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8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SANTA BARBARA**
11

12 TATIANA EDWARDS, on behalf of
herself, the State of California, and others
13 similarly situated and aggrieved,

14 Plaintiff,
15

16 v.

17 805 ANGELS, LLC, a California limited
18 liability company; and DOES 1-100,
19 inclusive,

20 Defendants.
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Case No.: 22CV00082

CLASS ACTION COMPLAINT FOR:

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Recovery of Unpaid Overtime Wages**
3. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5. **Failure to Furnish Accurate Itemized Wage Statements**
6. **Failure to Timely Pay All Wages Due Upon Separation of Employment**
7. **Failure to Reimburse Business Expenses**
8. **Unfair Competition *and***
9. **Violation of Private Attorneys General Act of 2004**

DEMAND FOR JURY TRIAL

1 Plaintiff, TATIANA EDWARDS (“PLAINTIFF”), on behalf of herself, the State of
2 California, and others similarly situated and aggrieved, hereby files this Complaint against
3 Defendant 805 ANGELS, LLC and DOES 1-100, inclusive (collectively referred to herein as
4 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. This court possesses original subject matter jurisdiction over this matter. Venue is
7 proper in Santa Barbara County, California, because DEFENDANTS transact business within this
8 judicial district, DEFENDANTS maintain its principal place of business in Santa Barbara County,
9 DEFENDANTS employed PLAINTIFF at one of its facilities located in Santa Barbara County,
10 California, and some of the complained of conduct occurred in this judicial district. *See also*
11 *Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a
12 PAGA action is proper in any county where the defendants committed Labor Code violations against
13 some of its employees).

14 **THE PARTIES**

15 2. PLAINTIFF resides in Santa Barbara County, in the State of California. PLAINTIFF
16 was employed by DEFENDANTS in the State of California as a non-exempt employee during the
17 relevant period.

18 3. Defendant 805 ANGELS, LLC is a California limited liability company that, at all
19 relevant times, was authorized to do business within the State of California and is doing business in
20 the State of California. DEFENDANTS provide home care/caregiving services to seniors.

21 4. The true names and capacities of the DOE Defendants sued herein as DOES 1
22 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
23 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
24 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
25 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
26 become known.

27 5. PLAINTIFF is further informed and believes that, at all relevant times, each
28 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,

1 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
2 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
3 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
4 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
5 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
6 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
7 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
8 controlled, aided and abetted the conduct of all other Defendants.

9 **JOINT LIABILITY**

10 6. Under California law, the definition of the terms “to employ” are broadly construed
11 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
12 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
13 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
14 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
15 was to reach situations in which multiple entities control different aspects of the employment
16 relationship. Supervision of the work, in the specific sense of exercising control over how services
17 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
18 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
19 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
20 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
21 California, applying a less stringent standard to what constitutes sufficient control by a business
22 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
23 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
24 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
25 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
26 employment,” *Id.* at 875 [emphasis added].

27 7. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
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1 Members (defined below) and the Aggrieved Employees (defined below) were jointly employed by
2 these DEFENDANTS for purposes of the Wage Orders, under the alternative definitions of “to
3 employ” adopted by the California Supreme Court in *Martinez*, supra. As discussed below, these
4 DEFENDANTS (1) exercised control over wages, hours and working conditions of PLAINTIFF
5 and the Class Members and Aggrieved Employees; (2) suffered or permitted PLAINTIFF and the
6 Class Members and Aggrieved Employees to work for them; and, (3) engaged PLAINTIFF and the
7 Class Members and Aggrieved Employees to work for them.

8 8. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
9 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
10 human resources as a set forth herein. As a result, DEFENDANTS utilized the same unlawful
11 policies and practices across all of their locations/facilities and subjected all of the Class Members
12 and Aggrieved Employees to these same policies and practices regardless of the location(s) or
13 facilities where they worked.

14 9. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
15 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
16 and Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and causes of
17 action, in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class
18 Members’ and Aggrieved Employees’ wages, hours and working conditions, and/or suffered or
19 permitted PLAINTIFF and the Class Members and Aggrieved Employees to work so as to be
20 considered the joint employers of PLAINTIFF and the Class Members. Specifically, upon
21 information and belief, PLAINTIFF alleges that DEFENDANTS created a uniform set of policies,
22 practices and/or procedures concerning, inter alia, hourly and overtime pay, time-keeping practices,
23 meal and rest periods, and other working conditions that were distributed to, and/or applied to
24 PLAINTIFF and the Class Members and Aggrieved Employees, and further that DEFENDANTS
25 uniformly compensated and controlled the wages of PLAINTIFF and the Class Members and
26 Aggrieved Employees in a uniform manner. DEFENDANTS collectively represented to
27 PLAINTIFF and the Class Members that each was an "at-will" employee of DEFENDANTS, and
28 that DEFENDANTS collectively retained the right to terminate PLAINTIFF and the Class

1 Members' and Aggrieved Employees' employment with or without cause. Upon information and
2 belief, DEFENDANTS further collectively represented to PLAINTIFF and the Class Members and
3 Aggrieved Employees in writing the details of their compensation, and the manner in which they
4 were to take meal and rest periods, the procedures required by DEFENDANTS collectively for
5 recordation of hours worked and the policies applicable to PLAINTIFF and the Class Members and
6 Aggrieved Employees by which DEFENDANTS collectively would evaluate the wage rates of
7 PLAINTIFF and the Class Members and Aggrieved Employees.

8 10. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
9 and working conditions of PLAINTIFF and the Class Members and Aggrieved Employees. As such,
10 DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFF's and
11 the Class Members' and Aggrieved Employees' employment, including the instrumentality that
12 resulted in the illegal conduct for which PLAINTIFF seeks relief in this Complaint.

13 11. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
14 control over, applied the same policies and practices, and engaged in the same acts and omissions
15 with regard to the other Class Members and Aggrieved Employees.

16 **CLASS ALLEGATIONS**

17 12. PLAINTIFF brings this action on behalf of herself and all others similarly situated
18 as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF seeks to
19 represent are defined as follows and referred to as the "Class Members": "All current and former
20 non-exempt employees that worked either directly or via a staffing agency for DEFENDANTS in
21 California at any time within the four years prior to the filing of the initial complaint."

22 a. Numerosity. While the exact number of Class Members is unknown to
23 PLAINTIFF at this time, the class is so numerous that the individual joinder of
24 all members is impractical under the circumstances of this case.

25 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
26 because common questions of law and fact predominate over individual issues.
27 Common questions include, but are not limited to, the following: (1) whether
28 DEFENDANTS understated hours worked and failed to pay all amounts due to

1 PLAINTIFF and the Class Members for wages earned, including minimum and
2 overtime wages, under California law; (2) whether DEFENDANTS provided
3 PLAINTIFF and the Class Members with all meal periods or premium payments
4 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
5 provided PLAINTIFF and the Class Members with all rest periods or premium
6 payments in lieu thereof, in compliance with California law; (4) whether
7 DEFENDANTS provided PLAINTIFF and the Class Members with accurate,
8 itemized wage statements in compliance with California law, displaying,
9 including but not limited to, the total hours worked during the pay period; (5)
10 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all
11 wages due upon separation of employment; (6) whether DEFENDANTS failed
12 to reimburse PLAINTIFF and the Class Members for all business expenses; and
13 (7) whether DEFENDANTS violated California Business and Professions Code
14 sections 17200, et seq.

- 15 c. Ascertainable Class. The proposed class is ascertainable as its members can be
16 identified and located using information in DEFENDANTS' business, payroll
17 and personnel record.
- 18 d. Numerosity. The class is so numerous that the individual joinder of all Class
19 Members is impractical under the circumstances of this case. While the exact
20 number of Class Members is unknown to PLAINTIFF, PLAINTIFF is informed
21 and believes the class consists of at least 100 individuals.
- 22 e. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
23 PLAINTIFF suffered a similar injury as the other Class Members as a result of
24 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
25 and pay all owed minimum and overtime wages, failure to provide proper meal
26 and rest periods or premium compensation in lieu thereof, failure to provide
27 accurate wage statements, failure to reimburse business expenses, and failure to
28 pay all wages due upon separation of employment.

1 f. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
2 Class Members. PLAINTIFF has no interests adverse to the interests of the other
3 Class Members. Counsel who represent PLAINTIFF are competent and
4 experienced in litigating similar class action cases and are California lawyers in
5 good standing. Counsel for PLAINTIFF have the experience and resources to
6 vigorously prosecute this case.

7 g. Superiority. A class action is superior to other available means for the fair and
8 efficient adjudication of this controversy since individual joinder of all members
9 of the class is impractical. Class action treatment will permit a large number of
10 similarly situated persons to prosecute their common claims in a single forum
11 simultaneously, efficiently, and without the unnecessary duplication of effort
12 and expense that numerous individual actions would engender. Furthermore, as
13 the damages suffered by each individual member of the class may be relatively
14 small, the expenses and burden of individual litigation would make it difficult
15 or impossible for individual members of the class to redress the wrongs done to
16 them, while an important public interest will be served by addressing the matter
17 as a class action. The cost to the court system of adjudication of such
18 individualized litigation would be substantial. Individualized litigation would
19 also present the potential for inconsistent or contradictory judgments. Finally,
20 the alternative of filing a claim with the California Labor Commissioner is not
21 superior, given the lack of discovery in such proceedings, the fact that there are
22 fewer available remedies, and the losing party has the right to a trial de novo in
23 the Superior Court.

24 **FACTUAL AND LEGAL ALLEGATIONS**

25 13. During the four-year period preceding filing of this complaint, PLAINTIFF, and each
26 of the Class Members, were employed by DEFENDANTS in the State of California as non-exempt,
27 employees. At all times referenced herein, DEFENDANTS exercised control over PLAINTIFF and
28 each of the Class Members and suffered and/or permitted them to work.

1 14. PLAINTIFF was employed by DEFENDANTS as a non-exempt, caregiver and or
2 similar title during the relevant period, until the separation of her employment, in or about November
3 2020.

4 15. PLAINTIFF and other Class Members worked primarily in private residences but
5 also worked in assisted living/group facilities they were assigned to work at by DEFENDANTS.
6 PLAINTIFF's shifts varied greatly in length, however, PLAINTIFF typically worked shifts of
7 between two (2) and four (4) hours, five (5) days per week and twelve-hour shifts on Saturdays.
8 DEFENDANTS assigned PLAINTIFF to work in a group facility for the twelve-hour Saturday shifts
9 and in private residences for her remaining shifts.

10 16. PLAINTIFF and other Class Members worked as caregivers. PLAINTIFF and other
11 Class Members' job duties included, but were not limited to, feeding, dressing, and supervising the
12 clients, doing laundry, doing dishes, straightening up the residences, watering plants, and light
13 dusting/cleaning. PLAINTIFF and other Class Members typically spent more than twenty percent
14 of their in-home shifts performing housekeeping/non-personal-attendant duties, such as, but not
15 limited to, doing laundry, dishes, straightening up the residences, watering plants, and light
16 dusting/cleaning. The remainder of these shifts were typically spent attending to the client.
17 PLAINTIFF and other Class Members also worked as caregivers in group facilities they were
18 assigned to work by DEFENDANT.

19 17. DEFENDANTS failed to compensate PLAINTIFF and the Class Members for all
20 hours worked, resulting in the underpayment of minimum and overtime wages owed to PLAINTIFF
21 and the Class Members. Based on information and belief, DEFENDANTS implemented a policy
22 and practice of time rounding that, as applied, systematically deprived PLAINTIFF and the Class
23 Members of compensable time because the time-rounding system implemented by DEFENDANTS,
24 more often than not, if not always, resulted in understating actual compensable work time.
25 DEFENDANTS suffered and permitted PLAINTIFF and other Class Members to work off the clock
26 without wages. Based on information and belief, PLAINTIFF and other Class Members were not
27 compensated for time spent driving between clients' residences, time spent preparing for jobs and
28 or coordinating scheduling issues between clients and clients' family members and or time spent

1 communicating with DEFENDANTS regarding work-related matters, such as, but not limited to,
2 providing updates regarding clients and or scheduling issues. Based on information and belief,
3 PLAINTIFF and other Class Members were regularly required to perform pre-shift and/or post-shift
4 off-the-clock work due to, for example, DEFENDANTS' requirement that Class Members continue
5 working after they had clocked out until the next caregiver(s)/relief worker(s) arrived and/or due to
6 delays from time of arrival at the private residence/group facility to when PLAINTIFF and other
7 Class Members were actually able to clock in using DEFENDANTS' automated system. Based on
8 further information and belief, DEFENDANTS required Class Members to obtain Covid-related
9 testing outside of their scheduled shift times without compensating them for the time spent
10 completing DEFENDANTS' testing requirements. Based on information and belief,
11 DEFENDANTS adjusted PLAINTIFF's and other Class Members' time entries and or their
12 supervisors would record only the scheduled beginning and end times of PLAINTIFF's and other
13 Class Members' shifts rather than the actual times PLAINTIFF and other Class Members began and
14 stopped working, resulting in PLAINTIFF and other Class Members consistently performing off-
15 the-clock work.

16 18. In further violation of California minimum wage and overtime wage laws,
17 DEFENDANTS were calculating hours of work based on a shift-to-shift workday rather than a
18 midnight-to-midnight workday which failed to take into account all hours worked during overnight
19 shifts which were unaccounted for.

20 19. PLAINTIFF and other Class Members consistently worked shifts of at least five and
21 one-half hours without being provided an uninterrupted, duty-free, thirty-minute meal before the
22 end of the fifth hour of work. PLAINTIFF and other Class Members consistently worked shifts
23 exceeding ten hours without being provided a second, uninterrupted, duty-free, thirty-minute meal
24 period before the end of the tenth hour of work PLAINTIFF and other Class Members were
25 consistently not provided timely, thirty-minute, off-duty meal periods due to the nature and
26 constraints of their job duties, having to always monitor their assigned clients and pressure from
27 supervisors to finish tasks within time frames designated by DEFENDANTS that prohibited the
28 taking of timely, off-duty, uninterrupted, thirty-minute meal periods. PLAINTIFF and other Class

1 Members were consistently unable to clock out for meal periods, or were interrupted during meal
2 periods, due to, including, but not limited to, having to attend to their assigned residents' needs at
3 all times during their shifts and/or lack of relief workers available. DEFENDANTS implemented
4 policies and practices that failed to relieve PLAINTIFF and the Class Members of all duties and
5 employer control during any meal breaks. PLAINTIFF and other Class Members were required to
6 remain onsite and attend to their assigned residents throughout their shifts and were consistently
7 prohibited from taking their owed meal periods. For example, during PLAINTIFF's twelve-hour
8 shifts at the group facility she was assigned to work on Saturdays, PLAINTIFF was strictly
9 prohibited from ever leaving the client's/resident's room during her shift, including but not limited
10 to, to step away briefly to have something to eat. Despite prohibiting PLAINTIFF and the Class
11 Members from taking their owed meal periods, DEEFENDANTS did not pay PLAINTIFF and the
12 Class Members one additional hour of pay at their regular rate(s) of compensation for each workday
13 an owed meal period was not provided.

14 20. DEFENDANTS did not authorize or permit PLAINTIFF and the Class Members to
15 take rest periods. DEFENDANTS did not advise PLAINTIFF and the Class Members when rest
16 periods should be taken, how long rest periods should be, how many rest periods they should receive
17 in a given shift, nor that rest periods should be free of all duties and employer control.

18 21. PLAINTIFF did not receive compliant, timely, net, ten-minute rest periods every
19 four (4) hours worked or major fraction thereof. Any purported rest periods would be interrupted,
20 cut short, on duty, and or late due to PLAINTIFF's workload and commentary from supervisors
21 pressuring PLAINTIFF and other Class Members to skip breaks or take non-compliant breaks.
22 PLAINTIFF and other Class Members were pressured to always monitor their assigned
23 client/resident and complete tasks according to a designated schedule such that rest periods were
24 only taken once tasks were completed as time permitted and were typically, if not, always on duty.
25 DEFENDANTS implemented policies and practices that failed to relieve the Class Members of all
26 duties and employer control during any rest periods. As with any meal periods, DEFENDANTS
27 required PLAINTIFF and the Class Members to always remain tethered to the worksite/immediate
28 work area and/or monitor a work communication device for communications from supervisors

1 during any rest periods. DEFENDANTS had no policy in place nor instruction as to the taking or
2 timing of rest periods. DEFENDANTS never paid PLAINTIFF and the Class Members an additional
3 hour of wages at their regular rate(s) of pay for each workday they were denied a compliant rest
4 period.

5 22. DEFENDANTS failed to provide PLAINTIFF and other Class Members with
6 accurate wage statements that complied with Labor Code section 226. Wage statements provided
7 by DEFENDANTS do not accurately reflect, inter-alia, the total hours worked for the pay period.
8 Wage statements provided by DEFENDANTS fail to indicate the "total hours worked" by
9 PLAINTIFF and other Class Members by virtue of DEFENDANTS' time-rounding practices,
10 payment according to scheduled hours worked rather than actual hours worked, failure to relieve
11 employees of all duties and employer control during any unpaid meal periods and policies and
12 practices that mandated pre-shift and post-shift off-the-clock work, as described herein. As a result,
13 the wage statements provided to PLAINTIFF and other Class Members were not accurate and do
14 not include all of the statutorily required information, such as, but not limited to, the total hours
15 worked. Accordingly, DEFENDANTS violated Labor Code section 226.

16 23. DEFENDANTS required PLAINTIFF and other Class Members to incur business
17 expenses as a direct consequence of the performance of their job duties without providing
18 reimbursement, in violation of Labor Code section 2802. PLAINTIFF and other Class Members
19 were required to incur without any reimbursement from DEFENDANTS data plan charges in
20 connection with DEFENDANTS' requirement that PLAINTIFF and other Class Members regularly
21 use their personal cellphone/other personal mobile communication device to communicate with
22 their supervisors regarding scheduling/work tasks as well as to communicate with DEFENDANTS'
23 clients/clients' families. DEFENDANTS also required PLAINTIFF and other Class Members to use
24 their personal vehicles on the job without providing full reimbursement for gas, mileage, vehicle
25 wear and tear and or other vehicle-related expenses PLAINTIFF and other Class Members incurred
26 as a direct consequence of the performance of their job duties.

27 24. PLAINTIFF and other Class Members were improperly required to pay for business
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1 expenses that are supposed to be the responsibility of the employer, as described above.
2 DEFENDANTS did not offer/provide any reimbursement for these business-related expenses or any
3 amount offered/provided fell far below what PLAINTIFF and other Class Members were required
4 to pay out of pocket/the actual expenses PLAINTIFF and other Class Members incurred.
5 DEFENDANTS' failure to provide PLAINTIFF and other Class Members with full reimbursement
6 for all reasonable expenses associated with carrying out their duties required PLAINTIFF and
7 other Class Members to subsidize and/or carry the burden of business expenses in violation of Labor
8 Code section 2802.

9 25. Upon separation of employment, DEFENDANTS failed to timely furnish
10 PLAINTIFF and other Class Members their final paychecks containing all earned and unpaid wages,
11 including but not limited to, all earned and unpaid minimum wages, all earned and unpaid overtime
12 wages, and all accrued paid time off at the properly accrued rates.

13 26. PLAINTIFF is informed and believes and allege thereon that DEFENDANTS
14 engaged in these same herein described unlawful practices with regard to all of the Class Members
15 and the Aggrieved Employees (defined below), and that DEFENDANTS applied these same herein
16 described unlawful practices to all of its employees that it applied to PLAINTIFF.

17 **FIRST CAUSE OF ACTION**

18 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
19 **(Against all DEFENDANTS)**

20 27. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

21 28. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
22 Commission ("IWC") Wage Orders, an employer must pay its employees for all hours worked, up
23 to forty per week or eight (8) per day, at a regular time rate no less than the mandated minimum
24 wage. Payment to an employee of less than the applicable minimum wage for all hours worked in
a payroll period is unlawful.

25 29. DEFENDANTS violated California's minimum wage laws by failing to compensate
26 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
27 DEFENDANTS' time-rounding policies and practices, mandated pre-shift/post-shift off-the-clock
28 work, failure to relieve Class Members of all duties and employer control during unpaid meal

1 periods, payment of wages based on scheduled hours and not actual hours worked, and/or rounded
2 time entries.

3 30. DEFENDANTS had and continue to have a continuous policy of failing to pay
4 PLAINTIFF and Class Members for all hours worked.

5 31. DEFENDANTS had and continue to have a continuous policy of paying PLAINTIFF
6 and Class Members for scheduled work hours, rather than actual time worked.

7 32. DEFENDANTS had and continue to have a continuous policy of requiring
8 PLAINTIFF and the Class Members to perform work prior to clocking in for their shifts and/or after
9 clocking out for their shifts.

10 33. Based on information and belief, DEFENDANTS had actual or constructive
11 knowledge that its time-rounding policies and practices, policy and practice of payment according
12 to scheduled time rather than actual work time, and clock-in/clock-out/time-reporting policies,
13 practices and procedures resulted in the underpayment of minimum wages owed to PLAINTIFF and
14 other Class Members.

15 34. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
16 Members are entitled to recover all unpaid minimum time wages and liquidated damages thereon,
17 plus attorney's fees and costs, in an amount to be proved at trial.

18 **SECOND CAUSE OF ACTION**
19 **Recovery of Unpaid Overtime Wages**
20 **(Against all DEFENDANTS)**

21 35. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

22 36. Employees in California must be paid overtime, equal to one and one-half times the
23 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
24 twelve hours in any workday, and for the first eight (8) hours worked on the seventh consecutive
25 day of work in a workweek, and they must be paid double the regular rate of pay for all hours worked
26 in excess of twelve hours in any workday and for all hours worked in excess of eight (8) on the
27 seventh consecutive day of work in a workweek, unless they are exempt.

28 37. DEFENDANTS failed to pay PLAINTIFF and the Class Members proper overtime

1 rates for all overtime worked due to, including but not limited to, DEFENDANTS' failure to account
2 and compensate PLAINTIFF and the Class Members for all hours worked, as described above.
3 DEFENDANTS' failure to pay for all time worked resulted in the underpayment of overtime wages
4 for PLAINTIFF and the Class Members who worked more than eight (8) hours in a day, more than
5 forty hours in a week and/or seven (7) consecutive days in a workweek.

6 38. Based on further information and belief, DEFENDANTS failed to pay proper
7 overtime rates to Class Members for all overtime worked due to, including but not limited to,
8 DEFENDANTS' failure to account for overtime hours worked during overnight shifts and/or
9 DEFENDANTS' failure to incorporate all forms of non-discretionary compensation, including but
10 not limited to, shift differential pay, multiple rates of regular pay during the same pay period and or
11 non-discretionary bonus pay, into the regular pay rate for purposes of calculating the owed overtime
12 rate, resulting in the underpayment of overtime wages.

13 39. DEFENDANTS' conduct described above is in violation of California Labor Code
14 sections 510 and 1194 and all applicable Industrial Wage Commission Wage Orders.

15 40. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
16 wages, plus attorney's fees and costs, in an amount to be proved.

17 **THIRD CAUSE OF ACTION**
18 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
19 **(Against all DEFENDANTS)**

20 41. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

21 42. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
22 DEFENDANT was required to provide PLAINTIFF and the Class Members with one thirty-minute
23 meal period free from all duties and employer control for all shifts longer than five (5) hours, and a
24 second thirty-minute meal period free from all duties for all shifts longer than ten hours. Meal
25 periods can be waived, but only under the following circumstances: (1) if an employee's total work
26 period in a day is over five (5) hours but no more than six (6) hours, the required meal period may
27 be waived by mutual consent of the employer and employee, and (2) if an employee's total work
28 period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal
period may be waived by mutual consent of the employer and employee, but only if the first meal

1 period was not waived. Employers covered by the Wage Orders have an obligation to both (1)
2 relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to
3 record having done so. If the employer fails to properly record a valid meal period, it is presumed
4 no meal period was provided.

5 43. PLAINTIFF and the Class Members were consistently unable to take timely, off
6 duty, thirty-minute, uninterrupted meal periods as they were forced to take late meal periods and/or
7 work through part or all of their meal periods due to the nature and constraints of their job duties
8 and or commentary from DEFENDANTS pressuring them to take non-compliant breaks or skip
9 breaks completely.

10 44. DEFENDANTS had and continue to have a continuous policy of failing to relieve
11 PLAINTIFF and the Class Members of all duties and employer control during any meal periods/for
12 the purpose of taking meal periods. For example, PLAINTIFF and the Class Members were required
13 to remain on the worksite premises and monitor work communication devices at all times during
14 their shifts, including during any purported meal periods. PLAINTIFF and the Class Members were
15 unable to take compliant meal periods due to having to constantly attend to residents'/patients' needs
16 and respond to any and all work situations that arose during their shifts, including during any
17 purported meal periods.

18 45. PLAINTIFF is further informed and believes and thereon alleges that
19 DEFENDANTS had actual or constructive knowledge that its policies and practices that required
20 Class Members to always remain on duty and under employer control during their shifts resulted in
21 the denial of compliant meal periods to Class Members, in violation of California's meal period
22 laws.

23 46. DEFENDANTS did not pay PLAINTIFF and the Class Members an additional hour
24 of wages at their regular rate(s) of pay for each workday a compliant meal period was not provided.
25 DEFENDANTS either failed to pay a meal period premium at all for each workday a proper meal
26 period was not provided or failed to pay the proper meal period premium for failure to incorporate
27 all non-discretionary compensation, including but not limited to, shift differential pay, multiple
28

1 regular pay rates paid during the same pay period and or non-discretionary bonus pay into the regular
2 pay rate used to calculate the owed meal period premium.

3 47. DEFENDANTS failed to provide PLAINTIFF and the Class Members with all
4 required meal periods, or with proper compensation in lieu thereof. As a result, under Labor Code
5 section 226.7, PLAINTIFF and the Class Members are entitled to one additional hour's pay at the
6 proper premium pay rate for each day a meal period was missed/on duty, late or interrupted, all in
7 an amount to be proved at trial.

8 **FOURTH CAUSE OF ACTION**
9 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
10 **(Against all DEFENDANTS)**

11 48. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

12 49. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
13 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
14 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
15 "insofar as practicable." The rest period requirement obligates employers to permit and authorize
16 employees to take off-duty rest periods, meaning employers must relieve employees of all duties
17 and relinquish control over how employees spend their time. *Augustus v. ABM Security Services,*
18 *Inc.*, (2016) 5 Cal.5th 257. If the employer fails to provide any required rest period, the employer
19 must pay the employee one hour of pay at the employee's regular rate of compensation for each
20 workday the employer did not provide at least one legally required rest period, pursuant to Labor
21 Code section 226.7.

22 50. PLAINTIFF and the Class Members did not receive compliant, timely, net, ten-
23 minute rest periods every four (4) hours worked or major fraction thereof. Any purported rest
24 periods would be interrupted, cut short, on duty, and or late due to the nature constraints of their job
25 duties and or commentary from DEFENDANTS pressuring them to skip breaks completely/take
26 non-compliant breaks. PLAINTIFF and the Class Members were pressured to attend to
27 clients'/residents' needs throughout their shifts such that rest breaks were only taken once tasks
28 were completed/if time permitted, were always on duty and rarely, if ever, uninterrupted, timely,
and or a net ten minutes in length. Based on information and belief, PLAINTIFF and other Class

1 Members were required to monitor clients/residents for at least twelve hours straight without ever
2 being relieved of their duties/free of DEFENDANTS' control.

3 51. DEFENDANT implemented policies and practices that failed to relieve PLAINTIFF
4 and the Class Members of all duties and employer control during rest periods. For example,
5 DEFENDANTS had a uniform policy and practice of requiring PLAINTIFF and the Class Members
6 to always remain tethered to the worksite/their immediate work areas and to always monitor a work
7 communication device during their shifts, including during any rest periods, in violation of
8 California law. See, e.g., *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.
9 DEFENDANTS had no policy in place nor instruction as to the taking or timing of rest periods.
10 PLAINTIFF and other Class Members were regularly denied owed first, second, and third rest
11 periods. PLAINTIFF and the Class Members were never paid a rest period premium for any missed
12 or improper rest period.

13 52. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
14 hour of additional pay at the regular rate of compensation for each workday that a require rest
15 periods was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
16 Order, plus pre-judgment interest.

17 **FIFTH CAUSE OF ACTION**
18 **Failure to Furnish Accurate Itemized Wage Statements**
19 **(Against all DEFENDANTS)**

20 53. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

21 54. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
22 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
23 wage statement accurately stating the following:

24 (1) gross wages earned, (2) total hours worked by the employee,
25 except for any employee whose compensation is solely based on a
26 salary and who is exempt from payment of overtime under
27 subdivision (a) of Section 515 or any applicable order of the Industrial
28 Welfare Commission, (3) the number of piece-rate units earned and
any applicable piece rate if the employee is paid on a piece-rate basis,
(4) all deductions, provided that all deductions made on written orders
of the employee may be aggregated and shown as one item, (5) net
wages earned, (6) the inclusive dates of the period for which the
employee is paid, (7) the name of the employee and his or her social

1 security number, except that by January 1, 2008, only the last four
2 digits of his or her social security number or an employee
3 identification number other than a social security number may be
4 shown on the itemized statement, (8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in
effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.

5 55. DEFENDANTS failed to provide PLAINTIFF and other Class Members with
6 accurate wage statements that complied with Labor Code section 226. Wage statements provided
7 by DEFENDANTS do not accurately reflect, *inter-alia*, the total hours worked for the pay period.
8 Wage statements provided by DEFENDANTS fail to indicate the "total hours worked" by
9 PLAINTIFF and other Class Members due to, including but not limited to, DEFENDANTS' time-
10 rounding practices, payment according to scheduled hours worked rather than actual hours worked,
11 failure to relieve employees of all duties and employer control during any unpaid meal periods and
12 policies and practices that mandated pre-shift and post-shift off-the-clock work, as described herein.
13 As a result, the wage statements provided to PLAINTIFF and other Class Members were not
14 accurate and do not include all of the statutorily required information, such as, but not limited to,
15 the total hours worked. Accordingly, DEFENDANTS violated Labor Code section 226.

16 56. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and the
17 Class Members with proper, itemized wage statements as any wage statements provided by
18 DEFENDANTS do not accurately reflect, *inter-alia*, the total hours worked per pay period.

19 57. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
20 Members have suffered injury. The absence of accurate information on their wage statements has
21 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
22 mathematical computations to determine the amount of wages owed, and will cause difficulty and
23 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
24 submission of inaccurate information about wages and amounts deducted from wages to state and
25 federal government agencies. As a result, PLAINTIFF and the Class Members are required to
26 participate in this lawsuit and create more difficulty and expense for PLAINTIFF and the Class
27 Members from having to reconstruct time and pay records than if DEFENDANTS had complied
28 with its legal obligations.

1 58. Pursuant to California Labor Code section 226(e), PLAINTIFF and the Class
2 Members are entitled to recover fifty dollars per employee for the initial pay period in which a
3 Section 226 violation occurred and one hundred dollars per employee per violation for each
4 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars per employee.

5 59. Pursuant to California Labor Code section 226(h), PLAINTIFF and the Class
6 Members are entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance
7 with California Labor Code section 226(a). Injunctive relief is warranted because DEFENDANTS
8 continue to provide currently employed Class Members with inaccurate wage statements or no wage
9 statements at all in violation of California Labor Code section 226(a). Currently employed Class
10 Members have no adequate legal remedy for the continuing injuries that will be suffered as a result
11 of DEFENDANTS' ongoing unlawful conduct. Injunctive relief is the only remedy available for
12 ensuring DEFENDANTS' compliance with California Labor Code section 226(a).

13 60. Pursuant to California Labor Code sections 226(e) and 226(h), PLAINTIFF and the
14 Class Members are entitled to recover the full amount of penalties due under Section 226(e),
15 reasonable attorneys' fees, and costs of suit.

16 **SIXTH CAUSE OF ACTION**
17 **Failure to Timely Pay All Wages Due Upon Separation of Employment**
18 **(Against all DEFENDANTS)**

19 61. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.
20 California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges
21 an employee, the wages earned and unpaid at the time of discharge are due and payable
22 immediately."

23 62. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
24 employee not having a written contract for a definite period quits his or her employment, his or her
25 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
26 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
27 to his or her wages at the time of quitting."

28 63. DEFENDANTS failed to timely pay PLAINTIFF and the Class Members all wages

1 that were due and owing upon termination or resignation, as described herein. Upon separation of
2 employment, DEFENDANTS failed to timely furnish PLAINTIFF and the Class Members with
3 their final paychecks containing all earned and unpaid minimum wages, overtime wages, and all
4 paid time off at the properly accrued rates. Based on information and belief, the final paychecks
5 were not provided upon separation of employment within the time limits prescribed by California
6 law and any final paychecks provided were devoid of all earned and unpaid wages, including but
7 not limited to, all earned and unpaid minimum wages, all earned and unpaid overtime wages, and
8 all accrued paid time off at the properly accrued rates.

9 64. DEFENDANTS willfully failed to timely pay all wages upon separation of
10 employment because DEFENDANTS failed to provide sick leave/paid time off in lieu thereof at all
11 or failed to pay it at the properly accrued rates due to DEFENDANTS' failure to account for true
12 hours worked and or failure to incorporate all non-discretionary compensation into any sick leave
13 rate calculation.

14 65. Under Labor Code section 203, PLAINTIFF and the Class Members who no longer
15 are employed with DEFENDANTS are entitled to recover waiting time penalties of up to 30 days'
16 pay, plus attorney's fees and costs, in an amount to be proved at trial.

17 **SEVENTH CAUSE OF ACTION**
18 **Failure to Reimburse Business Expenses**
19 **(Against Defendant 805 ANGELS, LLC and DOES 1-100, Inclusive)**

20 66. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

21 67. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
22 were entitled to be reimbursed for all reasonable expenses associated with carrying out orders by
23 their employer and/or carrying out the duties assigned by their employers.

24 68. Among other things, under California law, when employees must use their personal
25 cellphones for work-related purposes, the employer must reimburse them for a reasonable
26 percentage of their cell phone bills. See *Cochran v. Schwan's Home Services, Inc.* (2014) 228
27 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
28 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
Id. 1144-1145.

1 69. PLAINTIFF and the Class Members were improperly required to pay for business
2 expenses that are legally the responsibility of the employer, including but not limited to, data plan
3 charges/other expenses incurred due to being required to use their personal cellphones/other
4 personal mobile communication devices to perform their job duties, such as but not limited to, for
5 communicating with management about work scheduling/tasks and or to clock in and out for their
6 shifts and to download an app DEFENDANTS required they download on their personal devices.
7 DEFENDANTS also required PLAINTIFF and the Class Members to use their personal vehicles
8 for work, for example, for driving DEFENDANTS' clients to and from doctors' appointments,
9 without reimbursing PLAINTIFF and the Class Members for these personal vehicle expenses (e.g.,
10 for gas, mileage, vehicle wear and tear) they incurred as a direct consequence of the discharge of
11 their job duties.

12 70. DEFENDANTS were required to compensate PLAINTIFF and the Class Members
13 at the Internal Revenue Service (IRS) mandated per mile compensation for the relevant time period
14 yet failed to do so.

15 71. DEFENDANTS failed to provide any reimbursement at all or any amount offered as
16 reimbursement fell far below the amount paid out of pocket/expenses incurred by PLAINTIFF and
17 the Class Members.

18 72. DEFENDANTS' failure to provide PLAINTIFF and the Class Members with full
19 reimbursement for all reasonable expenses associated with carrying out their duties required that
20 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
21 violation of Labor Code section 2802.

22 73. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
23 Members have suffered injury in that they were not completely reimbursed as mandated by
24 California law.

25 74. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
26 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
27 attorneys' fees, and costs of suit.
28

EIGHTH CAUSE OF ACTION
Unfair Competition
(Against all DEFENDANTS)

75. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

76. The unlawful conduct of DEFENDANTS alleged herein constitutes unfair competition within the meaning of California Business and Professions Code section 17200. This unfair conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS' failure to pay minimum and overtime wages by virtue of its illegal policies and practices; DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized wage statements; DEFENDANTS' failure to provide paid sick leave at the properly accrued rates; DEFENDANTS' failure to reimburse business expenses; and DEFENDANTS' failure to timely pay all wages due during and upon separation of employment.

77. Due to DEFENDANTS' unfair and unlawful business practices in violation of the California Labor Code, DEFENDANTS have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to authorize or permit rest and meal periods or pay proper meal and rest period premiums in lieu thereof, to provide proper notice and properly accrue and pay sick time benefits, to provide complete and accurate itemized wage statements, to reimburse employees for all business expenses, to pay all owed minimum and overtime wages, and to pay all wages due during and upon separation of employment of their employees.

78. DEFENDANTS engaged in unfair and unlawful business practices in violation of the California Labor Code and thereby engaged in unfair competition in violation of Business and Professions Code section 17200, et seq. by failing to properly record and pay PLAINTIFF and other Class Members all owed sick time benefits or paid time off in lieu thereof as required under California paid sick leave laws. DEFENDANTS failed to pay PLAINTIFF and other Class Members sick leave benefits at the properly accrued rates due to, including but not limited to, DEFENDANTS' failure to base the accrued sick leave on the correct number of hours worked as a result of

1 DEFENDANTS' time-rounding policies and practices, payment according to scheduled hours
2 worked and or other policies and practices requiring off-the-clock work, as described herein.

3 79. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
4 and the Class Members have suffered injury in fact and lost money or property, as described in more
5 detail above. Pursuant to California Business and Professions Code section 17200, et seq.,
6 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
7 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of its
8 unlawful and unfair business practices.

9 80. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
10 Members, enjoining DEFENDANTS and any and all persons acting in concert with it from engaging
11 in each of the unlawful practices and policies set forth herein.

12 **NINTH CAUSE OF ACTION**
13 **Violation of the Private Attorneys General Act of 2004**
14 **(Against All DEFENDANTS)**

15 81. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

16 82. PLAINTIFF brings this cause of action under the Private Attorneys General Act of
17 2004, Labor Code sections 2698, et seq., ("PAGA"), as a representative action on behalf of the State
18 of California and Aggrieved Employees (defined below), regarding violations of the Labor Code as
19 to all similarly aggrieved individuals employed by DEFENDANTS in the State of California as a
20 non-exempt employee. This cause of action is brought solely pursuant to PAGA and seeks no relief
beyond that available under PAGA.

21 83. Under Labor Code section 2699.3, the Labor and Workforce Development Agency
22 ("LWDA") must give written notice by certified mail to the parties that it intends to investigate the
23 alleged violations within 65 days of the date of PLAINTIFF's written notice. PLAINTIFF has
24 complied with the administrative exhaustion procedures for bringing suit specified in Labor Code
25 sections 2699.3 and 2699.5. PLAINTIFF gave timely written notice by certified mail to
26 DEFENDANTS of the violation of various provisions of the California Labor Code as alleged in
27 this complaint and filed notice of the violations online with the LWDA. On October 28, 2021,
28 PLAINTIFF filed PLAINTIFF's notice with the LWDA ("PAGA Notice") and sent DEFENDANTS

1 the PAGA Notice via certified mail. The LWDA assigned PLAINTIFF the following case number:
2 LWDA-CM-850275-21. Attached hereto as **Exhibit 1** is a true and correct copy of PLAINTIFF's
3 PAGA Notice.

4 84. The LWDA did not provide notice of its intention to investigate PLAINTIFF's claims
5 on behalf of the State of California and the Aggrieved Employees after expiration of the 65-day
6 waiting time period, or at any time. To the extent any of the alleged violations were curable,
7 DEFENDANTS failed to cure within the time allotted by PAGA. Accordingly, PLAINTIFF has
8 exhausted the administrative remedies as required by Labor Code section 2699.3. Consequently,
9 PLAINTIFF's right to file the instant lawsuit has duly accrued.

10 85. PLAINTIFF is an "aggrieved employee" as that term is defined under the Labor Code
11 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
12 limitations period and suffered one or more of the Labor Code violations set forth herein.
13 Accordingly, PLAINTIFF seeks to recover on behalf of herself, the State of California, and all
14 Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorneys' fees and
15 costs.

16 86. PLAINTIFF has standing to bring a PAGA action on behalf of the defined
17 Aggrieved Employees, as she was employed by DEFENDANTS and affected by one or more
18 of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th
19 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations committed by
20 the employer – regardless of whether PLAINTIFF experienced all violations personally. *Id.* at 760-
21 761.

22 87. PLAINTIFF brings this action on behalf of PLAINTIFF and all similarly aggrieved
23 employees. The "Aggrieved Employees" shall be defined as follows: "all non-exempt workers
24 employed by DEFENDANTS in California at any time from one year and sixty-five days prior to
25 the filing of the initial complaint through the present."

26 88. From one year prior to PLAINTIFF's filing of the required PAGA notice with the
27 LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated the California
28 Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 233, 234, 245-248.5, 432.5, 432.7,

1 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.3, 1199, 1450-1454, 2802,
2 2810.5, and all relevant sections of the applicable Wage Orders, as to PLAINTIFF and all Aggrieved
3 Employees employed by DEFENDANTS as non-exempt employees. These violations subject
4 DEFENDANTS to civil penalties as set forth in the foregoing statutes as well as other
5 provisions of the Labor Code, including without limitation, Labor Code sections 203, 210,
6 225.5, 226, 226.3, 256, 558, 558.1, 1174.5, 1197.1 and 2699.

7 89. **Unpaid Minimum and Overtime Wages.** At all times relevant to this Complaint,
8 Labor Code section 1194 was in full force and effect and required that DEFENDANTS' employees
9 in California be paid for all hours worked, up to forty per week or eight per day, at a regular time
10 rate no less than the mandated minimum wage.

11 90. Effective January 1, 2017, the California minimum wage rate for employers with 26
12 employees increased to \$10.50 per hour. On January 1, 2018, this rate was increased to \$11.00 per
13 hour. On January 1, 2019, this rate was increased to \$12.00 per hour. On January 1, 2020, this rate
14 was increased again to \$13.00 per hour. Finally, on January 1, 2021, this rate was increased again
15 to \$14.00 per hour and is scheduled to increase to \$15.00 per hour on January 1, 2022.

16 91. "Employer" means "any person who directly or indirectly, or through an agent or
17 any other person, employs or exercises control over the wages, hours, or working conditions of any
18 person." Cal. Lab. Code section 1182.12(b)(3).

19 92. At all times relevant to this complaint, DEFENDANTS were an employer who
20 employed 26 or more employees.

21 93. Pursuant to Cal. Labor Code section 510 and all applicable IWC Wage Orders,
22 section 3, employees in California must be paid overtime, equal to one and a half (1.5) times the
23 employee's regular rate of pay, for all hours worked in excess of forty (40) per week or eight (8) per
24 workday and must be paid double the regular hourly rate of pay for each hour worked beyond twelve
25 (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
26 consecutive day of work in a work week, unless they are exempt.

27 94. PLAINTIFF and all Aggrieved Employees were non-exempt employees who
28

1 regularly worked time for which they were not compensated, resulting in unpaid minimum wages
2 as well as unpaid overtime wages for those Aggrieved Employees who worked more than forty (40)
3 hours per week or more than eight (8) hours in a workday or seven (7) consecutive days in a
4 workweek. Aggrieved Employees who worked more than twelve hours in a workday or more than
5 eight (8) hours on the seventh consecutive day of work in a workweek were also denied “double
6 time” wages due to, including but not limited to, DEFENDANTS’ failure to relieve Aggrieved
7 Employees of all duties during any unpaid meal periods, rounded time entries and payment of wages
8 according to scheduled hours worked rather than actual time worked and other policies and practices
9 mandating off-the-clock work as described herein.

10 95. PLAINTIFF and other Aggrieved Employees were not paid for all hours worked
11 because of DEFENDANTS’ failure to relieve Aggrieved Employees of all duties during unpaid
12 meal periods, payment of wages based on scheduled hours and not actual hours worked, and/or
13 rounded time entries and other policies and practices mandating off-the-clock work as described
14 herein. Based on information and belief, DEFENDANTS had and continue to have a continuous
15 policy of rounding Aggrieved Employees time punches, including but not limited to, shift start and
16 end time punches. On information and belief, this policy favored DEFENDANTS more often than
17 not, resulting in significant uncompensated time worked by Aggrieved Employees. Based on
18 information and belief, DEFENDANTS had and continue to have a continuous policy of paying
19 Aggrieved Employees for scheduled hours, rather than the time actually reflected on Aggrieved
20 Employees’ time records/actual time worked. This regular performance of off-the-clock work
21 resulted in the underpayment of minimum wages owed to Aggrieved Employees, the underpayment
22 of overtime wages for those Aggrieved Employees who worked more than eight (8) hours per
23 workday or more than forty per week, the underpayment of “double time” wages for those
24 Aggrieved Employees who worked more than twelve (12) hours per workday or more than eight (8)
25 hours on the seventh consecutive day of work, as well as record-keeping violations.

26 96. Based on information and belief, DEFENDANTS further violated California’s
27 overtime wage laws by, including but not limited to, not paying overtime rates for overtime worked
28 on overnight shifts and failing to incorporate all non-discretionary compensation, including but not

1 limited to, non-discretionary bonus compensation and or multiple regular rates of pay earned during
2 a pay period and or shift differential pay, into the regular pay rate used to calculate the overtime rate
3 of pay. Failing to include non-discretionary compensation in the regular pay rate resulted in a
4 miscalculation of the overtime wage rate, resulting in the underpayment of overtime wages owed to
5 Aggrieved Employees.

6 97. Based on information and belief, DEFENDANTS misclassified Aggrieved
7 Employees as “personal attendants” to avoid paying overtime compensation for all time worked
8 beyond eight (8) hours in a day and beyond forty hours in a week and instead only pay overtime
9 compensation for time worked nine (9) hours in a day or forty-five hours in a week, resulting in the
10 underpayment of overtime wages.

11 98. Based on information and belief, Aggrieved Employees who worked as in-home
12 caregivers, qualified as domestic workers not subject to any overtime exemption under the Industrial
13 Wage Commission Orders. Aggrieved Employees’ job duties included, but were not limited to,
14 feeding, dressing, and supervising the patient, doing laundry, doing dishes, straightening up the
15 residences, and light dusting/cleaning. Based on information and belief, Aggrieved Employees
16 typically spent more than twenty percent of their work shifts performing these housekeeping/non-
17 personal-attendant duties. Accordingly, Aggrieved Employees were not subject to any overtime
18 exemption identified in the Industrial Wage Commission Orders such that DEFENDANTS were
19 required to pay overtime compensation for all time worked beyond eight (8) hours in a day and
20 beyond forty hours in a week, which DEFENDANTS failed to do.

21 99. **Meal Breaks.** Under Labor Code sections 226.7, 512, and the applicable IWC Wage
22 Orders, DEFENDANTS were required to provide PLAINTIFF and the Aggrieved Employees with
23 one thirty (30) minute meal break free from all duties for all shifts greater than five (5) but less than
24 ten (10) hours in length, and a second thirty (30) minute meal break free from all duties for all shifts
25 of ten (10) hours or more. The first meal period must be provided before the end of the fifth hour of
26 work and the second meal period before the end of the tenth hour of work. Employers covered by
27 the Wage Orders have an obligation to both (a) relieve their employees for at least one meal period
28 for shifts over five hours, and (b) to record having done so. If the employer fails to properly record

1 a compliant meal period, it is presumed no meal period was provided. PLAINTIFF and other
2 Aggrieved Employees were not provided timely, off-duty, uninterrupted thirty-minute meal periods.
3 PLAINTIFF and other Aggrieved Employees consistently worked shifts of five and one half (5 ½)
4 hours or more. PLAINTIFF and other Aggrieved Employees would not receive a single thirty-
5 minute meal break. DEFENDANTS did not provide PLAINTIFF and other Aggrieved Employees
6 with proper meal breaks. After five (5) hours of work, PLAINTIFF and other Aggrieved Employees
7 would be required to work through their meal periods. Moreover, PLAINTIFF and other Aggrieved
8 Employees consistently worked shifts of more than ten hours without being provided an
9 uninterrupted, off-duty, thirty-minute meal period before the end of the tenth hour of work. Despite
10 not providing PLAINTIFF and other Aggrieved Employees with the first and second meal breaks
11 to which they were legally entitled, DEFENDANTS did not pay any premiums for these missed
12 meal breaks in violation of California law or failed to pay the proper meal period premium for failure
13 to incorporate all non-discretionary compensation, including but not limited to, non-discretionary
14 bonus pay and or shift differential pay into the regular rate for purposes of calculating the owed
15 meal period premium.

16 100. **Rest Breaks.** PLAINTIFF and other Aggrieved Employees did not receive
17 compliant, net, ten (10)-minute rest periods for every four (4) hours worked (or major fraction
18 thereof), as required by Labor Code 226.7 and the applicable IWC Wage Orders. PLAINTIFF and
19 other Aggrieved Employees regularly worked more than three-and-one-half (3½) hours without
20 being authorized or permitted to take a paid, net, ten (10) minute rest period. DEFENDANTS
21 required PLAINTIFF and other Aggrieved Employees to continuously work without authorizing or
22 providing paid rest periods. Any purported rest periods were interrupted, cut short, on duty, and or
23 late due to the nature and constraints of the Aggrieved Employees' job duties and or commentary
24 from DEFENDANTS pressuring the Aggrieved Employees to skip rest breaks completely/take non-
25 compliant rest breaks. PLAINTIFF and other Aggrieved Employees were unable to avail themselves
26 of their rest breaks for various reasons, including but not limited to, pressure to attend to a work task
27 immediately and/or complete their work duties according to a schedule designated by
28 DEFENDANTS that prohibited the taking of compliant rest periods. Rest periods were only taken

1 once jobs were completed/if time permitted. DEFENDANTS implemented policies and practices
2 that failed to relieve Aggrieved Employees of all duties and employer control during rest periods.
3 Per DEFENDANTS' uniform policy and practice, DEFENDANTS required Aggrieved Employees
4 to remain tethered to their worksites and work communication devices during any rest periods,
5 rendering any purported rest periods on duty or otherwise noncompliant with California law. See
6 *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257. DEFENDANTS did not have a
7 compliant rest period policy in place regarding the taking, proper timing, or duty-free nature of rest
8 periods. PLAINTIFF and other Aggrieved Employees were never paid a rest period premium at
9 their respective regular rates of pay for each day an owed rest period was not provided.

10 101. **Inaccurate Wage Statements.** California Labor Code section 226 and the applicable
11 IWC Wage Order provides that, at the time of each payment of wages, the employer must provide
12 each employee with an itemized statement showing, inter alia, gross wages earned, total hours
13 worked, all deductions taken, net wages earned, the inclusive dates for which the employee is being
14 paid, the employee's name and last four digits of their social security number, the name and address
15 of the legal entity that it is the employer, and all applicable hourly rates in effect during the pay
16 period and all hours worked at each rate.

17 102. DEFENDANTS knew or had reason to know Aggrieved Employees were working
18 during any unpaid meal periods, prior to clocking in/after clocking out/ otherwise working off-the-
19 clock and not being paid for all hours worked. DEFENDANTS knowingly and intentionally failed
20 to provide PLAINTIFF and the Aggrieved Employees with accurate, itemized wage statements as
21 the wage statements provided by DEFENDANTS do not accurately reflect, inter alia, the correct
22 total hours worked. Due to, including but not limited to, DEFENDANTS' time-rounding policies
23 and practices, payment according to scheduled hours rather than actual hours worked, and other
24 mandated off-the-clock work policies and practices described herein, DEFENDANTS' wage
25 statements fail to reflect the true total hours worked by PLAINTIFF and the Aggrieved Employees
26 worked, as required under Labor Code section 226. Accordingly, DEFENDANTS have violated
27 Labor Code section 226.

28 103. **Record Keeping.** California Labor Code sections 226 and 1174 require employers

1 to keep "accurate and complete" payroll records showing, among other things, the hours worked
2 daily by all non-exempt employees. Section 7 of all applicable IWC Wage Orders similarly requires
3 employers to keep time records showing, inter alia, when the employees begin and end each work
4 period and reflecting the true start and end times during which all owed meal periods are provided
5 each day. At all relevant times, DEFENDANTS have failed, and continues to fail, to keep the
6 required time records, as DEFENDANTS have failed to record the true start and end times of
7 PLAINTIFF's and the Aggrieved Employees' workdays and failed to record employee meal periods.
8 DEFENDANTS' failure to keep "accurate and complete" payroll records for PLAINTIFF and the
9 Aggrieved Employees violates Labor Code sections 1174, 1198-99, and Section 7 of all applicable
10 IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under the Labor
11 Code, including without limitation sections 1174.5 and 2699. Each violation of each Labor Code
12 section and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.

13 **104. Untimely Wages at Termination.** Labor Code section 201 requires employers to
14 pay all wages earned and unpaid at the time of discharge, immediately upon discharge, and Labor
15 Code section 202 extends those provisions to employees who resign. For all Aggrieved Employees
16 no longer employed by DEFENDANTS, DEFENDANTS have an ongoing failure to pay such
17 aggrieved employees all wages earned and unpaid at the time of discharge or resignation, due to
18 DEFENDANTS' failure to pay, inter alia, all owed minimum wages, overtime wages, vacation pay
19 and all paid time off at the properly accrued rates. These violations subject DEFENDANTS to civil
20 penalties under the Labor Code, including without limitation Labor Code sections 203, 256 and
21 2699. Each violation results in a separate civil penalty, for each Aggrieved Employee for each pay
22 period during which the statutory provisions were violated.

23 **105. Refusal to Pay Wages Due.** Labor Code section 216 declares unlawful an
24 employer's refusal to pay wages due and payable and/or an employer's denial of the validity of any
25 claim to wages due. DEFENDANTS have violated this section by, inter-alia, failing to pay
26 PLAINTIFF and the Aggrieved Employees for all hours worked at the proper wage rate and by
27 failing to pay PLAINTIFF and the Aggrieved Employees an additional hour of premium wages for
28 each meal or rest period not provided/that was invalid. These violations subject DEFENDANTS to

1 civil penalties under Labor Code section 225.5. Each violation results in a separate civil penalty, for
2 each aggrieved employee, for each pay period during which the statute provisions were violated.

3 106. **Statutory Wage Violations.** California Labor Code section 223 makes it unlawful
4 for an employer to secretly pay wages lower than required by statute while purporting to pay legal
5 wages. As described above, DEFENDANTS willfully and systematically denied the Aggrieved
6 Employees minimum and overtime wage compensation for all hours worked which resulted in the
7 payment of less than statutorily required wages to them. DEFENDANTS acted with the intent to
8 deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages,
9 to which they were entitled to under California law.

10 107. **Unreimbursed Business Expenses.** Based on information and belief,
11 DEFENDANTS regularly failed to reimburse and indemnify Aggrieved Employees for business
12 expenses, including but not limited to, costs associated with being required to use their personal cell
13 phones/other mobile devices as well as personal vehicles for work. Pursuant to Labor Code section
14 2802, Aggrieved Employees were entitled to be reimbursed for all reasonable expenses associated
15 with carrying out their job duties. Aggrieved Employees were improperly required to pay for
16 business expenses that are supposed to be the responsibility of the employer, including but not
17 limited to, cell phone/data plan charges stemming from being required to use their personal
18 cellphones/other mobile devices to communicate with management and or DEFENDANTS' clients,
19 to download apps DEFENDANTS required Aggrieved Employees download, or otherwise perform
20 their job duties. Among other things, under California law, when employees must use their personal
21 cellphones for work-related purposes, the employer must reimburse them for a reasonable
22 percentage of their cell phone bills. See *Cochran v. Schwan's Home Services, Inc.* (2014) 228
23 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
24 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
25 *Id.* 1144-1145. PLAINTIFF and other Aggrieved Employees were improperly required to use their
26 personal cellphones to communicate and conduct work-related activities, such as but not limited to,
27 to send and receive text messages and or calls from DEFENDANTS regarding, e.g., work
28 scheduling/tasks and or to clock in and out for their shifts and download apps DEFENDANTS

1 required they download on their personal devices. DEFENDANTS also required PLAINTIFF and
2 other Aggrieved Employees to use their personal vehicles for work, for example, for driving
3 DEFENDANTS' clients to and from doctors' appointments, without reimbursing PLAINTIFF and
4 other Aggrieved Employees for these personal vehicle expenses (e.g., for gas, mileage, vehicle wear
5 and tear) they incurred as a direct consequence of the discharge of their job duties. Based on
6 information and belief, DEFENDANTS required Aggrieved Employees to undergo Covid-related
7 testing without reimbursing Aggrieved Employees for the costs associated therewith, including but
8 not limited to, vehicle-related expenses incurred in traveling to the testing site(s). As a pattern and
9 practice, DEFENDANTS regularly failed to reimburse and indemnify Aggrieved Employees for
10 business expenses. Pursuant to California Labor Code section 2802, Aggrieved Employees were
11 entitled to be reimbursed for all reasonable expenses associated with carrying out orders by their
12 employer and/or carrying out the duties assigned by their employer. DEFENDANTS' failure to
13 provide Aggrieved Employees with full reimbursement for all reasonable expenses associated with
14 carrying out their duties required that Aggrieved Employees subsidize and/or carry the burden of
15 business expenses in violation of Labor Code section 2802.

16 108. **Background Check Violations/Unlawful Agreements:** In addition to the above
17 requirements, the California Labor Code places certain procedural and substantive limits on
18 employers' ability to conduct employee background checks and on how employers can use the
19 information they obtain through these background checks. Upon information and belief,
20 DEFENDANTS required PLAINTIFF and the Aggrieved Employees to submit or agree to submit
21 to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding
22 employment in violation of Labor Code sections 1024.5, 432.7, and/or 432.5. Based on information
23 and belief, DEFENDANTS also required PLAINTIFF and the Aggrieved Employees to agree in
24 writing to unlawful background checks not in conformance with the requirements of the
25 Investigative Consumer Reporting Agencies Act, Civil Code sections 1786, et seq. ("ICRAA"), and
26 the Fair Credit Reporting Act, 15 U.S.C. sections 1681, et seq. ("FCRA"), and thus required
27 Aggrieved Employees to agree (in writing) to an unlawful background check as a condition of
28 employment, in violation of Labor Code section 432.5. Based on information and belief,

1 DEFENDANTS required PLAINTIFF and the Aggrieved Employees to agree in writing to a
2 background check which failed to abide by the requirements set forth in CA Civil Code section
3 1786, et seq. and 15 U.S.C. section 1681, et seq., by including but not limited to, failing to provide
4 a clear and conspicuous disclosure, failing to provide disclosures free of extraneous information
5 (including but not limited to, information that is solely relevant to applicants from different states),
6 failing to provide a lawful purpose for the background check, failing to provide a summary of rights
7 under the ICRAA and/or the FRCA, failing to provide a way by which the individual could request
8 a copy of the report, and failing to properly obtain authorization or consent to such a background
9 check, and thus was an unlawful background check. Upon information and belief, DEFENDANTS,
10 in violation of California law, including but not limited to, Labor Code section 432.7 and California's
11 Fair Chance Act, asked about arrests not resulting in convictions on its employment application,
12 asked about convictions prior to extending an offer of employment to Aggrieved Employees and/or
13 otherwise impermissibly inquired into criminal history on its employment application in violation
14 of California law. By asking about arrests not resulting in convictions, DEFENDANTS violated
15 Labor Code 432.7. By asking about convictions at the application phase or prior to extending an
16 employment offer, DEFENDANTS violated California's Fair Chance Act, and thereby violated
17 Labor Code 432.5 by unlawfully requiring the Aggrieved Employees to agree in writing to disclose
18 arrests or convictions as a condition of employment. These violations subject DEFENDANTS to
19 civil penalties under the Labor Code, including without limitation Labor Code sections 432.5, 432.7
20 and 2699. Each violation of each Labor Code section and Wage Order provision, for each aggrieved
21 employee, results in a separate civil penalty.

22 109. **Sick Leave Violations:** DEFENDANTS violated California's paid sick leave laws
23 including, Labor Code sections 245-248.5; DEFENDANTS failed to provide proper sick leave to
24 Aggrieved Employees, due to, including but not limited to, DEFENDANTS' failure to account for
25 the actual hours worked by virtue of DEFENDANTS' failure to relieve Aggrieved Employees of all
26 duties and employer control during any unpaid meal periods, mandated pre-shift/post-shift off-the-
27 clock work, payment according to scheduled hours rather than actual time worked and time-
28 rounding policies and practices, as described herein, and or DEFENDANTS' failure to incorporate

all forms of non-discretionary remuneration, including but not limited to, shift differential pay and or non-discretionary bonuses, into the sick pay calculation. DEFENDANTS further failed to put the Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. DEFENDANTS failed to maintain accurate records documenting the hours worked and paid sick days accrued and used by the Aggrieved Employees, in violation of Labor Code section 247.5. DEFENDANTS failed to provide notice of the accrued sick leave amount or balance left for the Aggrieved Employees by failing to provide Aggrieved Employees with a wage statement or separate writing showing the balance of accrued or available sick leave, or paid time off leave provided in lieu of sick leave, on their designated pay dates with the their payment of wages, as required under Labor Code section 246, and thus affected Aggrieved Employees’ intelligent exercise of their paid sick leave. But for this failure, Aggrieved Employees who are no longer employed with DEFENDANTS would have used their paid sick leave at least prior to their respective separations, or on several occasions after receiving notice of the available sick leave.

110. Under the provisions of PAGA and the following Labor Code sections, 201-203, 204, 216, 221-223, 226, 226.7, 233, 234, 245-248.5, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.3, 1199, 1450-1454, 2802, 2810.5, and all relevant sections of the applicable Wage Orders, as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, DEFENDANT is liable for all statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein, or for default PAGA penalties under Labor Code section 2699(f) for any violation of a Labor Code section without a specified civil penalty. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws, PLAINTIFF is entitled to recover civil penalties, costs, plus reasonable attorney's fees and costs, all in an amount to be proved.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment on behalf of herself, the Class Members, the Aggrieved Employees and the State of California, as follows:

1. Certification of the above-described Class as a class action, pursuant to Code of Civil

- 1 Procedure section 382;
- 2 2. Certification of the above-described Class as a representative class under Business and
- 3 Professions Code section 17200, et seq.;
- 4 3. Provision of Class Notice to all non-exempt employees who worked for DEFENDANT
- 5 in California during the Class Period;
- 6 4. A declaratory judgment that DEFENDANT has knowingly and intentionally violated
- 7 the Business and Professions Code sections 17200-17208, by the conduct set forth
- 8 above;
- 9 5. A declaratory judgment that DEFENDANTS' violations as described above were
- 10 willful;
- 11 6. An equitable accounting to identify, locate, and restore to all Class Members the wages
- 12 that are due;
- 13 7. An award to Plaintiff and the Class Members of damages in the amount of unpaid
- 14 minimum wages and overtime wages, including interest thereon, subject to proof at
- 15 trial;
- 16 8. An award to Plaintiff and the Class Members of damages in the amount of unpaid meal
- 17 and rest period premiums, pursuant to Labor Code section 226.7;
- 18 9. An award to Plaintiff and the Class Members of statutory penalties because of
- 19 DEFENDANTS' failure to provide Plaintiff and the Class Members with itemized
- 20 wage statements that comply with the requirements of Labor Code section 226;
- 21 10. An award of payments due to them as waiting time penalties as to those Class
- 22 Members who are no longer employed by DEFENDANT, pursuant to Labor Code
- 23 section 203;
- 24 11. An award of damages to Plaintiff and Class Members for DEFENDANTS' failure to
- 25 reimburse business expenses pursuant to Labor Code section 2802;
- 26 12. An award to Plaintiff and the Class Members of reasonable attorneys' fees and costs,
- 27 pursuant to Code of Civil Procedure section 1021.5 and Labor Code sections 203,
- 28 218.5, 226, 512, 1194, and/or other applicable law;

1 13. For civil penalties according to proof, including PAGA penalties;

2 14. An award to Plaintiff and the Class Members and the Aggrieved Employees of such
3 other and further relief as this Court deems just and proper.
4

5 Dated: January 7, 2022

CROSNER LEGAL, PC

6 By: 
7 Michael R. Crosner, Esq.
8 Zachary M. Crosner, Esq.
9 Blake R. Jones, Esq.

10 Attorneys for Plaintiff,
11 TATIANA EDWARDS

12 **DEMAND FOR JURY TRIAL**

13 PLAINTIFF demands a trial by jury on all claims so triable.
14

15 Dated: January 7, 2022

CROSNER LEGAL, PC

16 By: 
17 Michael R. Crosner, Esq.
18 Zachary M. Crosner, Esq.
19 Blake R. Jones, Esq.
20 Attorneys for Plaintiff,
21 TATIANA EDWARDS
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27
28

EXHIBIT 1



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October 28, 2021

VIA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAfilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

LEGALZOOM.COM, INC.,
Agent for Service of Process for:
805 Angels, LLC
101 N. Brand Blvd. 11th Fl.
Glendale, CA 91203

805 Angels, LLC
5565 Carpinteria Ave #1
Carpinteria, CA 93013

Visiting Angels Santa Barbara

Attn: Human Resources/Legal Department
5565 Carpinteria Ave #1
Carpinteria, CA 93013

Registered Agents Legal Services, LLC,
Agent for Service of Process for:
Living Assistance Services, Inc.
1013 Centre Rd Suite 403S
Wilmington, DE 19805

Zhanna Sherman, Agent for Service of Process for:
Visiting Angels Home Health Care, Inc.
225 E. Broadway, Ste 111
Glendale, California 91205

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency,
805 Angels, LLC, Visiting Angels Santa Barbara, Living Assistance Services, Inc.,
and Visiting Angels Home Health Care, Inc.
Date: October 28, 2021
Subject: *Tatiana Edwards v. 805 Angels, LLC, et al.*

Introduction

This office represents COMPLAINANT, Tatiana Edwards (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: 805 Angels, LLC, Visiting Angels Santa Barbara, Living Assistance Services, Inc., and Visiting Angels Home Health Care, Inc. (hereinafter “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all non-exempt employees employed by EMPLOYER within one year of the date of this notice (“AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via, including but not limited to, its Agent(s) for Service of Process as provided to the California Secretary of State.

This NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C. at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the

provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. If EMPLOYER intends to cure the alleged violations within the statutory time period set forth in sections 2699 and 2699.3(a), the EMPLOYER shall provide notice including a description of actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant to section 2699.

Based on the following summary of the facts and theories upon which COMPLAINANT will base COMPLAINANT's claims, COMPLAINANT requests that the LWDA regard this NOTICE as written notice of COMPLAINANT's intent to seek civil penalties against EMPLOYER. The specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 221-223, 226, 226.7, 245-248.5, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.3, 1199, 1450-1454, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities And Unknown Entities Are Joint Employers of COMPLAINANT and AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of Complainant. By reason of their status as joint employers of COMPLAINANT and AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violation of the California Labor Code and applicable Wage Orders as to COMPLAINANT and other AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated COMPLAINANT and other AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines “other person acting on behalf of an

employer” as “a *natural person* who is an owner, director, officer, or managing agent of the employer.” The “managing agent” definition mirrors that found in California’s punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, “managing agents” are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, the above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER and its managing agents own, operate, or otherwise manage companies that provide home care/caregiving services to seniors. Per EMPLOYER’s website (<https://www.visitingangels.com/about-us>), EMPLOYER has provided senior care services throughout the United States since 1998. While EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California labor law.

COMPLAINANT worked for EMPLOYER from in or about November 2019 until the separation of COMPLAINANT’s employment, on or about November 13, 2020. COMPLAINANT interviewed for her employment at EMPLOYER’s Visiting Angels Santa Barbara facility located at 5565 Carpinteria Ave #1 Carpinteria, CA 93013. COMPLAINANT and similarly AGGRIEVED EMPLOYEES worked primarily in private residences but also worked in assisted living/group facilities they were assigned to work at by EMPLOYER. COMPLAINANT’s shifts varied greatly in length, however, COMPLAINANT typically worked shifts of between two (2) and four (4) hours, five (5) days per week and twelve-hour shifts on Saturdays. EMPLOYER assigned COMPLAINANT to work in a group facility for the twelve-hour Saturday shifts and in private residences for her remaining shifts.

COMPLAINANT and similarly AGGRIEVED EMPLOYEES worked as caregivers. COMPLAINANT and similarly AGGRIEVED EMPLOYEES’ job duties included, but were not limited to, feeding, dressing, and supervising the clients, doing laundry, doing dishes, straightening up the residences, watering plants, and light dusting/cleaning. COMPLAINANT and similarly AGGRIEVED EMPLOYEES typically spent more than twenty percent of their in-home shifts performing housekeeping/non-personal-attendant duties, such as, but not limited to, doing laundry,

dishes, straightening up the residences, watering plants, and light dusting/cleaning. The remainder of the shifts were typically spent attending to the client.

COMPLAINANT and similarly AGGRIEVED EMPLOYEES were paid on an hourly basis but only for time counted by EMPLOYER as hours worked. Based on information and belief, AGGRIEVED EMPLOYEES earned shift differential pay, including but not limited to, for working night and or weekend shifts. At all relevant times, COMPLAINANT and similarly AGGRIEVED EMPLOYEES were hourly-paid, non-exempt employees.

EMPLOYER failed to compensate COMPLAINANT and other AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER'S time-rounding policy and practice and other policies and practices mandating off-the-clock work. Based on information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other AGGRIEVED EMPLOYEES of compensable hours worked because it resulted in understating hours worked. As a result, EMPLOYER failed to pay COMPLAINANT and other AGGRIEVED EMPLOYEES for all hours worked, resulting in the underpayment of minimum and overtime wages owed to COMPLAINANT and other AGGRIEVED EMPLOYEES. Additionally, EMPLOYER required COMPLAINANT and similarly AGGRIEVED EMPLOYEES to undergo Covid testing without compensating COMPLAINANT and similarly AGGRIEVED EMPLOYEES at all for the travel time to the testing site, time spent waiting for the tests to be performed, and time spent undergoing testing, resulting in significant off-the-clock work and the underpayment of minimum and overtime wages owed to COMPLAINANT and similarly AGGRIEVED EMPLOYEES.

Per EMPLOYER's unlawful policies and practices regarding payment of overtime wages, EMPLOYER simply did not pay any overtime premium wage rate(s) to COMPLAINANT and other AGGRIEVED EMPLOYEES for time worked beyond eight (8) hours in a shift, including but not limited to, for twelve-hour in-facility shifts. For COMPLAINANT's twelve-hour Saturday in-facility shifts, EMPLOYER paid COMPLAINANT "straight time" for time worked beyond eight (8) hours, resulting in the underpayment of overtime wages owed COMPLAINANT. COMPLAINANT is informed and believes EMPLOYER applied these same unlawful practices to other AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER further violated California overtime laws by failing to incorporate all non-discretionary compensation, such as, but not limited to, shift differential pay for night and weekend shifts and or multiple regular pay rates and or non-discretionary bonus pay into the overtime pay rate calculation, resulting in the underpayment of overtime wages owed to AGGRIEVED EMPLOYEES.

COMPLAINANT and other AGGRIEVED EMPLOYEES were consistently denied compliant meal and rest periods during the relevant period. EMPLOYER had no mechanism in place for recording the taking/timing of meal periods. EMPLOYER had nothing structured regarding the taking/timing of meal or rest periods. COMPLAINANT and other AGGRIEVED EMPLOYEES were pressured to complete their work tasks according to designated schedules and attend to tasks

and or clients' needs throughout their shifts, such that meal and rest breaks were only taken when time permitted, were always on duty and rarely, if ever, uninterrupted, timely, and or the proper length.

For in-facility shifts, EMPLOYER expressly prohibited the taking of meal and rest periods. During COMPLAINANT's twelve-hour shifts at the group facility, per EMPLOYER's policy, COMPLAINANT was strictly prohibited from ever leaving the client's room during her shifts, including but not limited to, to step away for a few minutes to have something to eat. COMPLAINANT reports one occasion when she was so hungry after working continuously for more than ten hours that she stepped away briefly while another caregiver was attending to the client to quickly eat some food and was scolded by a facility staff member who told COMPLAINANT she was prohibited from leaving the room or eating during her shifts. COMPLAINANT reported this incident to her supervisor who confirmed it was EMPLOYER's policy for COMPLAINANT and similarly AGGRIEVED EMPLOYEES not to eat meals or otherwise take meal or rest breaks when working these long shifts at the assisted living/group facilities.

EMPLOYER failed to properly accrue and pay all owed sick leave wages. EMPLOYER either failed to pay sick leave at all or failed to base the owed sick leave on actual hours worked (due to EMPLOYER's time-rounding/other off-the-clock work policies and practices described herein) and or failed to incorporate all non-discretionary compensation, such as, but not limited to, shift differential pay/multiple regular rates or pay and or non-discretionary bonus pay into the sick leave pay calculation, resulting in the denial of owed sick leave wages.

EMPLOYER further failed to furnish COMPLAINANT and other AGGRIEVED EMPLOYEES with accurate and complete wage statements that complied with Labor Code section 226. Notably, due to EMPLOYER's time-rounding policies and practices, EMPLOYER's wage statements fail to display the true "total hours worked" by AGGRIEVED EMPLOYEES, a requirement of Labor Code section 226; EMPLOYER's failure to issue wage statements reflecting the true "total hours worked" by COMPLAINANT and other AGGRIEVED EMPLOYEES is a stand-alone violation of Labor Code section 226.

EMPLOYER required COMPLAINANT and other AGGREIVED EMPLOYEES to use their personal vehicles to drive between clients' homes and or to take clients to various places (e.g., doctors' offices) during their shifts without reimbursing COMPLAINANT and other AGGRIEVED EMPLOYEES at all for these vehicle-related expenses incurred as a direct consequence of the discharge of their job duties. EMPLOYER required COMPLAINANT and similarly AGGRIEVED EMPLOYEES to undergo Covid testing without providing any reimbursement for vehicle-related expenses incurred in traveling to and from the testing site. EMPLOYER was required to reimburse COMPLAINANT and similarly AGGRIEVED EMPLOYEES for vehicle-related expenses at the Internal Revenue Service (IRS) mandated per mile compensation for the relevant time period, which EMPLOYER failed to do.

EMPLOYER required COMPLAINANT and other AGGRIEVED EMPLOYEES to use their personal cell phones/mobile communication devices to clock in and out for their shifts by calling into EMPLOYER's automated system. COMPLAINANT and other AGGRIEVED EMPLOYEES were also required to use their personal cell phones/mobile communication devices for scheduling/coordinating various activities with clients and clients' family members. COMPLAINANT and other AGGRIEVED EMPLOYEES were not reimbursed in any way for this personal cell phone/mobile communication device use incurred as a direct consequence of the discharge of their job duties.

As a condition of hire/maintaining employment, COMPLAINANT and other AGGRIEVED EMPLOYEES were required to undergo a financial, personal and or criminal background check. Based on information and belief, EMPLOYER failed to comply with the disclosure and formatting requirements of the Investigative Consumer Reporting Agencies Act ("ICRAA") and or the Fair Credit Reporting Act ("FCRA"), and EMPLOYER required COMPLAINANT and other AGGRIEVED EMPLOYEES to sign off on the unlawful background checks, in violation of California Labor Code section 432.5.

In sum, among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and similarly AGGRIEVED EMPLOYEES due to its time-rounding/time-shaving policies and practices and other mandated off-the-clock work described herein; (2) failed and continues to fail to pay COMPLAINANT and similarly AGGRIEVED EMPLOYEES for all hours worked due to EMPLOYER's time-rounding/time-shaving policies and practices and other mandated off-the-clock work described herein; (3) failed and continues to fail to pay employees at least minimum wage for all hours worked and overtime/regular rates for corresponding work due to, including but not limited to, failure to incorporate all non-discretionary compensation such as shift differential pay/non-discretionary bonus pay into the overtime rate calculation; (4) failed and continues to fail to provide COMPLAINANT and similarly AGGRIEVED EMPLOYEES with proper meal or rest breaks, and/or compensate COMPLAINANT and similarly AGGRIEVED EMPLOYEES an additional hour of premium pay for missed/improper meal and/or rest periods; (5) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and similarly AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (6) failed and continues to fail to place COMPLAINANT and similarly AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (7) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and similarly AGGRIEVED EMPLOYEES; (8) made unlawful deductions from COMPLAINANT and similarly AGGRIEVED EMPLOYEES' paychecks; (9) failed and continues to fail to timely pay wages to COMPLAINANT and similarly AGGRIEVED EMPLOYEES during employment and upon separation of employment; (10) failed and continues to fail to reimburse COMPLAINANT and similarly AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (11) conducts illegal background checks as a condition of COMPLAINANT and similarly AGGRIEVED EMPLOYEES' hire or maintaining their employment; and (12) requires COMPLAINANT and similarly AGGRIEVED EMPLOYEES to impermissibly disclose arrests

on their employment applications and sign off on same. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by COMPLAINANT and similarly AGGRIEVED EMPLOYEES. IWC Wage Order 15-2001, section 7 similarly requires employers to keep time records reflecting the times during which all owed meal periods were provided each day.

At all relevant times, EMPLOYER has failed and continues to fail to keep accurate and complete payroll records as required by law.

EMPLOYER has failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and similarly AGGRIEVED EMPLOYEES by virtue of EMPLOYER’s time rounding policies and practices and other mandated off-the-clock work, described herein.

EMPLOYER further failed, and continues to fail, to record the start and end times of COMPLAINANT and similarly AGGRIEVED EMPLOYEES’ meal periods.

EMPLOYER’s failure to keep “accurate and complete” payroll records for COMPLAINANT and similarly AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and Wage Order 15-2001, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.¹

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee’s total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee’s total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”).

second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.*

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. IWC Wage Order 15-2001, section 7(A)(3) (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided”).

Employers must pay employees an additional hour of wages at the employees’ regular rate of pay for each missed or improper (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours) meal period. Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to provide an employee a meal period in accordance with the employee’s regular rate of compensation for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT and similarly AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods and/or work through part or all their meal periods due to the nature and constraints of their job duties and or commentary from supervisors pressuring them to take non-compliant breaks or skip breaks completely.

EMPLOYER had nothing structured regarding the taking/timing of meal periods. COMPLAINANT and other AGGRIEVED EMPLOYEES were pressured to complete their work tasks according to a designated schedule and or attend to the clients’ needs throughout their shifts, such that meal breaks were only taken when time permitted, were always on-duty and rarely, if ever, uninterrupted, timely, and or thirty minutes in length.

EMPLOYER implemented policies and practices that failed to relieve COMPLAINANT and other AGGRIEVED EMPLOYEES of all duties and EMPLOYER’s control during any meal breaks. COMPLAINANT and similarly AGGRIEVED EMPLOYEES were required to remain onsite and attend to their patients throughout their shifts. Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of meal periods owed COMPLAINANT and other AGGRIEVED EMPLOYEES, in violation of California’s meal period laws.

Based on further information and belief, EMPLOYER did not have a written meal break policy nor did EMPLOYER have any sort of compliant policy in practice. Liability for the aggrieved employees can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

EMPLOYER never paid COMPLAINANT and other AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper meal period was not provided. *Brinker, supra*, 53 Cal.4th 1004. EMPLOYER either failed to pay a meal period premium at all for each workday a proper meal period was not provided or failed to pay the proper meal period premium for failure to incorporate all non-discretionary compensation, including but not limited to, shift differential pay and or non-discretionary bonus pay into the regular pay rate for purposes of calculating the owed meal period premium.

COMPLAINANT and other AGGRIEVED EMPLOYEES consistently worked shifts of five and one half (5 ½) hours or more. COMPLAINANT and other AGGRIEVED EMPLOYEES would not receive a single thirty-minute meal break. EMPLOYER did not provide COMPLAINANT and other AGGRIEVED EMPLOYEES with proper meal breaks. After five (5) hours of work, COMPLAINANT and other AGGRIEVED EMPLOYEES would be required to work through their meal periods. Moreover, COMPLAINANT and other AGGRIEVED EMPLOYEES consistently worked shifts of more than ten hours without being provided an uninterrupted, off-duty, thirty-minute meal period before the end of the tenth hour of work. Despite not providing COMPLAINANT and other AGGRIEVED EMPLOYEES with the first and second meal breaks to which they were legally entitled, EMPLOYER did not pay any premiums for these missed meal breaks in violation of California law or failed to pay the proper meal period premium for failure to incorporate all non-discretionary compensation, including but not limited to, non-discretionary bonus pay and or shift differential pay into the regular rate for purposes of calculating the owed meal period premium.

EMPLOYER expressly prohibited the taking of meal periods for in-facility shifts. For example, during COMPLAINANT's twelve-hour shifts at the group facility, COMPLAINANT was strictly prohibited from taking any meal rest periods; per EMPLOYER's policy, COMPLAINANT was strictly prohibited from ever leaving the client/patient's room during her shift, including but not limited to, to step away briefly to have something to eat. COMPLAINANT reports one occasion when she was so hungry after working continuously for more than ten hours that she stepped away briefly while another caregiver was attending to the client to quickly eat some food and was scolded by a facility staff member who told COMPLAINANT she was prohibited from leaving the room or eating during her shifts. COMPLAINANT reported this incident to her supervisor, who confirmed that it was EMPLOYER's policy for COMPLAINANT and similarly AGGRIEVED EMPLOYEES not to eat meals or otherwise take meal periods when working these long shifts at the assisted living/group facilities.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each aggrieved employee for each pay period during which the referenced statutes and Wage Order

provisions were violated.² EMPLOYER's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violation of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, section 12(A). Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s)) rest period. Lab. Code §226.7; applicable IWC Wage Order, section 12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

EMPLOYER did not properly authorize and provide COMPLAINANT and other AGGRIEVED EMPLOYEES with appropriate rest periods at a rate of every four (4) hours worked or major fraction thereof.

COMPLAINANT and other AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law.

Any purported rest periods would be interrupted, cut short, on duty, and or late due to the nature and constraints of COMPLAINANT and other AGGRIEVED EMPLOYEES' job duties and or commentary from supervisors pressuring/instructing them to skip rest breaks completely or take non-compliant rest breaks.

COMPLAINANT and other AGGRIEVED EMPLOYEES were pressured to complete their work tasks according to a designated schedule and or attend to the clients' needs throughout their shifts such that rest breaks were only taken once tasks were completed/if time permitted, were always on-duty and rarely, if ever, uninterrupted, timely, and or ten minutes in length.

EMPLOYER implemented policies and practices that failed to relieve AGGRIEVED EMPLOYEES of all duties and EMPLOYER control during any rest periods. EMPLOYER required AGGRIEVED EMPLOYEES to remain in their immediate work area(s) during any purported rest periods; EMPLOYER required AGGRIEVED EMPLOYEES to monitor

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); IWC Wage Order 15-2001, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

clients/patients for twelve hours straight without ever being relieved of their duties/free from EMPLOYER control.

EMPLOYER had no policy in place nor instruction as to the taking, timing, or duty-free nature of rest periods. For in-facility shifts, EMPLOYER expressly prohibited the taking of any rest periods. COMPLAINANT and other AGGRIEVED EMPLOYEES were never paid a rest period premium for any missed/improper rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and IWC Wage Order 15-2001, section 12(A). These violations subject EMPLOYER to civil penalties under Labor Code section 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each aggrieved employee for each pay period during which the referenced statutes and Wage Order provisions were violated.³

Minimum Wage Violations: Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

EMPLOYER failed to compensate COMPLAINANT and other AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER'S time rounding policy and practice and other policies and practices mandating off-the-clock work. Based on information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other AGGRIEVED EMPLOYEES of compensable hours worked because it resulted in understating hours worked. As a result, EMPLOYER failed to pay COMPLAINANT and other AGGRIEVED EMPLOYEES for all hours worked, resulting in the underpayment of minimum wages owed to COMPLAINANT and other AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

EMPLOYER required COMPLAINANT and similarly AGGRIEVED EMPLOYEES to undergo Covid testing without compensating COMPLAINANT and similarly AGGRIEVED EMPLOYEES at all for the travel time to the testing site, time spent waiting for the tests to be performed, and time spent undergoing testing, resulting in significant off-the-clock work and the

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); IWC Wage Order 15-2001, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

underpayment of minimum wages owed to COMPLAINANT and similarly AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER had actual or constructive knowledge that its time-rounding policies and practices as well as other mandated off-the-clock work described above resulted in the underpayment of minimum wages owed COMPLAINANT and other AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and Wage Order 15-2001, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each aggrieved employee, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code section 510; IWC Wage Order 15-2001, section 3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day or work in a work week. *Ibid.*

EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record at all, the total number of hours worked by COMPLAINANT and other AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, EMPLOYER's time- rounding and other policies and practices mandating off-the-clock work as described herein resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages to COMPLAINANT and those AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty hours in a week.

Additionally, based on information and belief, EMPLOYER sometimes paid AGGRIEVED EMPLOYEES multiple rates of pay in one pay period for the same kind of work but failed to average the rates of pay when calculating overtime. Under California law, "[w]here two rates of pay are paid during a workweek, the California method for determining the regular rate of pay for calculating overtime in that workweek mirrors the federal method, based upon the weighted average of all hourly rates paid." DLSE Manual 49.2.5 (citing 29 CFR § 778.115). This "weighted average" method provides, "[w]here an employee in a single workweek works at two or more different types of work for which different non-overtime rates of pay (of not less than the

⁴ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); IWC Wage Order 15-2001, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

applicable minimum wage) have been established, their regular rate for that week is the weighted average of such rates. That is, the total earnings (except statutory exclusions) are computed to include his compensation during the workweek from all such rates and are then divided by the total number of hours worked at all jobs. . ." 29 CFR § 778.115. EMPLOYER's failure to average the rates of pay when calculating overtime resulted in underpaid overtime wages at times, as well as inaccurate and incomplete wage statements.

Based on information and belief, EMPLOYER failed to pay proper overtime rates to AGGRIEVED EMPLOYEES due to EMPLOYER's failure to incorporate all forms of non-discretionary compensation, including but not limited to, shift differential pay and or non-discretionary bonus pay, into the regular pay rate for purposes of calculating the owed overtime rate, resulting in the underpayment of overtime wages.

Per EMPLOYER's unlawful policies and practices regarding payment of overtime wages, EMPLOYER simply did not pay any overtime premium wage rate to COMPLAINANT and other AGGRIEVED EMPLOYEES for time worked beyond eight (8) hours during their in-facility shifts, including but not limited to, their twelve-hour in-facility shifts. EMPLOYER paid mere "straight time" (i.e. the employee's regular pay rate) for time worked beyond eight (8) hours, resulting in the underpayment of overtime wages owed COMPLAINANT and other AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER misclassified AGGRIEVED EMPLOYEES as "personal attendants" under IWC Wage Order No. 15 to avoid paying overtime compensation for all time worked beyond eight (8) hours in a day and beyond forty hours in a week and instead only pay overtime compensation for time worked nine (9) hours in a day or forty-five hours in a week, resulting in the underpayment of overtime wages.

AGGRIEVED EMPLOYEES worked as in-home caregivers, qualifying them as domestic workers subject to IWC Wage Order No. 15. COMPLAINANT and similarly AGGRIEVED EMPLOYEES' job duties included but were not limited to, feeding, dressing, and supervising the patient, doing laundry, doing dishes, straightening up the residences, and light dusting/cleaning. COMPLAINANT and similarly AGGRIEVED EMPLOYEES typically spent more than twenty percent of their work shifts performing these housekeeping/non-personal-attendant duties. Accordingly, COMPLAINANT and similarly AGGRIEVED EMPLOYEES were not subject to any overtime exemption identified in IWC Wage Order 15 such that EMPLOYER was required to pay overtime compensation for all time worked beyond eight (8) hours in a day and beyond forty hours in a week, which EMPLOYER failed to do.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and IWC Wage Order 15-2001, section 12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and Wage Order 15-2001, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil

penalty, for each aggrieved employee, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

Violation of California Labor Code Sections 245-248.5: Throughout the relevant period, EMPLOYER failed to provide paid sick leave at all to AGGRIEVED EMPLOYEES or failed to properly accrue all owed sick leave, due to, including but not limited to, EMPLOYER's failure to account for true total hours worked (by virtue of EMPLOYER's time rounding and other mandated off-the-clock work, as described herein) and or failure to incorporate all forms of non-discretionary compensation, including but not limited to, shift pay differential and or non-discretionary bonus pay into the sick pay calculation.

EMPLOYER further failed to put AGGRIEVED EMPLOYEES on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice.

In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the employee throughout the relevant period.

Throughout the relevant period, EMPLOYER failed to provide notice of the accurate sick leave amount balance left for COMPLAINANT and all AGGRIEVED EMPLOYEES thus affecting their intelligent exercise of their paid sick leave.

But for this failure, AGGRIEVED EMPLOYEES who are no longer employed by EMPLOYER would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT all AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article at the time of his termination.

⁵ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); IWC Wage Order, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by providing COMPLAINANT all AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid and was not as a result of its failure to properly institute a paid sick leave program.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all AGGRIEVED EMPLOYEES an additional hour of pay for each meal or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each aggrieved employee, for each pay period during which the statute provisions were violated.⁶

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9)

⁶ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. § 226.

EMPLOYER's wage statements that it provided to COMPLAINANT and all AGGRIEVED EMPLOYEES fail to indicate the "total hours worked" by the COMPLAINANT and all AGGRIEVED EMPLOYEES (by virtue of EMPLOYER's time-rounding policies and practices and other mandated off-the-clock work, all described in greater detail *supra*).

As a result of EMPLOYER's time-rounding policies and practices and other mandated off-the clock work described herein as well as EMPLOYER's failure to calculate owed overtime and sick leave pay rates correctly, EMPLOYER's wage statements fail to include all gross and net wages earned during the pay period, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Based on information and belief, EMPLOYER's wage statements fail to display the legal entity name of EMPLOYER or a registered DBA, in violation of Labor Code section 226.

In addition, because of the violations detailed above, including not paying regular and overtime wages for all hours worked and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code section 226 by willfully failing to furnish COMPLAINANT and all AGGRIEVED EMPLOYEES with accurate, itemized wage statements.

As a result, the wage statements provided to COMPLAINANT and all AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each aggrieved employee, for each pay period during which the statute provisions were violated.⁷

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

⁷ See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other AGGRIEVED EMPLOYEES minimum wage and overtime compensation which resulted in the payment of less than statutorily required wages to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and all AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all AGGRIEVED EMPLOYEES were properly paid. COMPLAINANT and all AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

EMPLOYER failed to timely pay AGGRIEVED EMPLOYEES who are no longer employed by EMPLOYER all wages that were due and owing upon termination or resignation.

Upon separation of employment, based upon information and belief, AGGRIEVED EMPLOYEES' final paychecks were not timely provided, and COMPLAINANT and other AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum and overtime wages and all owed sick leave wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each aggrieved employee for each pay period during which the statute provisions were violated.⁸

Failure to Reimburse Business Expenses: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. See Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, "for purposes of [section 2802], the term 'necessary expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees incurred by the employee enforcing the rights granted by this section."

⁸ (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee").

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554. Further, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State." *See* Cal. Lab. Code § 2804.

COMPLAINANT and other AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

At all relevant times hereto, EMPLOYER shifted its costs of doing business onto COMPLAINANT and other AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to use of COMPLAINANT and other AGGRIEVED EMPLOYEES' cellphones/mobile communication devices and data usage, as well as use of COMPLAINANT and other AGGRIEVED EMPLOYEES' personal vehicles.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT and other AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT and other AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out orders by their employer and/or carrying out the duties assigned by their employers.

EMPLOYER required COMPLAINANT and other AGGRIEVED EMPLOYEES to use their personal vehicles to drive between different clients' homes and or to take clients to various places (e.g., doctors' offices) during their shifts without reimbursing COMPLAINANT and other AGGRIEVED EMPLOYEES at all for these vehicle-related expenses incurred as a direct consequence of the discharge of their job duties. In fact, COMPLAINANT and other AGGRIEVED EMPLOYEES were/are instructed by EMPLOYER during the hiring process that it is part of their work duties to drive clients to various places if requested by the client. Additionally, EMPLOYER required COMPLAINANT and similarly AGGRIEVED EMPLOYEES to undergo Covid testing without providing any reimbursement for vehicle-related expenses incurred in traveling to the testing site. EMPLOYER was required to reimburse

COMPLAINANT and similarly AGGRIEVED EMPLOYEES for vehicle-related expenses at the Internal Revenue Service (IRS) mandated per mile compensation for the relevant time period, which EMPLOYER failed to do.

EMPLOYER did not compensate for these vehicle-related expenses and or the amount offered fell far below the Internal Revenue Service (IRS) mandated per mile compensation for the relevant period.

EMPLOYERS' failure to provide COMPLAINANT and other AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT and other AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Background Check Violations: The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, et seq.) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, et seq.) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER required COMPLAINANT and all AGGRIEVED EMPLOYEES to submit to an unlawful criminal and/or financial background check as a condition of obtaining and/or holding employment in violation of Labor Code sections 1024.5 and 432.7.

Based on information and belief, EMPLOYER also required COMPLAINANT and other AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, et seq. and 15 U.S.C. section 1681, et seq., and thus was an unlawful background check.

Based on further information and belief, EMPLOYER knew that requiring COMPLAINANT and AGGRIEVED EMPLOYEES to agree to these criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By having COMPLAINANT and other AGGRIEVED EMPLOYEES sign off on the illegal background checks, Employer also violated Labor Code section 432.5 (stating that "no

employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law.”).

Furthermore, based on information and belief, EMPLOYER asked about arrests not resulting in convictions on its employment application, in violation of California law.

EMPLOYER has violated the above-referenced California Labor Code provisions, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys’ fees, and costs. The civil penalties COMPLAINANT and other AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Conclusion

Labor Code section 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirement created by Labor Code sections 2699, 2699.3(a), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all other AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty days of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

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Thank you for your attention to this matter.

Best Regards,

Zachary M. Crosner

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CROSNER LEGAL, PC