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8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES  
11 UNLIMITED JURISDICTION  
12

13 SUSAN ENCISO, on behalf of herself and all  
14 others similarly situated, and the general  
public,

15 *Plaintiff,*

16 v.

17 PARTNERS PERSONNEL -  
18 MANAGEMENT SERVICES, LLC, a  
Delaware limited liability company; and  
19 DOES 1 through 50, inclusive,

20 *Defendants.*  
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Case No. **21STCV44278**

**REPRESENTATIVE ACTION**

**COMPLAINT**

1. Civil Penalties (Lab. Code § 2698, *et seq.*)

1 Plaintiff SUSAN ENCISO (“Plaintiff”), on behalf of herself, all others similarly situated,  
2 the general public, and the State of California complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action against defendants PARTNERS  
5 PERSONNEL - MANAGEMENT SERVICES, LLC, a Delaware limited liability company; and  
6 DOES 1 through 50, inclusive, (collectively referred to as “Defendants”) for alleged violations of  
7 the Labor Code. As set forth below, Plaintiff alleges that Defendants have

- 8 (1) failed to provide Plaintiff and all other similarly situated individuals with meal  
9 periods;
- 10 (2) failed to provide them with rest periods;
- 11 (3) failed to pay them premium wages for missed meal and/or rest periods;
- 12 (4) failed to pay them premium wages for missed meal and/or rest periods at the regular  
13 rate of pay;
- 14 (5) failed to pay them at least minimum wage for all hours worked;
- 15 (6) failed to pay them overtime wages at the correct rate;
- 16 (7) failed to pay them double time wages at the correct rate;
- 17 (8) failed to pay them premium wages, overtime and/or double time wages by failing to  
18 include all applicable remuneration in calculating the regular rate of pay;
- 19 (9) failed to reimburse them for all necessary business expenses;
- 20 (10) failed to provide them with accurate written wage statements; and
- 21 (11) failed to pay them all of their final wages following separation of employment.

22 Based on these alleged violations, Plaintiff now brings this representative action to recover unpaid  
23 wages, restitution, civil and statutory penalties, and related relief on behalf of herself and all others  
24 similarly situated, all other aggrieved employees, and the State of California.

25 **JURISDICTION AND VENUE**

26 2. This Court has subject matter jurisdiction to hear this case because the unpaid wages,  
27 actual damages, liquidated damages, restitution, and penalties sought by Plaintiff from Defendants  
28 exceeds the minimal jurisdictional limits of the Superior Court of the State of California.

3. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure §§ 393(a), 395(a) and 395.5 in that liability arose there, because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business, and/or has an agent therein.

## PARTIES

4. Plaintiff is and was, and at all relevant times mentioned herein, an individual residing in the State of California.

5. Plaintiff is informed and believes, and thereupon alleges, that Defendant PARTNERS PERSONNEL - MANAGEMENT SERVICES, LLC is, and at all relevant times mentioned herein, a Delaware limited liability company doing business in the State of California.

6. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

7. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some or all of the other defendants, and, in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent, and ratification by such other defendants.

### GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

8. Plaintiff worked for Defendants as an hourly, non-exempt employee at all times during the applicable statutory period.

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**Improper Rounding Practices**

9. Defendants utilized, at all relevant times herein, a rounding practice that is not and was not “fair and neutral” and that results and resulted in a failure to pay employees over a period of time.

10. Plaintiff is informed and believes, and thereupon alleges, that Defendants do not keep records of actual hours worked by Plaintiff and the putative class. In the absence of records showing actual hours worked, Plaintiff and the putative class are unable to ascertain whether (1) Defendants’ rounding practices comply with California law; (2) whether Defendants’ rounding practices resulted over a period of time, in failure to compensate Plaintiff and the putative class properly for all the time they actually worked; and (3) whether Plaintiff and the putative class were properly paid for all hours worked.

**Missed, Late, Shortened, and/or Interrupted Meal Periods**

11. Plaintiff and the putative class were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants’ policy of not scheduling each meal period as part of each work shift; (2) chronically understaffing each work shift with not enough workers; (3) imposing so much work on each employee such that it made it unlikely that an employee would be able to take their breaks if they wanted to finish their work on time; (4) Defendants practice of making employees work through their meal periods when their recruitment projects were behind schedule or approaching a deadline; (5) Defendants prioritizing ensuring that they would not have to pay employees overtime above properly releasing employees for their breaks; and (6) no formal written meal and rest period policy that encouraged employees to take their meal and rest periods.

12. Defendants have a policy and/or practice of requiring Plaintiff and the aggrieved employees to routinely take their meal periods after the fifth hour of work. Plaintiff and the aggrieved employees started their shifts at 8:00 am and regularly worked until approximately 2:00 pm before taking a meal. Also, Plaintiff and the aggrieved employees were required to eat their food at their desk and continue working throughout the entire duration of their meal periods with the full knowledge of their supervisors. They were required to continue working because

1 Defendants did not adequately staff their office and imposed harsh deadlines on Plaintiff and  
2 aggrieved employees which necessitated continuous work in order to meet them. Plaintiff and the  
3 aggrieved employees did not clock in or out during their work day, and their supervisors including  
4 but not limited to Doug [surname unknown] and Andrea [surname unknown] simply auto deducted  
5 a one hour meal period regardless of whether Enciso and the aggrieved employees actually took  
6 any meal period and regardless of what time they took their meal period.

7 13. As a result of Defendants' policy, Plaintiff and the putative class were regularly not  
8 provided with uninterrupted meal periods of at least thirty (30) minutes for each five (5) hours  
9 worked due to complying with Defendants' productivity requirements that required Plaintiff and  
10 the putative class to work through their meal periods in order to complete their assignments on  
11 time.

#### 12 **Auto Deducting for Meal Periods**

13 14. Defendants had a policy and/or practice of automatically deducting thirty minutes  
14 from Plaintiff's and the aggrieved employees paychecks, regardless of whether Plaintiff and the  
15 aggrieved employees received a meal period or not. Specifically, Defendants' supervisors and/or  
16 managers prepared time sheets that recorded a meal period between 12:00 p.m. to 1:00 p.m. every  
17 single day regardless of whether or not Plaintiff and aggrieved employees took their meal period  
18 and regardless of whether or not Plaintiff and the aggrieved employees worked through the  
19 duration of their meal period.

20 15. As a result of Defendants' policy, Plaintiff and the aggrieved employees were  
21 regularly not provided with uninterrupted meal periods of at least thirty (30) minutes for each five  
22 (5) hours worked due to complying with Defendants' productivity requirements that required  
23 Plaintiff and Plaintiff and the aggrieved employees to work through their meal periods in order to  
24 complete their assignments on time.

#### 25 **Missed Rest Breaks**

26 16. Defendants have a policy and/or practice of requiring Plaintiff and the aggrieved  
27 employees to continuously work throughout the day without any duty free rest break period.  
28 During their employment with Defendants, Plaintiff and aggrieved employees could not take a rest

1 break. Plaintiff and the aggrieved employees were systematically not provided with rest breaks of  
2 at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)  
3 Defendants' policy of not scheduling each rest period as part of each work shift; (2) chronically  
4 understaffing each work shift with not enough workers; (3) imposing so much work on each  
5 employee such that it made it unlikely that an employee would be able to take their breaks if they  
6 wanted to finish their work on time; and (4) no formal written meal and rest period policy that  
7 encouraged employees to take their meal and rest periods.

8 17. As a result of Defendants' policy, Plaintiff and the putative class were regularly not  
9 provided with uninterrupted rest periods of at least ten (10) minutes for each four (4) hours worked  
10 due to complying with Defendants' productivity requirements that required Plaintiff and the  
11 putative class to work through their rest periods in order to complete their assignments on time.

#### 12 Off-the-Clock Work

13 18. Plaintiff and the aggrieved employees were not paid all wages earned as Defendants  
14 directed, permitted or otherwise encouraged Plaintiff and the aggrieved employees to perform off-  
15 the-clock work.

16 19. Specifically, Plaintiff and the aggrieved employees regularly performed work before  
17 and after their scheduled work hours and were not paid for this time. Defendants maintained a  
18 practice of logging time sheets for Plaintiff and the aggrieved employees. Plaintiff and the  
19 aggrieved employees did not clock in or out to record their hours worked. The time logged by the  
20 supervisors of Plaintiff and the aggrieved employees were the same everyday regardless of the  
21 hours worked and Plaintiff and the aggrieved employees were unable to properly check to see  
22 whether the time that they were logged as having worked was correct.

23 20. In practice, this resulted in Plaintiff and the aggrieved employees having their hours  
24 improperly logged and calculated. Plaintiff and the aggrieved employees were scheduled to work  
25 shifts from 8am until 5pm. However, on many days Plaintiff and the aggrieved employees would  
26 stay past 5:00 pm to finish the work for the day as their project was behind schedule. Despite  
27 working later than their scheduled end time, Plaintiff and the aggrieved employees were recorded  
28 as only having worked until 5:00 pm. Defendants maintained a practice of shaving the hours of

1 employees in their efforts to avoid paying Plaintiff and the aggrieved employees overtime hours.  
2 Defendants would only pay Plaintiff and the aggrieved employees the hours that they were  
3 scheduled to work and systematically manipulated their time sheets to ensure that they would not  
4 be paid for any time worked past 5:00 pm. This was a frequent occurrence, with Plaintiff and the  
5 aggrieved employees working off-the-clock for substantial amounts of time after their scheduled  
6 shifts.

7 21. Defendants knew or should have known that Plaintiff and the aggrieved employees  
8 were performing work before and after their scheduled work shifts and failed to pay Plaintiff and  
9 the aggrieved employees for these hours.

10 22. As a result of performing off-the-clock work that was directed, permitted or  
11 otherwise encouraged by Defendants, Plaintiff and the aggrieved employees should have been paid  
12 for this time. Instead, Defendants only paid Plaintiff and the aggrieved employees based on the  
13 time they were clocked in for their shifts and did not pay Plaintiff and the aggrieved employees for  
14 any of the time spent working off-the-clock.

#### 15 **Regular Rate of Pay**

16 23. The regular rate of pay under California law includes all remuneration for  
17 employment paid, on behalf of the employer, to the employee. This requirement includes, but is  
18 not limited, to, commissions and non-discretionary bonuses.

19 24. During the applicable limitations period, Defendants violated the rights of Plaintiff  
20 and the putative class under the above-referenced Labor Code sections by failing to pay them  
21 overtime wages for all overtime hours worked in violation of Labor Code §§ 510, 1194, and 1198  
22 as a result of not correctly calculating their regular rate of pay to include all applicable  
23 remuneration, including, but not limited to, non-discretionary bonuses based on whether or not  
24 their branch met performance goals and/or other applicable remuneration.

#### 25 **Expense Reimbursement**

26 25. Plaintiff and the aggrieved employees were required to utilize their own personal cell  
27 phones to perform their job duties. Plaintiff and the aggrieved employees routinely used their  
28 personal cell phones to contact clients and potential recruits, and to talk to their managers and/or

1 supervisors.

2 26. Additionally, Defendants required Plaintiff and the aggrieved employees to use their  
3 own personal vehicles to drop off checks to clients and/or for other work related tasks.

4 27. Plaintiff and the aggrieved employees were not reimbursed for business expenses  
5 incurred in using their personal cell phone and vehicles.

6 28. In addition, Plaintiff and the putative class members were not paid at least two times  
7 the minimum wage for all hours worked.

8 29. Defendants failed to reimburse Plaintiff and the putative class for such necessary  
9 business expenses incurred by them.

10 **Wage Statements**

11 30. Plaintiff and the putative class were not provided with accurate wage statements as  
12 mandated by law pursuant to Labor Code § 226.

13 31. Defendants failed to comply with Labor Code section 226(a)(1) as “gross wages  
14 earned” were not accurately reflected in that all hours worked, including overtime and “off-the-  
15 clock” work were not included.

16 32. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours  
17 worked by the employee” were not accurately reflected in that all hours worked, including overtime  
18 and “off-the-clock” work were not included.

19 33. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages  
20 earned” were not accurately reflected in that all hours worked, including overtime and “off-the-  
21 clock” work were not included.

22 34. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable  
23 hourly rates in effect during the pay period and the corresponding number of hours worked at each  
24 hourly rate by the employee” were not accurately reflected in that all hours worked, including  
25 overtime and “off-the-clock” work were not included.

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1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES**

3 **(Lab. Code §§ 2698 *et seq.*)**

4 35. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

5 36. During the applicable limitations period, Defendants have violated Labor Code §§  
6 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, 1198, and 2802.

7 37. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of  
8 herself and other current and former employees, to bring a representative civil action to recover  
9 civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not,  
10 be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

11 38. Plaintiff, a former employee against whom Defendants committed one or more of the  
12 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee  
13 within the meaning of Labor Code § 2699(c).

14 39. Plaintiff has complied with the procedures for bringing suit specified in Labor Code  
15 § 2699.3. Notice was provided to the California Labor & Workforce Development Agency  
16 (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an  
17 intent to investigate.

18 40. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil  
19 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510,  
20 512, 1194, 1197, 1198 and 2802:

21 i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 1194, 1198 and  
22 2802, one hundred dollars (\$100) for each employee per pay period for each  
23 initial violation and two hundred dollars (\$200) for each employee per pay  
24 period for each subsequent violation (penalties set by Labor Code §  
25 2699(f)(2));

26 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding  
27 thirty (30) days’ pay as waiting time (penalties set by Labor Code § 256);

28 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each

1 employee for each initial violation that was neither willful nor intentional,  
2 two hundred dollars (\$200) for each employee, plus 25% of the amount  
3 unlawfully withheld from each employee, for each initial violation that was  
4 either willful or intentional, and two hundred dollars (\$200) for each  
5 employee, plus twenty-five percent (25%) of the amount unlawfully withheld  
6 from each employee, for each subsequent violation, regardless of whether the  
7 subsequent violation was either willful or intentional (penalties set by Labor  
8 Code § 210);

9 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each  
10 employee for each initial violation that was neither willful nor intentional,  
11 two hundred dollars (\$200) for each employee, plus twenty-five percent  
12 (25%) of the amount unlawfully withheld from each employee, for each  
13 initial violation that was either willful or intentional, and two hundred dollars  
14 (\$200) for each employee, plus twenty-five percent (25%) of the amount  
15 unlawfully withheld from each employee, for each subsequent violation,  
16 regardless of whether the subsequent violation was either willful or  
17 intentional (penalties set by Labor Code § 225.5);

18 v. For violations of Labor Code § 226(a), if this action is deemed to be an initial  
19 citation, two hundred and fifty dollars (\$250) for each employee for each  
20 violation. Alternatively, if an initial citation or its equivalent occurred before  
21 the filing of this action, one thousand dollars (\$1,000) for each employee for  
22 each violation (penalties set by Labor Code § 226.3);

23 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each  
24 employee for each initial pay period for which the employee was underpaid,  
25 and one hundred dollars (\$100) for each employee for each subsequent pay  
26 period for which the employee was underpaid (penalties set by Labor Code §  
27 558);

28 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each

1 aggrieved employee for each initial violation of Labor Code § 1197 that was  
2 intentional and two hundred and fifty dollars (\$250) for each aggrieved  
3 employee per pay period for each subsequent violation of Labor Code §  
4 1197, regardless of whether the initial violation was intentional (penalties set  
5 by Labor Code § 1197.1);

6 viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable  
7 attorneys' fees and costs in connection with Plaintiff's claims for civil  
8 penalties.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general  
11 public, prays for relief and judgment against Defendants as follows:

- 12 (1) Pre-judgment interest;  
13 (2) Civil penalties;  
14 (3) Costs of suit;  
15 (4) Reasonable attorneys' fees; and  
16 (5) Such other relief as the Court deems just and proper.

17  
18 Dated: December 3, 2021

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