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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF VENTURA

MICHAEL UGUCCIONI, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CALIFORNIA LUTHERAN UNIVERSITY, a
California Non-Profit Corporation,

Defendant.

CASE NO. 56-2021-00560166-CU-OE-VTA

FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:

- (1) Failure to Reimburse Business Expenses (Cal. Lab. Code § 2802);
- (2) Unfair, Unlawful, or Fraudulent Business Practices (Cal. Bus. & Prof. Code § 17200 *et seq.*); and
- (3) Civil Penalties Under Private Attorneys General Act (Cal. Labor code § 2699)

DEMAND FOR JURY TRIAL

1 Plaintiff Michael Uguccione ("Plaintiff"), on behalf of himself and all others similarly situated,
2 complains and alleges the following:

3 INTRODUCTION

4 1. This is a class action under California Code of Civil Procedure § 382 seeking damages
5 for unreimbursed expenses, interest, injunctive relief, restitution, and reasonable attorneys' fees and
6 costs under California Labor Code ("Labor Code") § 2802, California Civil Procedure Code § 1021.5,
7 and California Unfair Competition Law ("UCL"), Business & Professions Code §§ 17200 *et seq.* on
8 behalf of Plaintiff and all other similarly situated individuals working remotely ("Class Members"),
9 employed by the California Lutheran University ("Cal Lutheran" or "Defendant") in California from
10 June 1, 2019 to May 31, 2022 ("Class Period"). Defendant's violations of California's wage and hour
11 laws and unfair competition laws, as described more fully below, have been ongoing for at least the past
12 four years, and are continuing at present.

13 2. During the part of the Class Period from March 20, 2020 through to the May 31, 2022,
14 Cal Lutheran required and/or expected Class Members to carry out their job duties remotely from home.
15 On March 19, 2020, in response to the Covid-19 pandemic and the government Stay-at-Home Orders,
16 Cal Lutheran directed all staff to perform their job duties remotely from home and all faculty to begin
17 delivering courses virtually from home beginning on March 20, 2020. This directive continued through
18 2020 and for much of 2021 for many of the Class Members. Class Members incurred business expenses
19 as a result of Cal Lutheran's directive and in carrying out their job duties for Cal Lutheran, including but
20 not limited to the cost of internet service, cellular phone charges, software, ink toner/ cartridge and
21 papers, and other expenses associated with working from home ("Home Office Expenses").

22 3. In addition, throughout the entire Class Period, Cal Lutheran offered online courses to
23 students, which are taught remotely by those Class Members who are employed as professors or adjunct
24 instructors. To teach these courses, Class Members employed as professors or adjunct instructors incur
25 Home Office Expenses in order to carry out their job duties for Cal Lutheran.

26 4. Cal Lutheran knew that Class Members incurred Home Office Expenses, as described in
27 paragraphs 2 and 3 above, yet, Defendant did not maintain a policy or practice of reimbursing Class
28 Members for these necessarily incurred expenses, at any point during the Class Period, in violation of
Labor Code § 2802.

5. As a result of the above Labor Code violations, Defendant committed unfair, unlawful,
and fraudulent business practices, in violation of the UCL.

7. Plaintiff Uguccione is a resident of Thousand Oaks, California who was employed by Cal Lutheran as an adjunct instructor from approximately 2009 until the end of December 2020. During his employment, Plaintiff incurred necessary business expenses in performing his work remotely for Defendant. Defendant was aware of this because the tasks it required Plaintiff to perform and the manner in which Defendant required Plaintiff to perform them necessitated incurring such expenses, yet Defendant failed to reimburse him.

8. Defendant is a private non-profit university, incorporated in California and located in Thousand Oaks, California.

9. This Court has jurisdiction over Plaintiff's and Class Members' claims for failure to reimburse for necessarily incurred business expenses pursuant to Labor Code § 2802.

10. This Court has jurisdiction over the claims for restitution under the UCL, Business & Professions Code §§ 17203 and 17204 arising from Defendant's violations of Labor Code § 2802.

11. This Court has jurisdiction over claims for reasonable attorney's fees and costs pursuant to Labor Code § 2802(c), and Cal. Civ. Proc. Code § 1021.5.

12. This Court has jurisdiction over Plaintiff's claims for civil penalties under Labor Code § 2699. On November 15, 2021, Plaintiff provided PAGA Notice pursuant to Labor Code § 2699.3 to the California Labor & Workforce Development Agency ("LWDA") and Defendant. The LWDA has provided no notice to Plaintiff within the period specified in Labor Code § 2699.3 regarding its intention to investigate or not investigate any other claims alleged in the PAGA Notice. Plaintiff has therefore fully complied with the PAGA procedural requirements and may commence this representative action pursuant to Labor Code § 2699.

13. Venue is proper in the County of Ventura pursuant to Cal. Civ. Proc. Code §§ 395(a) and 395.5. Defendant's principal place of business is in Ventura.

1 **FACTUAL ALLEGATIONS COMMON TO ALL CLASS MEMBERS**

2 14. Defendant is a private, non-profit, liberal arts university that offers both undergraduate
3 and graduate degrees, as well as doctoral level degrees, post-master's and post-bachelor's certificates.
4 The university is based in Thousand Oaks, and has additional locations in Oxnard, Woodland Hills,
5 Westlake Village, Berkeley, and Santa Maria. In order to teach these programs, Defendant employs
6 full-time and part-time faculty. Upon information and belief, Cal Lutheran employs approximately 430
7 faculty members, 190 of whom are full time and approximately 240 of whom are part-time. Cal
8 Lutheran also employs staff in order to run the campus operations. Upon information and belief, Cal
9 Lutheran employs more than 75 staff.

10 15. During the Class Period, between March 20, 2020 and May 31, 2022, Defendant
11 maintained and continues to maintain a policy and/or practice of requiring Class Members to teach
12 classes remotely from home as a result of the COVID-19 pandemic. On March 19, 2020, Defendant
13 stated on its website: "we expect all faculty to work from home starting tomorrow...[w]e will continue
14 to offer classes virtually" and on the same day: "staff and faculty will be expected to stay at home and
15 perform responsibilities remotely."

16 16. In order to facilitate transition to online work, Cal Lutheran instructed Class Members on
17 how to access "[t]he virtual private network (VPN) [that] provides a secure connection to the Cal
18 Lutheran campus from any computer *that has an Internet connection*" and to forward phone calls to
19 their private cell phones.

20 17. Only a very limited number of staff whom Cal Lutheran considered essential, such as
21 health service staff, security, and a skeleton crew of IT staff remained working on campus.

22 18. The directive to work remotely from home continued for most staff and faculty
23 throughout 2020 and for much of 2021.

24 19. As a result of working remotely, in direct consequence of carrying out their duties, or
25 their obedience to the directions of Defendant, Class Members incurred Home Office Expenses.

26 20. Despite Defendant's transition to all online courses and remote work by all employees
27 other than select essential employees, however, and despite knowing that Class Members incurred
28 Home Office Expenses, Defendant did not maintain a policy and/or practice of fully reimbursing Class
Members for these expenses.

 21. In addition, Cal Lutheran offered online courses throughout the entire Class Period and
employed faculty to deliver those courses online. As a result, Class Members who taught these online
courses incurred Home Office Expenses throughout the entire Class Period.

1 22. Class Members have been harmed by Defendant's unlawful reimbursement policy and/or
2 lack of a lawful reimbursement policy in that they have not been paid fully or at all for their expenses in
3 carrying out their job duties for Defendant, thereby diminishing their agreed-upon compensation, in
4 substantial amounts to be proved at trial.

5 23. As a result, Defendant violated Labor Code § 2802, and Class Members are entitled to
6 reimbursement for these expenses, and their reasonable attorneys' fees and costs.

7 24. From at least four years prior to filing this complaint, through the present, Defendant has
8 adopted and used unfair and/or unlawful business practices to reduce Class Members' compensation and
9 increase profits. These unfair business practices are based on the failure to reimburse Class Members
10 for necessary business expenses.

11 **CLASS ACTION ALLEGATIONS**

12 25. Plaintiff brings this class action pursuant to Cal. Civ. Pro. Code § 382 on behalf of the
13 Class. Upon information and belief, there are more than 500 Class Members. The members of the Class
14 are so numerous that joinder of all members is impractical.

15 26. Plaintiff's claims are typical of the claims of the members of the Class because he was
16 required and/or directed by Cal Lutheran to work remotely during the Class Period and incurred Home
17 Office Expenses as a result, without reimbursement.

18 27. Plaintiff will fairly and adequately represent the interests of the Class. Plaintiff has no
19 conflict of interest with any member of the Class. Plaintiff has retained competent and experienced
20 counsel in complex class action litigation. Plaintiff's counsel has the expertise and financial resources
21 to adequately represent the interests of the Class.

22 28. Common questions of law and fact exist as to all members of the Class and predominate
23 over any questions solely affecting individual member of the Class. Among the questions of law and
24 fact common to the Plaintiff and the Class are the following:

- 25 a. Whether Class Members incurred necessary business expenses in carrying out their job
26 duties for Defendant during the Class Period;
- 27 b. Whether Defendant knew or should have known that Class Members incurred business
28 expenses in carrying out their job duties;
- c. Whether Defendant violated Labor Code § 2802 by failing to reimburse Class Member
for necessary business expenses;
- d. Whether Defendant's violation of Labor Code § 2802 constitutes unfair, unlawful, and
fraudulent business practices, in violation of UCL;

- 1 e. Whether Plaintiff and Class Members are entitled to restitution under Business &
2 Professions Code § 17200 *et seq.* for unreimbursed business expenses; and
3 f. The proper formula(s) for calculating damages, interest, and restitution owed to Plaintiff
4 and Class Members;
5 g. Whether the Class is entitled to declaratory relief; and
6 h. Whether the Class is entitled to injunctive relief.

7 29. Class action treatment is superior to any alternative to ensure the fair and efficient
8 adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly
9 situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and
10 without duplication of effort and expense that numerous individual actions would entail. No difficulties
11 are likely to be encountered in the management of this class action that would preclude its maintenance
12 as a class action, and no superior alternative exists for the fair and efficient adjudication of this
13 controversy. Class Members are readily identifiable from Defendant's employee rosters and/or payroll
14 records.

15 30. Defendant's actions are generally applicable to the entire Class. Prosecution of separate
16 actions by individual members of each Class creates the risk of inconsistent or varying adjudications of
17 the issues presented herein, which, in turn, would establish incompatible standards of conduct for
18 Defendant.

19 31. Because joinder of all members is impractical, a class action is superior to other available
20 methods for the fair and efficient adjudication of this controversy. Furthermore, the amounts at stake
21 for many members of each Class, while substantial, may not be sufficient to enable them to maintain
22 separate suits against Defendant.

23 **FIRST CAUSE OF ACTION**
24 **Failure to Reimburse Business Expenses**
25 **[Cal. Labor Code § 2802]**

26 32. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
27 the preceding paragraphs.

28 33. Under Labor Code § 2802, "[a]n employer shall indemnify his or her employee for all
necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his
or her duties."

34. Defendant did not reimburse Plaintiff and Class Members for necessary business expenses,

1 including but not limited to cost of internet service, cellular phone charges, software, ink toner/ cartridge
2 and papers, and other expenses associated with working from home, in violation of Labor Code § 2802.

3 35. Defendant knew that Class Members incurred these expenses to perform their duties, yet
4 Defendant did not maintain a policy or practice of reimbursing Class Members for these expenses,
5 throughout the Class Period.

6 36. Plaintiff, on behalf of himself and all other Class Members, requests relief as described
7 below.

8 **SECOND CAUSE OF ACTION**
9 **Violation of Unfair Competition Laws**
10 **[Cal. Bus. & Prof. Code § 17200 et seq.]**

11 37. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the
12 preceding paragraphs.

13 38. The UCL prohibits any unlawful, unfair, or fraudulent business practices. Labor Code
14 § 90.5(a) states that it is the public policy of California to vigorously enforce minimum labor standards
15 in order to ensure employees are not required to work under substandard and unlawful conditions, and
16 to protect employers who comply with the law from those who attempt to gain competitive advantage at
17 the expense of their workers by failing to comply with minimum labor standards. Through its actions
18 alleged herein, Defendant has engaged in unfair competition within the meaning of the UCL, because
19 Defendant's conduct has violated state wage and hour laws as herein described.

20 39. Beginning at least four years prior to the filing of this Complaint, Defendant committed,
21 and continues to commit, acts of unfair competition, as defined in the UCL by, among other things,
22 engaging in the acts and practices described above—to wit, wrongfully denying Class Members
23 reimbursement for their necessarily incurred office expense described above. Defendant's conduct as
24 herein alleged has damaged and was substantially injurious to Plaintiff and the Class.

25 40. By its actions and omissions, Defendant has substantially injured Plaintiff and Class
26 Members. Defendant's conduct as alleged herein has damaged Plaintiff and the Class was substantially
27 injurious to them.

28 41. The harm to Plaintiff and the Class resulting from Defendant's violation of Labor Code §

2802 outweighs the utility, if any, of Defendant's policies and practices. Therefore, Defendant's actions described herein constitute an unfair business practice or act within the meaning of the UCL.

42. Plaintiff, on behalf of himself and all other Class Members, requests relief as described below.

THIRD CAUSE OF ACTION
Civil Penalties
[Labor Code §§ 2698 *et seq.*]

43. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

44. Plaintiff is an "aggrieved employee" under PAGA as he was employed by Defendant during the applicable statutory period and suffered the violation of Labor Code § 2802 alleged herein.

45. During the PAGA Period, Defendant did not maintain a policy of reimbursing Aggrieved Employees for their business expenses incurred in carrying out their job duties for Defendant. These expenses include but are not limited to cost of internet service, cellular phone charges, software, ink toner/cartridge and papers, and other expenses associated with working from home, in violation of Labor Code § 2802. However, Concentrix did not reimburse them for these expenses fully or at all in violation of § 2802 of the California Labor Code.

46. Pursuant to Labor Code § 2699(f)(2), Plaintiff and Aggrieved Employees are entitled to one hundred dollars (\$100) per pay period for each initial violation and two hundred dollars (\$200) per pay period for each subsequent violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Class, prays for the following relief:

A. An Order that this action may proceed and be maintained as a class action, with the Class as designated and defined in this Complaint, and that the Plaintiff and his counsel be certified as representatives and Counsel for the Class, respectively.

B. On the First Cause of Action: That the Court find and declare that Defendant violated Labor Code § 2802 by failing to reimburse Plaintiff and Class Members for necessary business expenses, and award Plaintiff and the Class reimbursement of such expenses.

C. On the Second Cause of Action: That the Court find and declare Defendant has violated the UCL by failing to reimburse Class Members for their necessarily incurred business expenses

1 resulting from carrying out their job duties remotely from home; award restitution to the Class in the
2 amount of unreimbursed expenses; and that the Court enjoin Defendant from continuing to enforce
3 policies and practices that violate Labor Code § 2802.

4 D. On the Third Cause of Action: That the Court award PAGA Civil Penalties, and
5 attorneys' fees and costs, as provided under Labor Code § 2699.

6 E. That the Court award attorneys' fees and costs of suit to the extent permitted by law,
7 including, but not limited to, Labor Code § 2802(c), 2699, Cal. Civ. Pro. Code § 1021.5.

8 F. Declaratory and injunctive relief; and

9 G. All other relief as this Court deems proper.

10 **JURY DEMAND**

11 Plaintiff hereby demands trial by jury of the Labor Code § 2802 claims against Defendant
12 alleged herein.

13 Dated: June 15, 2022

14 Respectfully submitted,

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16 By: 
17 HAMMONDLAW, P.C.

18 *Attorneys for Plaintiff*
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