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Attorney for Plaintiff HAYDEE LEON, as an individual
and on behalf of other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

HAYDEE LEON, as an individual, and on
behalf of other aggrieved employees and the
State of California,

Plaintiff,

v.

ALAL, LLC dba KEI-AI LOS ANGELES
HEALTHCARE CENTER; ASPEN
SKILLED HEALTHCARE, INC.; SKBM,
LLC; ALHL, LLC, dba LODI NURSING &
REHABILITATION; ALGT, LLC, dba
WOODLANDS HEALTHCARE CENTER;
ALGD, LLC, dba STONEBROOK HEALTH
AND REHABILITATION; AOTN, LLC, dba
OAKLAND HEIGHTS NURSING AND
REHABILITATION; APTB, LLC, dba
PETALUMA POST-ACUTE
REHABILITATION; ASFP, LLC, dba
PACIFIC HEIGHTS TRANSITIONAL
CARE CENTER; ASCC, LLC, dba
RIVERWOOD HEALTHCARE CENTER;
AWCY, LLC, dba LA CASA VIA
TRANSITIONAL CARE CENTER; AWHC,
LLC, dba MISSION PALMS HEALTHCARE
CENTER; SKBM II, LLC; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 22STCV07259

Assigned for all purposes to:
Hon. Curtis A. Kin, Dept. 72

Representative Action

FIRST AMENDED COMPLAINT

1. Violation of PAGA for Failure to Pay All Wages;
2. Violation of PAGA for Failure to Provide Meal Periods;
3. Violation of PAGA for Failure to Provide Rest Periods;
4. Violation of PAGA for Failure to Reimburse Necessary Business Expenses
5. Violation of PAGA for Failure to Timely Pay Wages Due Upon Separation of Employment; and
6. Violation of PAGA for Failure to Maintain Accurate Payroll Records and Issue Accurate Itemized Wage Statements

Action Filed: February 28, 2022

Trial Date: None Set

1 Plaintiff HAYDEE LEON (“Plaintiff”), individually and on behalf of other aggrieved
2 employees and the State of California, hereby brings this First Amended Complaint (“FAC”)
3 against Defendants ALAL, LLC dba KEI-AI LOS ANGELES HEALTHCARE CENTER;
4 ASPEN SKILLED HEALTHCARE, INC.; SKBM, LLC; ALHL, LLC, dba LODI NURSING &
5 REHABILITATION; ALGT, LLC, dba WOODLANDS HEALTHCARE CENTER; ALGD,
6 LLC, dba STONEBROOK HEALTH AND REHABILITATION; AOTN, LLC, dba OAKLAND
7 HEIGHTS NURSING AND REHABILITATION; APTB, LLC, dba PETALUMA POST-
8 ACUTE REHABILITATION; ASFP, LLC, dba PACIFIC HEIGHTS TRANSITIONAL CARE
9 CENTER; ASCC, LLC, dba RIVERWOOD HEALTHCARE CENTER; AWCY, LLC, dba LA
10 CASA VIA TRANSITIONAL CARE CENTER; AWHC, LLC, dba MISSION PALMS
11 HEALTHCARE CENTER; SKBM II, LLC; and DOES 1 through 50, inclusive (collectively
12 “Defendants”):

13 **PRELIMINARY STATEMENT**

14 1. Plaintiff brings this representative Private Attorneys General Act (“PAGA”) action
15 against Defendants, on behalf of herself individually and all other current and former non-exempt
16 aggrieved employees employed by Defendants throughout California during the PAGA period.
17 The PAGA period is defined as one (1) year prior to Plaintiff’s notice of Labor Code violations
18 to the Labor and Workforce Development Agency (“LWDA”) and certified mailing of said notice
19 to Defendants until resolution.

20 2. Defendants own and operate corporations that provide skilled nursing, assisted
21 living, and rehabilitation and healthcare services throughout California. Defendants employed
22 and/or continue to employ Plaintiff and other aggrieved employees throughout California.

23 3. Defendants have engaged in a systematic pattern of wage and hour violations
24 under the Labor Code, including, but not limited to, failure to pay all wages (including minimum,
25 regular, and overtime compensation); failure to provide meal periods or compensation in lieu
26 thereof; failure to authorize or permit rest breaks or provide compensation in lieu thereof; failure
27 to provide reimbursements for work-related and necessary business expenses; failure to provide
28 accurate itemized wage statements; failure to pay all wages due upon separation of employment;

1 and failure to maintain accurate records of hours worked. These violations concern current and
2 past non-exempt employees of Defendants.

3 4. At all relevant times herein, Defendants have consistently maintained and enforced
4 against Plaintiff and the aggrieved employees the unlawful practices and policies set forth herein.

5 **JURISDICTION AND VENUE**

6 5. Venue is proper in Los Angeles County, because Defendants maintain their
7 locations and transact business in this county, the obligations and liability primarily arise in this
8 county, and work was primarily performed by Plaintiff and other aggrieved employees in this
9 county.

10 6. The California Superior Court has jurisdiction over this matter. The individual
11 claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for federal
12 court and PAGA penalties cannot be aggregated to meet the minimum jurisdictional amount
13 required for diversity removal. Further, there is no federal question at issue as the issues herein
14 are based solely on California statutes and law, including, but not limited to, the California Labor
15 Code, Industrial Welfare Commission Wage Orders, California Code of Civil Procedure, and
16 California Rules of Court.

17 **THE PARTIES**

18 **Plaintiff**

19 7. Plaintiff is, and at all times herein mentioned was, a California citizen. Defendants
20 employed Plaintiff as a non-exempt hourly employee within one (1) year of the filing of this
21 action. Plaintiff's job duties included, *inter alia*, general caregiving of patients, including but not
22 limited to bathing, grooming, toileting, and serving meals.

23 **Defendants**

24 8. Plaintiff is informed and believes and based thereon alleges that Defendant Aspen
25 Skilled Healthcare, Inc. ("ASH") is the parent corporation for ALAL, LLC, dba Kei-Ai Los
26 Angeles HealthCare Center; SKBM, LLC; ALHL, LLC, dba Lodi Nursing & Rehabilitation;
27 ALGT, LLC, dba Woodlands Healthcare Center; ALGD, LLC, dba Stonebrook Health And
28 Rehabilitation; AOTN, LLC, dba Oakland Heights Nursing And Rehabilitation; APTB, LLC, dba

Petaluma Post-Acute Rehabilitation; ASFP, LLC, dba Pacific Heights Transitional Care Center; ASCC, LLC, dba Riverwood Healthcare Center; AWCY, LLC, dba La Casa Via Transitional Care Center; and AWHC, LLC, dba Mission Palms Healthcare Center; SKBM II, LLC. ASH is a California corporation with its principal place of business in Laguna Niguel, California. ASH, through its operating subsidiaries, provides skilled nursing, assisted living, rehabilitative, and healthcare services throughout California at facilities including but not limited to the following:

- Kei-Ai LA Healthcare Center, 2221 Lincoln Park Ave, Los Angeles, CA 90031
- South Marin Health & Wellness Center, 1220 S Eliseo Dr, Greenbrae, CA 94904.
- Lodi Nursing & Rehabilitation, 1334 S Ham Ln, Lodi, CA 95242
- Woodlands Healthcare Center, 14966 Terreno De Flores Ln, Los Gatos, CA 95032
- Stonebrook Health and Rehabilitation, 350 De Soto Dr, Los Gatos, CA 95032
- Oakland Heights Nursing and Rehabilitation, 2361 E 29th St, Oakland, CA 94606
- Petaluma Post-acute Rehabilitation, 1115 B St, Petaluma, CA 94952
- Pacific Heights Transitional Care Center, 2707 Pine St, San Francisco, CA 94115
- The Avenues Transitional Care Center, 2043 19th Ave, San Francisco, CA 94116
- Riverwood Healthcare Center, 5320 Carrington Cir, Stockton, CA 95210
- Tracy Nursing and Rehabilitation Center, 545 W Beverly Pl, Tracy, CA 95376
- La Casa Via Transitional Care Center, 1449 Ygnacio Valley Rd, Walnut Creek, CA 94598
- Mission Palms Healthcare Center, 240 Hospital Cir, Westminster, CA 92683

9. PLAINTIFF is informed and believes and based thereon, alleges that Defendant ALAL, LLC, dba Kei-Ai Los Angeles HealthCare Center (“ALAL”) operates a skilled nursing facility in Los Angeles, California. ALAL is a California Limited Liability Company with its principal place of business in Laguna Niguel, California.

10. PLAINTIFF is informed and believes and based thereon, alleges that Defendant SKBM, LLC (“SKBM”) operated one or more skilled nursing facilities in California. SKBM is now listed as suspended on the California Secretary of State website. SKBM was a California Limited Liability Company with its principal place of business in Laguna Niguel, California.

1 11. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
2 ALHL, LLC, dba Lodi Nursing & Rehabilitation (“ALHL”) operates a skilled nursing facility in
3 California. ALHL is a California Limited Liability Company with its principal place of business
4 in Laguna Niguel, California.

5 12. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
6 ALGT, LLC, dba Woodlands Healthcare Center (“ALGT”) operates a skilled nursing facility in
7 California. “ALGT” is a California Limited Liability Company with its principal place of business
8 in Laguna Niguel, California.

9 13. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
10 ALGD, LLC, dba Stonebrook Health and Rehabilitation (“ALGD”) operates a skilled nursing
11 facility in California. ALGD is a California Limited Liability Company with its principal place
12 of business in Laguna Niguel, California.

13 14. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
14 AOTN, LLC, dba Oakland Heights Nursing and Rehabilitation (“AOTN”) operates a skilled
15 nursing facility in California. AOTN is a California Limited Liability Company with its principal
16 place of business in Laguna Niguel, California.

17 15. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
18 APTB, LLC, dba Petaluma Post-Acute Rehabilitation (“APTB”) operates a skilled nursing
19 facility in California. APTB is a California Limited Liability Company with its principal place of
20 business in Laguna Niguel, California.

21 16. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
22 ASFP, LLC, dba Pacific Heights Transitional Care Center (“AFSP”) operates a skilled nursing
23 facility in California. AFSP is a California Limited Liability Company with its principal place of
24 business in Laguna Niguel, California.

25 17. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
26 ASCC, LLC, dba Riverwood Healthcare Center (“ASCC”) operates a skilled nursing facility in
27 California. ASCC is a California Limited Liability Company with its principal place of business
28 in Laguna Niguel, California.

1 18. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
2 AWCY, LLC, dba La Casa Via Transitional Care Center (“AWCY”) operates a skilled nursing
3 facility in California. AWCY is a California Limited Liability Company with its principal place
4 of business in Laguna Niguel, California.

5 19. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
6 AWHC, LLC, dba Mission Palms Healthcare Center (“AWHC”) operates a skilled nursing
7 facility in California. AWHC is a California Limited Liability Company with its principal place
8 of business in Laguna Niguel, California.

9 20. PLAINTIFF is informed and believes and based thereon, alleges that Defendant
10 SKBM II, LLC (“SKBM II”) operates one or more skilled nursing facilities in California. SKBM
11 II is a California Limited Liability Company with its principal place of business in Laguna Niguel,
12 California.

13 21. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
14 participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 50,
15 inclusive, but on information and belief allege that said Defendants are legally responsible for the
16 occurrences alleged herein, and that the damages of Plaintiff and the aggrieved employees were
17 proximately caused by such Defendants. Plaintiff will amend this FAC to allege the true names
18 and capacities of the DOE Defendants when ascertained.

19 22. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
20 herein was, at all times relevant to this action, the agent, employee, representing partner, and/or
21 joint venture of the remaining Defendants and was acting within the course and scope of the
22 relationship. Plaintiff is further informed and believes, based thereon alleges, that each of the
23 Defendants herein gave consent to, ratified and authorized the acts alleged herein to the remaining
24 Defendants.

25 23. Plaintiff is further informed and believes, and based thereon alleges, that
26 Defendants herein acted as a joint employer at all relevant times. Defendants acted in all respects
27 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
28 plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally

1 attributable to the other Defendants.

2 **ADMINISTRATIVE PREREQUISITES**

3 24. By this FAC, Plaintiff brings this case as a representative action seeking penalties
4 for herself, the aggrieved employees, and the State of California in a representative capacity, as
5 provided by the PAGA, Labor Code sections 2698 et seq. Plaintiff is an aggrieved employee who
6 was employed by Defendants and subject to at least one of the Labor Code violations set forth in
7 Labor Code section 2699.5. Plaintiff specifically alleged the following in her notice to the LWDA
8 and Defendants: violation of Labor Code sections 201, 202, 203, 204, 206, 210, 226, 226.3, 226.7,
9 510, 512, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2800, and 2802.

10 25. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause
11 of action under PAGA only after giving the LWDA and the employer notice of the Labor Code
12 sections alleged to have been violated, and after receiving notice from the LWDA of its intention
13 not to investigate, or after 65 days have passed without notice from the LWDA.

14 26. Prior to filing this action, on November 22, 2021, Plaintiff gave written notice of
15 the specific provisions alleged to have been violated, including the facts and theories to support
16 the alleged violations, as required by Labor Code section 2699.3. The written notice was given
17 via certified mail to Defendants ASH and ALAL, and the LWDA by electronically filing the
18 notice via the Department of Industrial Relations' ("DIR") website. Plaintiff was provided with
19 an LWDA case number of LWDA-CM-854049-21.

20 27. On January 19, 2022, Plaintiff gave supplemental written notice of the specific
21 provisions alleged to have been violated, including the facts and theories to support the alleged
22 violations, as required by Labor Code section 2699.3. The written notice was given via certified
23 mail to Defendants SKBM, ALHL, ALGT, ALGD, AOTN, APTB, AFSP, ASCC, AWCY,
24 AWHC, and SKBM II and the LWDA by electronically filing the notice via the DIR's website.

25 28. The LWDA has not provided Plaintiff with any notice that it intends to investigate
26 the violations as alleged in Plaintiff's PAGA notices, and more than 65 calendar days have elapsed
27 since the postmark date on the notices.

28 ///

GENERAL ALLEGATIONS

29. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

30. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code section 2699(f) imposes upon Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which Defendants violated these provisions of the Labor Code.

31. Defendants' conduct during the PAGA period with respect to Plaintiff and the aggrieved employees violates numerous Labor Code sections as detailed herein.

32. Plaintiff alleges that Defendants have engaged in a systematic pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

33. At all relevant times herein, Defendants employed Plaintiff and other aggrieved employees as non-exempt employees.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and aggrieved employees were entitled to receive wages for all hours worked, and that they were not receiving all wages earned at the applicable rates for work that was required to be performed. Plaintiff and aggrieved employees regularly worked more than eight (8) hours per workday and/or over forty (40) hours per workweek. In violation of the Labor Code and IWC Wage Orders, Defendants maintained a policy which prevented Plaintiff and aggrieved employees from clocking in for their shifts before their scheduled start time, although Plaintiff and aggrieved employees were subject to Defendants' control and were suffered or permitted to work before their scheduled start time. For example, Defendants required Plaintiff and aggrieved employees to put on face masks, have their temperature taken, and answer health

1 related questions before clocking in for their shifts. Defendants also required Plaintiff and
2 aggrieved employees to take COVID-19 tests one to two time per week either before clocking in
3 for their shifts, or during a meal period or rest break. Defendants further required Plaintiff and
4 aggrieved employees to answer phone calls from Defendants while they were clocked out of their
5 shifts. Defendants also required Plaintiff and aggrieved employees to work-off-the-clock during
6 their purported meal periods. Defendants did not compensate Plaintiff and aggrieved employees
7 for all of this time spent working off-the-clock. As such, Defendants failed to pay Plaintiff and
8 other aggrieved employees minimum, regular, and overtime wages for all hours worked, in
9 violation of Labor Code.

10 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
11 or should have known that Plaintiff and aggrieved employees were entitled to receive all required
12 meal periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees'
13 regular rate of pay when they did not receive a timely, uninterrupted off-duty meal period. In
14 violation of the Labor Code and IWC Wage Orders, Defendants had a pattern, practice, and policy
15 of not providing timely uninterrupted, off-duty 30-minute meal periods due to their scheduling
16 and understaffing issues, high patient to nurse ratio, and heavy workload. Further, Plaintiff and
17 aggrieved employees were required to take COVID-19 tests during meal periods, and/or were
18 interrupted during meal periods by Defendants' supervisors. As a result of Defendants' unlawful
19 policy and practice, Plaintiff and aggrieved employees did not receive all meal periods or payment
20 of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay when
21 they did not receive a timely, uninterrupted 30 minute off-duty meal period.

22 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
23 or should have known that Plaintiff and aggrieved employees were entitled to receive all paid 10-
24 minute, uninterrupted and off-duty rest periods or payment of one (1) additional hour of pay at
25 Plaintiff's and aggrieved employees' regular rate of pay when a rest period was missed,
26 interrupted, on-duty, restricted to the worksite, and/or shortened due to work demands and
27 Defendants' failure to provide sufficient coverage so employees could take rest breaks. In
28 violation of the Labor Code and IWC Wage Orders, Defendants had a pattern, practice, and policy

1 of not providing proper rest periods due to its high patient to nurse ratio, understaffing, scheduling
2 issues, and heavy workload. As a result of Defendants' policy and practice, it systematically
3 denied Plaintiff and aggrieved employees from taking proper rest breaks. Plaintiff and aggrieved
4 employees did not receive all paid rest periods or payment of one (1) additional hour of pay at
5 Plaintiff and aggrieved employees' regular rate of pay when a paid rest period was on-duty,
6 missed, shortened or interrupted.

7 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and Aggrieved Employees were entitled to reimbursement for
9 their necessary work-related business expenses. In violation of the Labor Code and IWC Wage
10 Orders, Plaintiff and Aggrieved Employees incurred out-of-pocket expenses to perform their job
11 duties without reimbursement for costs or a reasonable portion of costs, including (a) costs of
12 purchasing equipment such as oxygen machines and thermometers necessary to perform their job
13 duties, (b) costs to purchase and maintain mandatory uniforms (e.g., scrubs) which became
14 heavily soiled and required separate washing and/or maintenance, and (c) costs for use of personal
15 cell phone to answer work related phone calls. Despite these violations, Defendants failed to
16 reimburse Plaintiff and Aggrieved Employees a reasonable portion of these costs.

17 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
18 or should have known that Plaintiff and certain aggrieved employees were entitled to timely
19 payment of wages due upon separation of employment. In violation of the Labor Code, Plaintiff
20 and certain aggrieved employees did not receive payment of all wages due, within permissible
21 time periods, upon separation of employment.

22 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
23 or should have known that Plaintiff and aggrieved employees were entitled to receive itemized
24 wage statements that accurately showed their actual hours worked, total hours worked, number
25 of hours worked at each hourly rate, and gross and net wages earned in accordance with California
26 law. In violation of the Labor Code, Plaintiff and aggrieved employees were not provided with
27 accurate itemized wage statements that accurately reported, *inter alia*, their gross and net wages
28 earned, total hours worked, and each applicable rate of pay in effect during the pay period with

1 the corresponding number of hours worked, among other things.

2 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Defendants were required to maintain accurate records of the hours
4 worked by Plaintiff and aggrieved employees. In violation of the California Labor Code,
5 Defendants failed to maintain accurate records of hours worked by Plaintiff and aggrieved
6 employees by requiring them to work off-the-clock without compensation, among other things.

7 **FIRST CAUSE OF ACTION**

8 **VIOLATION OF PAGA FOR FAILURE TO PAY ALL WAGES INCLUDING**
9 **MINIMUM, REGULAR, AND OVERTIME WAGES**

10 **(Lab. Code, §§ 204, 206, 210, 510, 1194, 1197, 1197.1, and 1198)**

11 **(Against all Defendants)**

12 41. Plaintiff realleges and incorporates by reference the allegations in the preceding
13 paragraphs.

14 42. Labor Code section 204 provides that all wages earned during employment are due
15 and payable twice during each calendar month on dates designated in advance by the employer.

16 43. Labor Code section 206, subdivision (a), provides that “in case of a dispute over
17 wages, the employer shall pay, without condition and within the time set by this article, all wages,
18 or parts thereof, conceded by him to be due, leaving to the employee all remedies he might
19 otherwise be entitled to as to any balance claimed.”

20 44. Under Labor Code Section 210, “(a). . .every person who fails to pay the wages of
21 each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and
22 1197.5, shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars
23 (\$100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or
24 intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
25 percent of the amount unlawfully withheld. (b) The penalty shall either be recovered by the
26 employee as a statutory penalty pursuant to Section 98 or by the Labor Commissioner as a civil
27 penalty through the issuance of a citation or pursuant to Section 98.3. The procedures for issuing,
28 contesting, and enforcing judgments for citations issued by the Labor Commissioner under this

1 section shall be the same as those set forth in subdivisions (b) through (k), inclusive, of Section
2 1197.1. (c) An employee is only entitled to either recover the statutory penalty provided for in
3 this section or to enforce a civil penalty as set forth in subdivision (a) of Section 2699, but not
4 both, for the same violation.

5 45. Labor Code section 510, subdivision (a), provides that any work in excess of eight
6 (8) hours in any workday and any work in excess of forty (40) hours in a workweek, shall be
7 compensated at a rate of no less than one and one-half times the regular rate of pay for an
8 employee. Any work in excess of twelve (12) hours in a workday shall be compensated at the rate
9 of twice the regular rate of pay for an employee. In addition, any work in excess of eight hours
10 on any seventh day of a workweek shall be compensated at the rate of no less than twice the
11 regular rate of pay of an employee.

12 46. Labor Code section 1194 provides the remedies available in an action to recover
13 minimum and overtime wages and 1197 mandates that payment of less than the applicable
14 minimum wage is unlawful.

15 47. Labor Code Section 1194, subdivision (a), provides that “Notwithstanding any
16 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage
17 or the legal overtime compensation applicable to the employee is entitled to recover in a civil
18 action the unpaid balance of the full amount of this minimum wage or overtime compensation,
19 including interest thereon, reasonable attorney’s fees, and costs of suit.”

20 48. Labor Code Section 1197.1 provides “[a]ny employer or other person acting either
21 individually or as an officer, agent, or employee of another person, who pays or causes to be paid
22 to any employee a wage less than the minimum fixed by an applicable state or local law, or by an
23 order of the commission shall be subject to a civil penalty . . . as follows: (1) For any initial
24 violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee
25 for each pay period for which the employee is underpaid . . . (2) For each subsequent violation
26 for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for
27 each pay period for which the employee is underpaid regardless of whether the initial violation is
28 intentionally committed.”

1 49. Labor Code Section 1198 provides that “The maximum hours of work and the
2 standard conditions of labor fixed by the commission shall be the maximum hours of work and
3 the standard conditions of labor for employees. The employment of any employee for longer
4 hours than those fixed by the order or under conditions of labor prohibited by the order is
5 unlawful.”

6 50. At all relevant times, Defendants were employers of Plaintiff and the aggrieved
7 employees, and subject to the Labor Code, IWC Wage Orders, and other applicable statutes, rules,
8 and regulations.

9 51. At all relevant times herein, Plaintiff and aggrieved employees were and are paid
10 as non-exempt employees.

11 52. At all relevant times, Plaintiff and the aggrieved employees worked in excess of
12 eight (8) hours per day, ten (10) hours per day, and/or forty (40) hours per week.

13 53. Defendants failed to pay Plaintiff and aggrieved employees for all hours worked,
14 including the applicable minimum, regular, and overtime compensation, and failed to record
15 actual hours worked by, *inter alia*, requiring Plaintiff and aggrieved employees to work off-the-
16 clock during purported meal periods and before and after shifts, and failing to pay overtime hours
17 worked.

18 54. By virtue of Defendants’ unlawful actions, Plaintiff and the aggrieved employees
19 have suffered, and will continue to suffer, damages in amounts which are presently unknown, but
20 will be ascertained according to proof at trial.

21 55. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved
22 employees and the State of California for violations of Labor Code sections 204, 206, 210, 510,
23 1194, 1197, 1197.1, and 1198 during the PAGA period, in a sum as provided by the Labor Code
24 and/or other statutes.

25 56. Plaintiff, individually and on behalf of the aggrieved employees and the State of
26 California also seeks attorneys’ fees and costs pursuant to Labor Code section 2699(g) and
27 California Code of Civil Procedure section 1021.5.

28 ///

VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS

(Lab. Code, §§ 226.7 and 512)

VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS

(Lab. Code, §§ 226.7 and 512)

(Against all Defendants)

57. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

58. Labor Code sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second meal period of not less than thirty (30) minutes.

59. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section.

60. At all times relevant hereto, Plaintiff and aggrieved employees have regularly worked shifts of more than five (5) hours and/or 10 hours in a workday. Plaintiff alleges Defendants failed to provide legally compliant meal periods and failed to pay one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay for each workday that a meal period violation occurred.

61. By and through their actions, Defendants have intentionally and improperly denied compliant meal periods or compensation in lieu thereof to Plaintiff and the aggrieved employees in violation of Labor Code sections 226.7 and 512 and/or other statutes.

62. Defendants' Labor Code violations have caused Plaintiff and the aggrieved employees to suffer, and continue to suffer, damages in amounts which are presently unknown, but will be ascertained according to proof at trial.

63. Plaintiff, individually and on behalf of the aggrieved employees and the state of California request recovery of civil penalties for violations of Labor Code sections 226.7 and 512 during the PAGA period, in a sum as provided by the Labor Code and/or other statutes.

64. Plaintiff also seeks attorneys' fees and costs pursuant to Labor Code section 2699(g) and California Code of Civil Procedure section 1021.5.

THIRD CAUSE OF ACTION

VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS

(Lab. Code, § 226.7)

(Against all Defendants)

65. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

66. Labor Code section 226.7 and the applicable IWC Wage Orders require employers to authorize and permit all non-exempt employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours or major fraction thereof.

67. Labor Code section 226.7(b) provides that if an employer fails to provide non-exempt employees with rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employees' regular rate of compensation for each workday that the rest period is not provided.

68. At all times relevant hereto, Plaintiff and aggrieved employees have worked shifts of more than three-and-a-half (3.5) hours in a workday. Plaintiff and aggrieved employees consistently had their rest breaks missed, interrupted, restricted to the worksite and/or shortened due to Defendants' understaffing and heavy workload. As a result of Defendants' policy and practice, it systematically denied Plaintiff and aggrieved employees from taking proper rest breaks. Defendants also failed to pay one additional hour of pay at Plaintiff and aggrieved employees' regular rate of pay for each workday that a rest period violation occurred.

69. By and through their actions, Defendants intentionally and improperly denied compliant rest periods to Plaintiff and the aggrieved employees in violation of Labor Code section 226.7 and/or other statutes.

70. Defendants' Labor Code violations have caused Plaintiff and the aggrieved employees to suffer, and continue to suffer, damages, in amounts which are presently unknown, but will be ascertained according to proof at trial.

1 71. Plaintiff, individually and on behalf of the aggrieved employees and the State of
2 California request recovery of civil penalties for violations of Labor Code section 226.7 during
3 the PAGA period, in a sum as provided by the Labor Code and/or other statutes.

4 Plaintiff also seeks attorneys' fees and costs pursuant to Labor Code section 2699(g) and
5 California Code of Civil Procedure section 1021.5.

6 **FOURTH CAUSE OF ACTION**

7 **VIOLATION OF PAGA FOR FAILURE TO**
8 **REIMBURSE NECESSARY BUSINESS EXPENSES**

9 **(Lab. Code, §§ 2800, and 2802)**

10 **(Against all Defendants)**

11 72. Plaintiff realleges and incorporates by reference the allegations in the preceding
12 paragraphs.

13 73. Labor Code 2800 provides that an employer is required to "indemnify his
14 employee for losses caused by the employer's want of ordinary care."

15 74. Labor Code 2802 provides that an employer is required to "indemnify his or her
16 employee for all necessary expenditures or losses incurred by the employee in direct consequence
17 of the discharge of his or her duties..."

18 75. In violation of the Labor Code and IWC Wage Orders, Plaintiff and Aggrieved
19 Employees incurred out-of-pocket expenses to perform their job duties without reimbursement,
20 including (a) costs of purchasing equipment such as oxygen machines and thermometers
21 necessary to perform their job duties, (b) costs to purchase and maintain mandatory uniforms
22 (e.g., scrubs) which became heavily soiled and required separate washing and/or maintenance,
23 and (c) costs for use of personal cell phone to answer work related phone calls.

24 76. By virtue of Defendants' unlawful actions, Plaintiff and the aggrieved employees
25 have suffered, and will continue to suffer, damages in amounts which are presently unknown, but
26 will be ascertained according to proof at trial.

27 77. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved
28 employees and the State of California for violations of Labor Code sections 2800, and 2802 during

1 the PAGA period, in a sum as provided by the Labor Code and/or other statutes.

2 78. Plaintiff, individually and on behalf of the aggrieved employees and the State of
3 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699(g) and
4 California Code of Civil Procedure section 1021.5.

5 **FIFTH CAUSE OF ACTION**

6 **VIOLATION OF PAGA FOR FAILURE TO TIMELY PAY WAGES DUE UPON**
7 **SEPARATION OF EMPLOYMENT**

8 **(Lab. Code, §§ 201, 202, 203)**

9 **(Against all Defendants)**

10 79. Plaintiff realleges and incorporates by reference the allegations in the preceding
11 paragraphs.

12 80. Labor Code section 201 provides that an employer is required to pay an employee
13 whose employment is terminated by the employer all wages earned and unpaid immediately upon
14 termination.

15 81. Labor Code section 202 requires an employer pay to an employee who quits his or
16 her employment, all wages earned and unpaid no later than 72 hours thereafter.

17 82. Labor Code section 203 provides that an employer who fails to pay all wages
18 earned and due an employee who is discharged or who quits within the timeframe set forth in
19 sections 201 and 202, the wages of the employee shall continue as a penalty from the due date at
20 the same rate of pay until paid, but not more than 30 days. In other words, the employer owes the
21 employee his or her daily rate of pay at their regular rate of pay for each day the full amount of
22 unpaid wages is not paid, for a penalty of up to 30 days' wages.

23 83. In violation of the Labor Code and IWC Wage Orders, Defendants failed to timely
24 pay all wages due to Plaintiff and the aggrieved employees upon separation of employment.
25 Specifically, Defendants failed to timely pay Plaintiff and other formerly employed aggrieved
26 employees all wages, reimbursements, and meal and rest period premiums.

27 84. By virtue of Defendants' unlawful actions, Plaintiff and the aggrieved employees
28 have suffered, and will continue to suffer, damages in amounts which are presently unknown, but

1 will be ascertained according to proof at trial.

2 85. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved
3 employees and the State of California for violations of Labor Code sections 201, 202, and 203
4 during the PAGA period, in a sum as provided by the Labor Code and/or other statutes.

5 86. Plaintiff, individually and on behalf of the aggrieved employees and the State of
6 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699(g) and
7 California Code of Civil Procedure section 1021.5.

8 **SIXTH CAUSE OF ACTION**

9 **VIOLATION OF PAGA FOR FAILURE TO MAINTAIN ACCURATE PAYROLL**
10 **RECORDS AND ISSUE ACCURATE ITEMIZED WAGE STATEMENTS**

11 **(Lab. Code, §§ 226, 226.3, subd. (a), (e), 1174, and 1174.5)**

12 **(Against all Defendants)**

13 87. Plaintiff realleges and incorporates by reference the allegations in the preceding
14 paragraphs.

15 88. Labor Code section 226, subdivision (a), requires employers to furnish each
16 employee with a statement that accurately reflects, *inter alia*, gross wages earned, total hours
17 worked, net wages earned, name and address of the legal entity that is the employer, and all
18 applicable hourly rates in effect during the pay period and the corresponding number of hours
19 worked at each hourly rate. Labor Code section 226, subdivision (e), provides that if an employer
20 knowingly and intentionally fails to provide a statement itemizing the foregoing information, and
21 the employee suffers an injury as a result of the employer's failure to comply with subdivision
22 (a), then the employee is entitled to recover the greater of all actual damages or fifty dollars
23 (\$50.00) for each subsequent violation, up to four thousand dollars (\$4,000.00).

24 89. An employee is deemed to suffer injury if the employer fails to provide an accurate
25 wage statement containing all of the required information set forth in Labor Code section 226,
26 subdivision (a). (Lab. Code, § 226, subd. (e)(2).)

27 90. Labor Code Section 226.3 provides: "[a]ny employer who violates subdivision (a)
28 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)

1 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
2 for each violation in a subsequent citation, for which the employer fails to provide the employee
3 a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.
4 The civil penalties provided for in this section are in addition to any other penalty provided by
5 law.”

6 91. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
7 location in California or at the plant or establishment at which the employees are employed,
8 payroll records showing the hours worked daily and the wages paid to each employee.

9 92. Labor Code Section 1174.5 provides a \$500 penalty for an employer’s failure to
10 maintain accurate and complete payroll records showing the hours worked daily by and the wages
11 paid to employees.

12 93. The IWC Wage Orders require that every employer shall keep accurate
13 information with respect to each employee, including, but not limited to, time records showing
14 the total daily hours worked by each employee, the total hours worked in each payroll period, and
15 applicable rates of pay.

16 94. Plaintiff is informed and believes that Defendants willfully and intentionally failed
17 to make and/or keep records which accurately reflect the hours worked by Plaintiff and aggrieved
18 employees. Specifically, Plaintiff believes that Defendants’ records fail to include, *inter alia*: (1)
19 actual hours worked, (2) total hours worked, (3) number of hours worked at each hourly rate, (4)
20 gross wages earned; and (5) net wages earned.

21 95. In addition, the omission of time worked make it difficult for employees to
22 determine whether they were paid all wages due without complicated calculations and/or
23 reconstruction of records required to be maintained by the employer.

24 96. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 willfully failed to maintain accurate payroll records for Plaintiff and the aggrieved employees by
26 failing to accurately reflect the hours worked by and wages paid to Plaintiff and the aggrieved
27 employees. Specifically, Defendants’ records do not accurately reflect Plaintiff’s and the
28 aggrieved employees’ hours worked when they worked off-the-clock during their purported meal

breaks without compensation or the proper rate of pay for overtime hours worked, among other things.

97. By virtue of Defendants' unlawful actions, Plaintiff and the aggrieved employees have suffered, and will continue to suffer, damages in amounts which are presently unknown, but will be ascertained according to proof at trial.

98. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved employees and the State of California for violations of Labor Code sections 226 and 1174 during the PAGA period, in a sum as provided by the Labor Code and/or other statutes.

99. Plaintiff, individually and on behalf of the aggrieved employees and the State of California also seeks attorneys' fees and costs pursuant to Labor Code section 2699(g) and California Code of Civil Procedure section 1021.5.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For civil penalties against Defendants on behalf of Plaintiff and all Aggrieved Employees pursuant to, *inter alia*, Labor Code Sections 210, 226.3, 558, 1174.5, 1197.1, and 2698, *et seq.*;
2. For reasonable attorneys' fees and costs of suit to the extent permitted by law, including pursuant to California Labor Code Sections 2699(g) and 2802(c), and California Code of Civil Procedure Section 1021.5; and
3. For such other and further relief as this Court may deem just and proper.

Dated: March 30, 2022

ALAMI LAW GROUP

By: 

David Alami

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