice.

32. Plaintiffs and other Class members were also required from time to time to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. Plaintiffs and other Class members were also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, Plaintiffs and other Class members were from time to time denied their proper rest periods by Defendants and Defendants' managers.

33. Defendants' meal and rest period policy also assumes that employees have "waived" the right to a legally-compliant meal or rest period, or a meal or rest period penalty payment, unless the

- employees complete a very specific process of formal notification to the Defendants.
34. Moreover, Defendants policies and practices preclude “duty-free” meal and rest periods. These institutional and established practices of Defendants are illegal, in that Plaintiff and all other employees were denied proper and/or timely meal and rest periods. As a final example, Defendants are aware (or reasonably should be aware) that its Telephone, Computer, “Un-rounded” Time Records, and Badge Records are contrary to (and inconsistent with) its “altered” Time Records, and evidence illegal (*i.e.* “missing,” “short” or “late”) meal and rest periods.
35. These violations are due, in part, to the fact that Defendants do not possess a legal rest period policy or practice, as its Rest Period policy lacks required language, resulting in employees failing to receive all Rest Periods legally due. Defendants do not provide rest periods, as defined by California law. Further, Defendants have never provided a rest period penalty payment to any employee.
36. Defendants also do not possess a legal meal period policy, and make no attempt to ensure that its employees are either timely or wholly provided meal periods. The employees would often either miss a meal period entirely, be provided a short or late meal period, or be provided only one meal period, even when they were working in excess of 10 hours a day. Additionally, Defendants failed to accurately record its employees actual start and stop times of meal periods, in violation of the IWC Wage Orders. 8 Cal. Code Regs. § 11050 (7)(A)(3).
37. Moreover, Defendants’ policies and practices preclude “duty-free” meal and rest periods, in that the employees are required to remain “On Call” at all times, including during the meal and rest periods, in order to (among other reasons) respond to sudden “customer rushes.” These institutional and established practices of Defendants are illegal, in that Plaintiff and all other class members were denied proper and/or timely meal and rest periods.
38. Defendants willfully failed and refused to pay Plaintiff and all other class members one additional hour of pay at their regular rate of pay for all workdays that a meal or rest period was not provided, as required by Labor Code section 226.7 and IWC Wage Order 5 (11), (12).
39. Any payments made by Defendants for missed or late meal periods were not paid at an

1 employee's regular rate in violation of Labor Code section 226.7 and the operative IWC Wage
2 Orders. Instead, these payments were made at an employee's base rate and did not include the
3 value of, *inter alia*, additional compensation and/or employee benefits such as (for example)
4 Shift Differentials, employee discounts and non-discretionary bonuses.

5 40. As a direct result of Defendants' willful failure and refusal to comply with the California Labor
6 Code, Plaintiff and other employees have suffered injury, loss, and harm in a sum according
7 to proof. On behalf of the class, Plaintiff hereby seeks compensatory damages, back pay (or
8 penalty), prejudgement interest, and other remedies set forth below.

9 41. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Plaintiff is
10 presently unaware of the precise amount of these expenses and fees and prays leave of court
11 to amend this Complaint when the amounts are more fully known.

12 **SECOND CAUSE OF ACTION**
13 **Minimum Wage and Overtime Violations Pursuant to Labor Code §§ 510, 1194, 1197 and**
14 **1197.1**
15 **Class Action**
16 **(Individually, and on behalf of the Class against Defendants and DOES 1 through 10)**

17 42. Plaintiffs incorporate by reference paragraphs 1 through 41 as though fully set forth herein.

18 43. Throughout the applicable time period, Plaintiff and the other Class Members were denied the
19 benefits and protections of the California Labor Code and IWC Wage Order(s) and were
20 damaged thereby.

21 44. California Labor Code section 1174 requires that all payroll records showing employees' daily
22 hours worked and the wages paid to them be kept in the State of California. Under California
23 Labor Code section 1175, any person, or officer or agent thereof, is guilty of a misdemeanor
24 who neglects or refuses to furnish the information requested under the provisions of Section
25 1174.

26 45. Defendants failed to pay its employees all compensation due, including overtime
27 compensation, in violation of, among other statutes, Labor Code sections 510 and 1197. This
28 failure was caused by several separate uniform practices of Defendants. This failure was caused
by and through Defendants failure to maintain accurate Time Records (as required by

California law), to the detriment of the employee. Specifically, although Defendants would receive “to-the-minute” start and end times (from its employees required actions), Defendants would thereafter alter - and deduct time from - the Time Records, prior to payment of compensation to the employees. Additionally, the right to receive the proper minimum wage and overtime compensation was impacted by Defendants knowingly failing to consider other work performed by the employees, including work confirmed by electronic transmissions and alarm records. Additionally, Defendants’ failed to keep accurate time records which reflected when its employees were actually working or under Defendants’ control. These actions, and instructions, caused the employees to lose compensation, including the proper minimum wage and overtime compensation. Finally, Defendants failed to pay all reporting time pay to compensate employees who are scheduled to report to work but who are not put to work or furnished with less than half of their usual or scheduled day’s work because of inadequate scheduling or lack of proper notice by the Defendant.

46. Additionally, Defendants failed to properly calculate Plaintiffs’ regular rate of pay for purposes of overtime compensation such that the value of employee’s benefits were not included in the calculation of Plaintiffs’ regular rate of pay. Plaintiffs are informed and believe and thereon allege that at all relevant times herein, Defendants failed to take into account the value of all employee benefits (*i.e.* failure to calculate Shift Differentials, employee discounts and non-discretionary bonuses) when calculating their regular rates of pay, for purposes of overtime compensation, in violation of Labor Code section 510. Additionally, by altering its employees’ time records, as referenced above, Defendants alter the actual hourly rate of pay for its employees. Defendants do not factor in this actual hourly rate, when calculating the overtime rate of pay, in violation of Labor Code section 510.

47. Plaintiffs and the Class Members also worked off the clock with respect to time spent undergoing mandatory drug testing or any other testing and/or examination required as a condition of employment. Further, during the relevant time period, Defendants required Plaintiffs and the Class Members to wait in line and submit to mandatory temperature checks for COVID-19 screening and also complete a COVID-19 questionnaire regarding whether

1 these employees had any symptoms prior to clocking into Defendants' timekeeping system for
2 the workday. Finally, Plaintiffs and the Class Members from time to time were not paid wages
3 for all time worked, including overtime wages, such that in the aggregate employees were
4 underpaid wages as a result of Defendants' pattern and practice of unevenly rounding time
5 worked by its employees. As a result, Plaintiffs and the Class Members forfeited minimum
6 wage and overtime compensation by from time to time working without their time being
7 accurately recorded and without compensation at the applicable minimum wage (including as
8 required under Cal. Lab. Code §§ 1182.12 and 1199) and overtime rates (including as required
9 under Cal. Lab. Code § 1199). Defendants' policy and practice not to pay Plaintiffs and the
10 Class Members for all time worked is evidenced by Defendants' business records.

11 48. Defendants failed to pay Plaintiffs and all other Class members all compensation due,
12 including Overtime Compensation, due in violation of, among other statutes, Labor Code
13 section 510. These violations occurred due to Defendants' illegal policies, referenced above,
14 including the failure to accurately record employee time worked, whereby employees
15 experienced monetary under-compensation. These violations also occurred as Defendants had
16 several policies and practices which required employees to work in excess of 8 hours, without
17 receiving all overtime (and/or double-time) compensation. The systematic failure to provide
18 proper overtime compensation is a violation of California law.

19 49. As a direct result of Defendants' willful failure and refusal to comply with the California Labor
20 Code, Plaintiffs and other employees have suffered injury, loss, and harm all to their damages
21 in a sum according to proof. On behalf of the class, Plaintiffs hereby seek compensatory
22 damages, back pay (or penalty), prejudgement interest, and other remedies set forth below.

23 50. Plaintiffs have incurred and continue to incur legal expenses and attorneys' fees. Plaintiffs are
24 presently unaware of the precise amount of these expenses and fees and prays leave of court
25 to amend this Complaint when the amounts are more fully known.

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THIRD CAUSE OF ACTION
Wage Statement Violations Pursuant to Labor Code § 226
Class Action
(Individually, and on behalf of the Class against Defendants and DOES 1 through 10)

51. Plaintiffs hereby incorporate by reference paragraphs 1 through 50 as though fully set forth herein.

52. Throughout the applicable time period, Plaintiffs and the other class members were denied the benefits and protections of the California Labor Code and IWC Wage Order(s) and were damaged thereby.

53. Defendants failed to provide Plaintiffs and all other members of the Class action with accurate itemized wage statements in violation of, among other statutes, Labor Code section 226. These violations include, but are not limited to, Defendants failure to provide an accurate showing of the gross wages earned, in violation of Labor Code section 226(a)(1), due to under-payments caused by the “Regular” time and Overtime allegations listed above, Defendants failure to accurately identify all applicable regular and overtime (including double-time) rates of pay in violation of section 226(a)(9), and providing inaccurate representations of both “gross” and “net wages.” Defendants also failed to provide the “inclusive dates of the pay period,” in violation of 226(a)(6). Defendants also failed to provide an accurate showing of the “total hours worked,” in violation of Labor Code section 226(a)(2).

54. Cal. Lab. Code § 226.3 requires as follows:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

55. As a direct result of Defendant’s willful failure and refusal to comply with the California Labor Code, Plaintiffs and other employees have suffered injury, loss, and harm all to their damages in a sum according to proof. On behalf of the class, Plaintiffs hereby seek compensatory damages, back pay (or penalty), prejudgement interest, and other remedies set forth below.

56. Plaintiffs have incurred and continues to incur legal expenses and attorneys’ fees. Plaintiffs are

1 presently unaware of the precise amount of these expenses and fees and prays for leave of court
2 to amend this Complaint when the amounts are more fully known.

3 **FOURTH CAUSE OF ACTION**
4 **Failure to Reimburse Pursuant to Labor Code § 2802**
5 **Class Action**
6 **(Individually, and on behalf of the Class and the Sub-Class against Defendants and DOES 1**
7 **through 10)**

8 57. Plaintiffs hereby incorporate by reference paragraphs 1 through 55 as though fully set forth
9 herein.

10 58. Plaintiffs bring this cause of action both in their individual capacity and on behalf of all
11 non-exempt persons who were employed by Defendants in the State of California at any time
12 during the Class Period or the Sub-Class Period. The Sub-Class Period is defined as August
13 21, 2016 through July 7, 2020, (the "Sub-Class Members").

14 59. Defendants failed to reimburse Plaintiffs and all other Class Members and all Sub-Class
15 Members for all necessary business expenditures incurred in direct consequence of the
16 discharge of their duties in violation of, among other statutes, Labor Code section 2802. These
17 expenditures are the result of, *inter alia*, Defendants' standard policies which require its
18 employees to incur mileage costs without full reimbursement. Plaintiffs and all other Class
19 Members and Sub-Class Members were also forced to incur cell phone costs, without
20 reimbursement.

21 60. As a direct result of Defendants' willful failure and refusal to comply with the California Labor
22 Code, Plaintiffs and other non-exempt employees have suffered injury, loss, and harm all to
23 their damages in a sum according to proof. On behalf of the class, Plaintiffs hereby seek
24 compensatory damages, back pay (or penalty), prejudgement interest, and other remedies set
25 forth below.

26 61. Plaintiffs have incurred and continue to incur legal expenses and attorneys' fees. Plaintiffs are
27 presently unaware of the precise amount of these expenses and fees and prays for leave of court
28 to amend this Complaint when the amounts are more fully known.

FIFTH CAUSE OF ACTION
Failure to Pay Sick Pay Wages Pursuant to Labor Code § 201-204, 210, 233, 246
Class Action
(Individually, and on behalf of the Class and Sub-Class against Defendants and DOES 1 through 10)

62. Plaintiffs hereby incorporate by reference paragraphs 1 through 60 as though fully set forth herein.
63. Plaintiffs bring this cause of action both in their individual capacity and on behalf of all non-exempt persons who were employed by Defendants in the State of California at any time during the Class Period or the Sub-Class Period. The Sub-Class Period is defined as August 21, 2016 through July 7, 2020) (The "Sub-Class Members").
64. Pursuant to the Healthy Workplaces, Healthy Families Act (Cal. Lab. Code § 245 *et seq*), California employees have the right to accrue paid sick leave. Cal Lab. Code § 233 provides that an employer must permit an employee to use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use of accrued sick leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick leave is used as paid sick time, an employee has a vested right to sick pay wages, which an employer must calculate and compensate based on one of two calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek," or (ii) "Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment." Under Cal. Lab. Code §§ 218 and 233, employees may sue to recover underpaid sick pay wages as damages. Under Cal. Lab. Code § 218.5, employees may be awarded reasonable attorneys' fees and costs for winning a legal action for non-payment of these sick pay wages.
65. As a matter of policy and practice, Defendants pay sick pay wages to Plaintiffs and the other Class Members and Sub-Class Members at the incorrect rate of pay. Plaintiffs and the other Class Members and the Sub-Class Members regularly use accrued sick leave in the workweeks in which they also earn non-hourly remuneration. As a matter of policy and practice,

1 Defendants pay sick pay wages to Plaintiffs and the Class Members and Sub-Class Members
2 at the base hourly pay, as opposed to the regular rate of pay, which would consider all
3 non-hourly remuneration in addition to base hourly wages, or the rate resulting from dividing
4 the employee's total wages, not including overtime premium pay, by the employee's total hours
5 worked in the full pay periods of the prior 90 days of employment. As a result, Defendants
6 underpaid sick pay wages to Plaintiffs and the other Class Members and Sub-Class
7 Members.

8 66. Cal. Lab. Code § 204 provides that wages generally are due and payable twice during each
9 calendar month and are to be paid no later than the payday for the next regular payroll period.
10 Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon
11 use of accrued sick leave, vested sick pay wages are due and to be paid no later than the payday
12 for the next regular payroll period after accrued sick leave is used as paid sick time. Similarly,
13 Cal. Lab. Code § 201 provides that if an employer discharges an employee, wages earned and
14 unpaid at the time of discharge are due and payable immediately. Cal. Lab. Code § 202
15 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after
16 an employee quits his or her employment, unless the employee has given 72-hour notice of his
17 or her intention to quit, in which case the employee is entitled to his or her wages at the time
18 of quitting. The Labor Code penalizes untimely payments. For example, Cal. Lab. Code § 203
19 provides that if an employer willfully fails to pay wages owed in accordance with Cal. Lab.
20 Code §§ 201-202, then the wages of the employee shall continue as a penalty from the due
21 date, and at the same rate until paid, but the wages shall not continue for more than thirty (30)
22 days. Likewise, Cal. Lab. Code § 210 provides penalties for violations of Cal. Lab. Code § 204
23 and untimely payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218,
24 employees may sue to recover applicable penalties.

25 67. As alleged herein and as a matter of policy and practice, Defendants routinely underpays sick
26 pay wages and thus did not timely pay Plaintiffs and the other Class Members and Sub-Class
27 Members all owing and underpaid sick pay wages. As a result, Defendants violate Cal. Lab.
28 Code §§ 201-204, 210, 233, and 246, among other Labor Code provisions. Plaintiffs are
informed and believe that Defendants were advised by skilled lawyers and knew, or should

1 have known, of the mandates of the Labor Code as it relates to Plaintiffs' allegations,
2 especially since the California Supreme Court has explained that "[c]ourts have recognized that
3 'wages' also include those benefits to which an employee is entitled as a part of his or her
4 compensation, including money, room, board, clothing, vacation pay, and sick pay." *Murphy*
5 *v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because
6 Defendants willfully fail to timely pay Plaintiffs and the other Class Members and Sub-Class
7 Members all sick pay wages due, Defendants are subject to applicable penalties.

- 8 68. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles
9 Plaintiffs and the other Class Members and Sub-Class Members to underpaid sick pay wages,
10 including interest thereon, applicable penalties, and, under Cal. Lab. Code § 218.5, attorney's
11 fees and costs of suit.

12 **SIXTH CAUSE OF ACTION**
13 **Violation of Business and Professions Code § 17200**
14 **Class Action**

15 **(Individually, and on behalf of the Class against Defendants and DOES 1 through 10)**

- 16 69. Plaintiffs hereby incorporate by reference paragraphs 1 through 68 as though fully set forth
17 herein.
- 18 70. Plaintiffs are direct victims of Defendants' illegal and/or unfair business acts and practices
19 referenced in this complaint, has lost money as a result of such practices, and brings this action
20 both in their individual capacity and on behalf of all Class Members.
- 21 71. The approximately Forty Eight Thousand Four Hundred and Thirty Two (48,432) member
22 class is ascertainable via their experience as Defendants' current or former California-based,
23 nonexempt employees. Class members share a community of interest and an injury-in-fact as
24 Defendants have violated California compensation laws, thereby depriving class members of
25 money earned. Based on the facts set forth above, it would be impracticable to proceed in
26 individual actions.
- 27 72. Plaintiff suffered an injury-in-fact pursuant to Business & Professions Code section 17204, and
28 lost money as a result of Defendants' illegal and/or unfair practices.
73. Plaintiff brings this action on behalf of an ascertainable class who share a community of
interest pursuant to Business & Professions Code section 17203 and Code of Civil Procedure
section 382 and who share a common or general interest in the damages as a result of the

1 illegal and/or unfair practices, in that those individuals on whose behalf the action is brought
2 have also lost money as a result of Defendants' practices, as set forth above, and that it would
3 be impracticable to proceed as an individual plaintiff action.

4 74. As set forth above, during the course of Plaintiffs' employment, Defendants failed and refused
5 to properly pay Plaintiffs and all other class members. Defendants also failed to comply with
6 fundamentally protective California laws including, but not limited to, Labor Code sections
7 201-203, 204, 206, 210, 218, 218.5, 221, 226, 226.3, 226.7, 227, 245 *et seq.*, 246, 248.5, 510,
8 511, 512, 515, 517, 551, 552, 1174, 1175, 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 1199,
9 2802, as well as IWC Wage Order 5, or any other applicable Wage Order, and the Fair Labor
10 Standards Act and federal regulations promulgated thereunder, for which this Court should
11 issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may
12 be necessary to prevent and remedy the conduct held to constitute unfair competition, including
13 restitution of wages wrongfully withheld.

14 75. Business & Professions Code section 17200 *et seq.* prohibits any unlawful, unfair, or
15 fraudulent business act or practice.

16 76. Plaintiff's allegations herein are based upon Defendants' institutional business acts and
17 practices.

18 77. Defendants' acts and practices, as described herein above, are unlawful and unfair, in that they
19 violate the Labor Code and IWC Wage Order(s).

20 78. As a direct result of Defendants' unlawful and unfair business acts and practices, Plaintiffs and
21 all other class members have been denied wages earned, and have therefore been damaged in
22 an amount to be proven. Accordingly, Plaintiffs pray for restitution and injunctive damages
23 in an amount to be proven.

24 79. Plaintiffs is informed and believes, and on that basis alleges, that Defendants' unlawful and
25 unfair business practices, alleged above, are continuing in nature and are widespread.

26 80. On behalf of the ascertainable class, Plaintiffs respectfully request an injunction against
27 Defendants to enjoin them from continuing to engage in the illegal conduct alleged herein.

28 81. On behalf of the ascertainable class, Plaintiffs respectfully request restitution damages.

82. Plaintiffs has incurred and continue to incur legal expenses and attorneys' fees. Plaintiffs are

presently unaware of the precise amount of these expenses and fees, and prays for leave of court to amend this complaint when the amounts are more fully known.

SEVENTH CAUSE OF ACTION

**Violation of Labor Code §§ 201, 202, 203 - Class Action
(Individually, and on behalf of the Class against Defendants and DOES 1 through 10)**

83. Plaintiffs hereby incorporate by reference paragraphs 1 through 82 as though fully set forth herein.

84. Cal. Lab. Code § 200 provides, in relevant part, that:

As used in this article:

(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation.

(b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

110. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

85. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

86. There was no definite term in Plaintiff LUKOFNAK or any Class Members' employment contract.

87. Cal. Lab. Code § 203 provides, in relevant part, that: If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

88. The employment of Plaintiff and many Class Members has terminated and Defendants have not tendered payment of all wages owed as required by law.

89. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the members of the

1 Class whose employment has terminated and who have not been fully paid their wages due to
2 them, Plaintiff LUKOFNAK demands thirty days of pay as penalty for not paying all wages
3 due at time of termination for all employees who terminated employment during the Class
4 Period and demands an accounting and payment of all wages due, plus interest and statutory
5 costs as allowed by law.

6 **EIGHTH CAUSE OF ACTION**

7 **Violation of Labor Code § 2698 et seq. - Representative Action**
8 **(By Plaintiffs in a Representative Capacity, Against Defendants and DOES 1 through 10)**

9 90. Plaintiffs hereby incorporate by reference paragraphs 1 through 89 as though fully set forth
10 herein.

11 91. At all times mentioned herein, Defendants were subject to the Labor Codes and Industrial
12 Welfare Commission Wage Orders of the State of California, including, but not limited to,
13 California Labor Code section 2698 *et seq.*

14 92. Throughout the operative limitations period, Plaintiffs and all other aggrieved employees were
15 denied the protections and benefits of the Labor Code and IWC Wage Order(s) due to
16 Defendants' standard practices. Said violations were set forth in the causes of action above and
17 are re-stated below.

18 93. Plaintiffs have exhausted their administrative remedies and pre-filing requirements pursuant
19 to California Labor Code section 2699.3, and has also fulfilled all notice requirements under
20 the statute. To wit, on June 16, 2020, counsel for Plaintiff COFFEY prepared and
21 electronically submitted a letter to the California Labor & Workforce Development Agency
22 ("LWDA") via the California Department of Industrial Relations' "PAGA Filing" website. A
23 copy of the letter was also mailed to Defendants, via USPS Certified Mail. The letter
24 contained the specific provisions of the California Labor Code violated by Defendants, as well
25 as the facts and theories in support of Plaintiff COFFEY's claims. (Please see **Exhibit 1**). On
26 September 30, 2021, counsel for Plaintiff LUKOFNAK prepared and electronically submitted
27 a letter to the LWDA via the California Department of Industrial Relations' "PAGA Filing"
28 website. A copy of the letter was also mailed to Defendants, via USPS Certified Mail. The
letter contained the specific provisions of the California Labor Code violated by Defendants,
as well as the facts and theories in support of Plaintiff LUKOFNAK's claims. (Please see

Exhibit 2). On January 24, 2024, Plaintiffs jointly submitted an amended PAGA notice letter to the LWDA via the California Department of Industrial Relations' "PAGA Filing" website. A copy of the letter was also mailed to Defendants, via USPS Certified Mail. (Please See **Exhibit 3**).

94. The statutory time period for the LWDA to investigate and/or respond, and for the Defendant employers to respond, has concluded, allowing Plaintiffs to proceed with this litigation.
95. At all times mentioned herein, Defendants were and are “employers” as that term is used within the relevant sections of the California Labor Code.
96. Plaintiffs bring this Representative Action on behalf of the State of California with respect to themselves and all non-exempt persons who were employed by Defendants in the State of California at any time from July 8, 2020 (“Aggrieved Employees”) through the earlier of the date of preliminary approval or February 13, 2024 (the "PAGA Period").
97. Throughout the PAGA Period, Defendants committed the above-referenced and incorporated Labor Code and Wage Order violations against Plaintiffs and the other employees. To wit, throughout their employment, Plaintiffs and all Aggrieved Employees were and are denied full and accurate compensation, including overtime compensation, in violation of, *inter alia*, Labor Code sections 510, 1194, 1197 & 1197.1. Plaintiffs and the other Aggrieved Employees were and are denied meal and rest periods and meal and rest period payments, in violation of, *inter alia*, IWC Wage Order 5 (or any other applicable Wage Order) and Labor Code sections 226.7 and 512. Defendants failed to furnish accurate itemized wage statements in violation of, *inter alia*, Labor Code section 226. Defendants failed to reimburse Plaintiffs and other Aggrieved Employees for necessary business expenditures in violation of, *inter alia*, Labor Code section 2802. Defendants failed to provide all compensation due at termination of employment in violation of, *inter alia*, Labor Code sections 201 through 203. Defendants failed to pay sick pay wages in violation of Labor Code section 246.
98. The policies, acts and practices heretofore described were and are an unlawful business act or practice because the resulted in violation of the applicable Labor Code sections listed in Labor Code §§201, 202, 203, 204 et seq., 206, 210, 221, 226(a), 226.7, 227, 227.3, 245 et seq., 510, 511, 512, 551, 551, 558(a)(1)(2), 1174, 1194, 1197, 1197.1, 1198, 1199, 2802, California Code

of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such conduct.

99. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiffs on behalf of themselves and other Aggrieved Employees by and through Labor Code section 2699.3, and as Plaintiffs have complied with the pre-filing requirements, Plaintiffs may recover the penalties pursuant to Labor Code section 2699, as more specifically set forth in the below Prayer For Relief

100. As a direct result of Defendants' failure to comply with the provisions of the Labor Code and orders of the commission, Plaintiffs and other Aggrieved Employees have been damaged in an amount to be proved at trial.

101. Plaintiffs seek an award of statutory civil penalties for each Aggrieved Employee of Defendants pursuant to Labor Code sections 2699(a) for each of these employees.

102. Plaintiffs also seek an award of reasonable attorneys' fees and costs pursuant to Labor Code section 2699(g)(1).

NINTH CAUSE OF ACTION

Violation of the Fair Labor Standards Act

(By Plaintiffs and on behalf of the FLSA Sub-Class against Defendants and DOES 1 through 10)

103. Plaintiffs hereby incorporate by reference paragraphs 1 through 102 as though fully set forth herein.

104. Defendants are engaged in communication, business, and transmission between the states, and is, therefore, engaged in commerce within the meaning of 29 U.S.C. § 203(b).

105. Plaintiff further bring this cause of action on behalf of the Class Members in accordance with 29 U.S.C. § 216. Plaintiffs further bring the Ninth Cause of Action on behalf of a FLSA Sub-Class Members in accordance with 29 U.S.C. § 216 defined as all non-exempt persons who were employed by Defendants in the State of California at any time from August 21, 2017 through the date of preliminary approval ("FLSA Sub-class Period").

106. 29 U.S.C. § 207(a)(1) provides in pertinent part:

Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the

1 production of goods for commerce, for a workweek longer than forty hours unless
2 such employee receives compensation for his employment in excess of the hours
above specified at a rate not less than one and one-half times the regular rate at which
he is employed.

3 107. Pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., the Plaintiffs and the
4 other FLSA Sub-Class Members are entitled to overtime compensation for all overtime hours
5 actually worked, at a rate not less than one and one-half times their regular rate of pay for all
6 hours worked in excess of forty (40) hours in any workweek. Defendants' failure to correctly
7 calculate overtime wages as required by federal law was willful and not in good faith.

8 108. During the relevant time period, Plaintiffs, and other FLSA Sub-Class Members, worked more
9 than forty (40) hours in a workweek.

10 109. At all relevant times, Defendants required Plaintiffs and FLSA Sub-Class Members to work
11 off the clock without paying them for all the time they were under Defendants' control.
12 Defendants failed to pay its employees all compensation due, including overtime
13 compensation. This failure was caused by several separate uniform practices of Defendants.
14 This failure was caused by and through Defendants failure to maintain accurate Time Records
15 to the detriment of the employee. Specifically, although Defendants would receive
16 "to-the-minute" start and end times (from its employees required actions), Defendants would
17 thereafter alter - and deduct time from - the Time Records, prior to payment of compensation
18 to the employees. Additionally, the right to receive the proper minimum wage and overtime
19 compensation was impacted by Defendants knowingly failing to consider other work
20 performed by the employees, including work confirmed by electronic transmissions and alarm
21 records. These actions, and instructions, caused the employees to lose compensation, including
22 the proper minimum wage and overtime compensation.

23 110. Additionally, Defendants failed to properly calculate Plaintiffs' regular rate of pay for purposes
24 of overtime compensation such that the value of employee's benefits were not included in the
25 calculation of Plaintiffs' regular rate of pay. Plaintiffs are informed and believe and thereon
26 allege that at all relevant times herein, Defendants failed to take into account the value of all
27 employee benefits (i.e. failure to calculate Shift Differentials, employee discounts and
28 non-discretionary bonuses) when calculating their regular rates of pay, for purposes of

overtime compensation. Additionally, by altering its employees' time records, as referenced above, Defendants alter the actual hourly rate of pay for its employees. Defendants do not factor in this actual hourly rate, when calculating the overtime rate of pay.

111. Plaintiffs and the FLSA Sub-Class Members also worked off the clock with respect to time spent undergoing mandatory drug testing or any other testing and/or examination required as a condition of employment. Further, during the relevant time period, Defendants required Plaintiffs and the FLSA Sub-Class Members to wait in line and submit to mandatory temperature checks for COVID-19 screening and also complete a COVID-19 questionnaire regarding whether these employees had any symptoms prior to clocking into Defendants' timekeeping system for the workday. Finally, Plaintiffs and the FLSA Sub-Class Members from time to time were not paid wages for all time worked, including overtime wages, such that in the aggregate employees were underpaid wages as a result of Defendants' pattern and practice of unevenly rounding time worked by its employees. As a result, Plaintiffs and the FLSA Sub-Class Members forfeited minimum wage and overtime compensation by from time to time working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. Defendants' policy and practice not to pay Plaintiffs and the FLSA Sub-Class Members for all time worked is evidenced by Defendants' business records.

112. As a result, Plaintiffs and other FLSA Sub-Class Members forfeited overtime wages by working without their time being correctly recorded and without compensation at the applicable overtime rates. Defendants' uniform policy and practice not to pay Plaintiffs and other FLSA Sub-Class Members for all overtime worked, is evidenced by Defendants' business records. Thus, Defendants failed to pay the Plaintiffs, and other Class Members, overtime compensation for the hours they have worked in excess of the maximum hours permissible by law as required by § 207 of the FLSA, even though the Plaintiffs, and the other Class Members, were regularly required to work, and did in fact work, overtime hours.

113. For purposes of the Fair Labor Standards Act, the employment practices of Defendants were and are uniform throughout California in all respects material to the claims asserted in this Complaint.

114. As a result of Defendants' failure to pay the correct overtime compensation for overtime hours worked, as required by the FLSA, Plaintiffs and the FLSA Sub-Class Members were damaged in an amount to be proved at trial.

115. Therefore, Plaintiffs demand that they and the FLSA Sub-Class Members of the be paid the correct overtime compensation as required by the FLSA for every hour of overtime worked plus interest and statutory costs as provided by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on his own behalf and on behalf of all members of the proposed Class, prays for judgment as follows:

1. For an order certifying the proposed class(es);
2. For compensatory damages according to proof, as set forth under Labor Code sections 510, 1194, and 2802, among other statutes;
3. For penalties and restitution of wages according to proof, as set forth under Labor Code sections 221, 226, 226.7, 450 and 1197.1, among other statutes;
4. For penalties pursuant to Title 8, California Code of Regulations, Wage Order 5 (or any applicable Wage Order);
5. For lost back pay in an amount to be proven;
6. On behalf of the ascertainable Class, for a permanent injunction against Defendants restraining, preventing, and enjoining Defendants from engaging in the illegal practices alleged, and to ensure compliance with, among other employee protections, Labor Code sections 226, 226.7, 510, 512, 1197;
7. On behalf of the ascertainable Sub-Class, the amount of the expenses incurred in the course of their job duties, plus interest, and costs of suit pursuant to Labor Code section 2802;
8. On behalf of the ascertainable Sub-Class, compensatory damages for sick pay compensation, according to proof at trial, plus interest thereon at the statutory rate;
9. On behalf of the ascertainable Class, for restitution damages on behalf of the section 17200 claimants who share a common or general interest;
10. On behalf of the ascertainable FLSA Sub-Class, a declaratory finding that Defendants' acts, policies, practices and procedures complained of herein violated provisions of the Fair Labor

Standards Act;

11. On behalf of the ascertainable FLSA Sub-Class, recovery of compensatory damages and an equal amount of liquidated damages as provided under the law and in 29 U.S.C. § 216(b);
12. On behalf of the Aggrieved Employees, recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004;
13. Where available, for liquidated damages pursuant to Labor Code section 1194.2;
14. For an award of interest, including prejudgment interest, pursuant to Labor Code section 218.6;
15. For an award of attorneys' fees and costs of suit herein pursuant to Labor Code sections 218.5, 226, 1194, 2802 and Code of Civil Procedure section 1021.5; and
16. For such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby request that this matter be heard and decided by trial by jury.

Dated: January 19, 2024

SULLIVAN & YAECKEL LAW GROUP, APC

Eric Yaeckel

Eric K. Yaeckel
Ryan T. Kuhn
Attorneys for Plaintiff DAMON COFFEY, on behalf of other
members of the public similarly situated

Dated: January _19, 2024

**BLUMENTHAL, NORDREHAUG, BHOWMIK, DE
BLOUW LLP**

/s/ Nicholas De Blouw

Norman B. Blumenthal
Nicholas De Blouw
Attorneys for Plaintiff BRANDIE LUKOFNAK, on behalf of
other members of the public similarly situated

EXHIBIT 1

SULLIVAN & YAECKEL
LAW GROUP

A PROFESSIONAL CORPORATION

2330 THIRD AVENUE
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760
FACSIMILE 619-702-6761

June 12, 2020

Labor and Workforce Development Agency
Attn. PAGA Administrator

Submitted Via Online Filing

Re: Damon Coffey v. SoCal Permanente Medical Group
Our File No.: 7194

Dear Administrator:

Please allow this correspondence to serve as “written notice,” as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by SoCal Permanente Medical Group, (hereinafter collectively “SCPMG”), in the above referenced matter. This “written notice” is filed on behalf of Mr. Coffey, and all non-exempt employees working for SCPMG. Thank you for your assistance and instruction on this issue.

The specific provisions alleged to have been violated by SCPMG are as follows:

CALIFORNIA LABOR CODE SECTIONS 201-203, 226, 226(a), 226.7, 246, 432, 510, 512, 558, 1194, 1197.1, 1198.5 and 2802, as well as IWC Wage Order 4, codified as Title 8, California Code of Regulations, section 11040 *et seq.*

Facts and theories supporting the allegations: Our client, Damon Coffey, worked as a non-exempt employee for SCPMG from approximately December, 2002 through the present.

Throughout the term of Mr. Coffey’s employment, SCPMG required Mr. Coffey and all other non-exempt employees to experience actions illegal under the California Labor Code, including the following:

Minimum Wage and Overtime Violations

- SCPMG failed to provide all compensation, including minimum wage and overtime compensation, as well as compensation for work performed inside of Meal and Rest

periods, to its employees in violation of, *inter alia*, Labor Code sections 1194 and 510 and the IWC Wage Order 4. This illegal action is due, in part, to SCPMG's policies of (1) failing to properly retain accurate Time Records, in violation of California law, and (2) failing to provide compensation (including both minimum and overtime compensation) for all time worked by the employees, or in control of the employer. For instance, SCPMG would instruct Mr. Coffey to report his scheduled (as opposed to *actual*) work hours, resulting in a loss of compensation. Additionally, SCPMG would often require Mr. Coffey to work extended hours (beyond his scheduled hours), without compensation. Further, SCPMG would regularly contact Mr. Coffey outside of normal work hours (i.e., "after hours" or during lunch) without compensation.

- Additionally, among other issues, SCPMG has notice of Mr. Coffey, and others, working outside of their scheduled and/or reported hours, as well as *within* meal and rest periods, but fails to provide any compensation for this work-time. Further, SCPMG failed to properly calculate and pay overtime at the actual overtime rate of pay, as SCPMG ignores certain compensation when calculating the Regular Rate of Pay.

Failure to Provide Compliant Meal Periods

- SCPMG failed to provide compliant Meal Periods or requisite Meal Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 4. For example, SCPMG does not possess a legal Meal Period policy and makes no attempt to ensure that its employees are either timely or wholly provided Meal Periods. The employees would often either miss a Meal Period entirely, be provided a short or untimely Meal Period, or be provided only one meal period, even where they were working in excess of 10 hours a day. Whether or not an employee was provided a Meal Period was often contingent upon how busy the office was at the time.
- SCPMG would pressure its employees to either skip, or cut short, a meal period as employees were expected to respond to supervisors at all times. SCPMG has never provided a compliant meal period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which SCPMG would provide a Meal Period Penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.
- On many occasions, SCPMG would not allow its employees to "leave the premises" during their meal periods.
- Finally, SCPMG required its employees to constantly monitor their cell phones and

be “on-call” at all times, specifically during Meal Periods. On occasion, SCPMG would interrupt, or cut short, its employees Meal Periods and require them to return to work.

Failure to Provide Compliant Rest Periods

- SCPMG failed to provide compliant rest periods or requisite Rest Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 4. For example, SCPMG does not possess a legal Rest Period policy, as its Rest Period policy lacks required language under California law. SCPMG makes no attempt to ensure that its employees are either timely or wholly provided Rest Periods. The employees would often either miss a Rest Period entirely, be provided a short or untimely Rest Period, or be provided only one Rest Period, even when they were working in excess of 6.5 hours a day. SCPMG would pressure its employees to either skip, or cut short, a Rest Period as employees were expected to respond to supervisors at all times. SCPMG has never provided a compliant Rest Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which SCPMG would provide a Rest Period Penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.
- SCPMG does not allow its employees to “leave the premises” during their rest periods.
- Finally, SCPMG required its employees to constantly monitor their cell phones and be “on-call” at all times, specifically during Rest Periods. On occasion, SCPMG would interrupt, or cut short, its employees Rest Periods and require them to return to work.

Wage Statement Violations

- SCPMG violated Labor Code section 226(a)(2) by failing to furnish an accurate showing of all hours worked at each hourly rate by the employee. Mr. Coffey and other employees were not compensated for all hours worked (due in part to SCPMG’s requirement that employees list only *scheduled* work-times, not actual work-times.)
- SCPMG violated Labor Code section 226(a)(5) by failing to furnish an accurate showing of the net wages earned by its employees. For example, SCPMG **(a)** would not provide compensation for all hours and minutes worked, **(b)** would use an improper (and lesser) Overtime Rate of Pay, and **(c)** would fail to pay Meal and/or

Rest Period Penalties when due. Further, on the rare occasions in which SCPMG would provide a Meal or Rest Period Penalty, it would pay said penalty at an improper (and lesser) rate, due to the failure to properly calculate the Regular Rate of Pay.

- SCPMG violated Labor Code section 226(a)(8) by failing to provide an accurate showing of the name and address of the legal entity that is the employer.
- SCPMG violated Labor Code section 226(a)(8) by failing to provide an accurate showing of the name and address of the legal entity that is the employer. Specifically, Mr. Coffey's earnings statements show Mr. Coffey worked for SoCal Permanente Medical Group. This entity is not registered with the California Secretary of State.
- SCPMG violated Labor Code section 226(a)(9) by failing to furnish an accurate showing of all applicable hourly rates, in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Mr. Coffey and the other employees were not compensated for all hours worked (due in part to SCPMG requiring employees to list only *scheduled* work-times, not actual work-times to include "on-call" hours). Additionally, and as an example, SCPMG states that it paid Mr. Coffey for "75.99" hours of work. However, Mr. Coffey cannot "readily ascertain" what 75.99 means without "reference to other documents or information." In fact, Mr. Coffey cannot "readily ascertain" what these figures mean at all. This is because SCPMG is apparently using a time-calculating system other than "minutes," but without explanation to the employees within the wage statement. As minutes are measured on a scale of 1 through 60, it is not apparent what these figures are meant to represent. Without an explanation for how the these figures were arrived at, employees cannot "readily ascertain" their total hours worked. Therefore, SCPMG failed to provide an accurate showing of the "total hours worked" by its employees pursuant to section 226(a)(2), due to all the aforesaid reasons.

Failure to Provide Compliant Expense Reimbursement Payments

- SCPMG failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Mr. Coffey and other non-exempt employees, including expenses for cell-phone costs, other necessary work supplies, and mileage.

////

Willful Failure to Provide All Compensation to Ex-Employees

- SCPMG failed to provide all compensation upon termination of employment in violation of Labor Code sections 201-203, due, in part, to the fact that SCPMG failed to provide proper compensation for all hours worked, and failed to pay full Meal or Rest Period penalties, as discussed above.

To confirm, SCPMG is a “person” as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'R. Kuhn', with a long horizontal flourish extending to the right.

Ryan T. Kuhn, Esq.

cc: Via Certified U.S. Mail

Human Resource Director
SoCal Permanente Medical Group
393 E. Walnut
Pasadena, CA 91188

cc: Courtesy Copy and Filing Fee via U.S. Mail

Department of Industrial Relations
Accounting Unit
455 Golden Gate Ave, 10th Floor
San Francisco, CA 94102

EXHIBIT 2

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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1004

September 30, 2021
CA2414

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Southern California Permanente Medical
Group
Certified Mail #70211970000003065951
CSC Lawyers Incorporating Service
2710 Gateway Oaks Drive Suite 150N
Sacramento, CA 95833

Southern California Permanente Medical
Group
Certified Mail #70211970000003065968
393 E. Walnut
Pasadena, CA 91118

Southern California Permanente Medical
Group
Certified Mail #70211970000003065975
SEYFARTH SHAW LLP
Christian Rowley
560 Mission Street, 31st Floor
San Francisco, CA 94105

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Southern California Permanente Medical Group in California and classified as non-exempt employees during the time period of September 30, 2020 until a date as determined by the Court. Our offices represent Plaintiff Brandie Lukofnak (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Southern California Permanente Medical

Group (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from January of 2006 to January 25, 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to them, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiff and Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the correct total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiff and other Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2) as when the hours were added up they did not equal the actual amount of hours worked each pay period. Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference.

Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

EXHIBIT 3

SULLIVAN & YAECKEL
LAW GROUP

A PROFESSIONAL CORPORATION

2330 THIRD AVENUE
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760
FACSIMILE 619-702-6761

January 24, 2024

Labor and Workforce Development Agency
Attn. PAGA Administrator

Submitted Via Online Filing

Re: Damon Coffey and Brandie Lukofnak v. Southern California
Permanente Medical Group
Our File No.: 7194
LWDA Case No.: LWDA-CM-793572-20

Dear Administrator:

Please allow this correspondence to serve as an amended “written notice,” as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by Southern California Permanente Medical Group, (hereinafter collectively “SCPMG”), in the above referenced matter. This “written notice” is filed on behalf of Mr. Coffey and Ms. Lukofnak (collectively “Plaintiffs”), and all non-exempt employees working for SCPMG. Thank you for your assistance and instruction on this issue.

The specific provisions alleged to have been violated by SCPMG are as follows:

CALIFORNIA LABOR CODE SECTIONS 201, 202, 203, 204 et seq., 206, 210, 221, 226(a), 226.3, 226.7, 227, 227.3, 245, 510, 511, 512, 551, 551, 558(a)(1)(2), 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, California Code of Regulations, Title 8, Section 11040, subdivision 5(A)-(B), and any other applicable wage order),

Facts and theories supporting the allegations: Damon Coffey worked as a non-exempt employee for SCPMG from approximately December, 2002 through November of 2021. Brandie Lukofnak was employed by SCPMG as a non-exempt employee from approximately January of 2006 to January 25, 2021.

Throughout the term of their employment, SCPMG required Plaintiffs and all other non-exempt employees to experience actions illegal under the California Labor Code, including the

following:

Minimum Wage and Overtime Violations

- SCPMG failed to provide all compensation, including minimum wage and overtime compensation, as well as compensation for work performed inside of Meal and Rest periods, to its employees in violation of, *inter alia*, Labor Code sections 1194 and 510 and the IWC Wage Order 4. This illegal action is due, in part, to SCPMG's policies of (1) failing to properly retain accurate Time Records, in violation of California law, and (2) failing to provide compensation (including both minimum and overtime compensation) for all time worked by the employees, or in control of the employer. For instance, SCPMG would instruct Plaintiffs to report scheduled (as opposed to *actual*) work hours, resulting in a loss of compensation. Additionally, SCPMG would often require Plaintiffs to work extended hours (beyond his scheduled hours), without compensation. Further, SCPMG would regularly contact Plaintiffs outside of normal work hours (*i.e.*, "after hours" or during lunch) without compensation.
- Additionally, among other issues, SCPMG has notice of Plaintiffs, and others, working outside of their scheduled and/or reported hours, as well as *within* meal and rest periods, but fails to provide any compensation for this work-time. Further, SCPMG failed to properly calculate and pay overtime at the actual overtime rate of pay, as SCPMG ignores certain compensation when calculating the Regular Rate of Pay.
- Moreover, as a direct result of these failures, SCPMG failed to maintain compliant payroll records showing employees' daily hours worked and the wages paid to them as required by Labor Code section 1174 et. seq.

Failure to Provide Compliant Meal Periods

- SCPMG failed to provide compliant Meal Periods or requisite Meal Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 4. For example, SCPMG does not possess a legal Meal Period policy and makes no attempt to ensure that its employees are either timely or wholly provided Meal Periods. The employees would often either miss a Meal Period entirely, be provided a short or untimely Meal Period, or be provided only one meal period, even where they were working in excess of 10 hours a day. Whether or not an employee was provided a Meal Period was often contingent upon how busy they were at the time.
- SCPMG would pressure its employees to either skip, or cut short, a meal period as

employees were expected to respond to supervisors at all times. SCPMG has never provided a compliant meal period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which SCPMG would provide a Meal Period Penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.

- On many occasions, SCPMG would not allow its employees to “leave the premises” during their meal periods.
- Finally, SCPMG required its employees to constantly monitor their cell phones and be “on-call” at all times, specifically during Meal Periods. On occasion, SCPMG would interrupt, or cut short, its employees Meal Periods and require them to return to work.

Failure to Provide Compliant Rest Periods

- SCPMG failed to provide compliant rest periods or requisite Rest Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 4. For example, SCPMG does not possess a legal Rest Period policy, as its Rest Period policy lacks required language under California law. SCPMG makes no attempt to ensure that its employees are either timely or wholly provided Rest Periods. The employees would often either miss a Rest Period entirely, be provided a short or untimely Rest Period, or be provided only one Rest Period, even when they were working in excess of 6.5 hours a day. SCPMG would pressure its employees to either skip, or cut short, a Rest Period as employees were expected to respond to supervisors at all times. SCPMG has never provided a compliant Rest Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which SCPMG would provide a Rest Period Penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.
- SCPMG does not allow its employees to “leave the premises” during their rest periods.
- Finally, SCPMG required its employees to constantly monitor their cell phones and be “on-call” at all times, specifically during Rest Periods. On occasion, SCPMG would interrupt, or cut short, its employees Rest Periods and require them to return to work.

Wage Statement Violations

- SCPMG violated Labor Code section 226(a)(2) by failing to furnish an accurate showing of all hours worked at each hourly rate by the employee. Plaintiffs and other employees were not compensated for all hours worked (due in part to SCPMG's requirement that employees list only *scheduled* work-times, not actual work-times.)
- SCPMG violated Labor Code section 226(a)(5) by failing to furnish an accurate showing of the net wages earned by its employees. For example, SCPMG **(a)** would not provide compensation for all hours and minutes worked, **(b)** would use an improper (and lesser) Overtime Rate of Pay, and **(c)** would fail to pay Meal and/or Rest Period Penalties when due. Further, on the rare occasions in which SCPMG would provide a Meal or Rest Period Penalty, it would pay said penalty at an improper (and lesser) rate, due to the failure to properly calculate the Regular Rate of Pay.
- SCPMG violated Labor Code section 226(a)(8) by failing to provide an accurate showing of the name and address of the legal entity that is the employer.
- SCPMG violated Labor Code section 226(a)(8) by failing to provide an accurate showing of the name and address of the legal entity that is the employer. Specifically, Mr. Coffey's earnings statements show Mr. Coffey worked for SoCal Permanente Medical Group. This entity is not registered with the California Secretary of State.
- SCPMG violated Labor Code section 226(a)(9) by failing to furnish an accurate showing of all applicable hourly rates, in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Mr. Coffey and the other employees were not compensated for all hours worked (due in part to SCPMG requiring employees to list only *scheduled* work-times, not actual work-times to include "on-call" hours). Additionally, and as an example, SCPMG states that it paid Mr. Coffey for "75.99" hours of work. However, Mr. Coffey cannot "readily ascertain" what 75.99 means without "reference to other documents or information." In fact, Mr. Coffey cannot "readily ascertain" what these figures mean at all. This is because SCPMG is apparently using a time-calculating system other than "minutes," but without explanation to the employees within the wage statement. As minutes are measured on a scale of 1 through 60, it is not apparent what these figures are meant to represent. Without an explanation for how these figures were arrived at, employees cannot "readily ascertain" their total hours worked. Therefore, SCPMG failed to provide an accurate showing of the "total hours worked" by its employees pursuant to section 226(a)(2), due to all the aforesaid reasons.

Failure to Provide Compliant Expense Reimbursement Payments

- SCPMG failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Plaintiffs and other non-exempt employees, including expenses for cell-phone costs, other necessary work supplies, and mileage.

Failure to Pay Sick Pay Wages

- SCPMG pays sick pay wages to Plaintiffs, and all other nonexempt employees at the base hourly pay, as opposed to the regular rate of pay, which would consider all non-hourly remuneration in addition to base hourly wages, or the rate resulting from dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. As a result, Defendants underpaid sick pay wages to Plaintiffs and all other non-exempt employees.

Willful Failure to Provide All Compensation to Ex-Employees

- SCPMG failed to provide all compensation upon termination of employment in violation of Labor Code sections 201-203, due, in part, to the fact that SCPMG failed to provide proper compensation for all hours worked, and failed to pay full Meal or Rest Period penalties, as discussed above.

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To confirm, SCPMG is a “person” as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,

A handwritten signature in black ink that reads "Ryan Kuhn". The signature is written in a cursive, slightly slanted style.

Ryan T. Kuhn, Esq.

cc: Via Certified U.S. Mail

Human Resource Director
SoCal Permanente Medical Group
393 E. Walnut
Pasadena, CA 91188