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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

IVETTE ZOLTZMAN,

Plaintiff,

vs.

PACIFIC PACE, LLC; and DOES 1 to 25,
inclusive,

Defendants.

) CASE NO.: **22STCV02171**

) **COMPLAINT FOR DAMAGES FOR:**

-) **1) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**
) **2) FAILURE TO PAY MINIMUM**
) **WAGES;**
) **3) FAILURE TO PAY OVERTIME;**
) **4) FAILURE TO PROVIDE ACCURATE**
) **ITEMIZED WAGE STATEMENTS;**
) **5) FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**
) **6) VIOLATION OF LABOR CODE**
) **SECTION 558;**
) **7) FAILURE TO MAINTAIN**
) **ACCURATE RECORDS;**
) **8) FAILURE TO GIVE REST BREAKS;**
) **9) FAILURE TO GIVE MEAL BREAKS;**
) **10) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**
) **11) FAILURE TO PAY WAGES WHEN**
) **EMPLOYMENT ENDS**
) **12) FAILURE TO REIMBURSE**
) **BUSINESS EXPENSES;**
) **13) FAILURE TO PROVIDE**
) **PERSONNEL RECORDS;**
) **14) FAILURE TO PROVIDE PAY**
) **RECORDS;**
) **15) VIOLATION OF CALIFORNIA**
) **BUSINESS AND PROFESSIONS**
) **CODE SECTION 17200.**

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) **DEMAND FOR JURY TRIAL**
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COMES NOW Plaintiff, IVETTE ZOLTZMAN (hereinafter "Plaintiff"), and alleges:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants PACIFIC PACE, LLC and DOES 1 to 25, inclusive, do business in the County of Los Angeles, and because Defendants' obligations and liabilities arise therein. Moreover, Plaintiff's damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant PACIFIC PACE, LLC ("PACIFIC PACE") was and is a Delaware limited liability company operating in the County of Los Angeles, State of California, and who employed Plaintiff at Welbe Health Pacific Pace Center, 50 Alessandro Place, Suite A20, Pasadena, CA 91105.

4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of

1 that information and belief, alleges that at all times herein mentioned, each of the remaining
2 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
3 under the authority of their agency, employment, or representative capacity, with the consent
4 of his/her codefendants.

5 **GENERAL ALLEGATIONS**

6 6. Plaintiff started working for PACIFIC PACE approximately 18 months ago as a
7 Registered Nurse/Case Manager. Plaintiff was classified as an exempt, salaried employee and
8 she earned approximately \$90,000 per year. Plaintiff worked approximately 11 hours per day.

9 7. It is Plaintiff's position that she was an hourly, non-exempt employee but seemed to be
10 misclassified as a salaried, exempt employee. Under California law, in order for Plaintiff to be
11 an exempt employee, she would have to fit in one of the following categories: Executive,
12 Professional, or Administrative. Plaintiff was not exempt under the Administrative exemption
13 because her primary duties (even as a case manager for the time she attributed to those duties)
14 were not office work directly related to management policies or general business operations.
15 Plaintiff cannot be categorized under the Professional exemption either as her work as a
16 Registered Nurse (or case manager) did not fit into one of the enumerated professions and is not
17 considered a "learned or artistic profession". As far as the Executive exemption is concerned,
18 Plaintiff would not direct 2 or more other employees and she was not "primarily engaged in"
19 (more than 50%) duties which met the test of exemption. Furthermore, Plaintiff did not have the
20 authority to hire and fire employees. Finally, Plaintiff could not have been classified as a salaried,
21 exempt employee because she most certainly did not regularly exercise discretion and
22 independent judgment in effectuating her job duties as the facilitator (social worker) would make
23 the decisions.

24 8. It is Plaintiff's position that PACIFIC PACE has violated numerous Labor Code
25 Sections against Plaintiff and other similarly situated aggrieved employees.

26 9. PACIFIC PACE did not provide Plaintiff and other similarly situated aggrieved
27 employees with the minimum wages to which they were entitled for work performed and as such
28 did not compensate Plaintiff and others for all hours worked at the minimum wage rate pursuant

1 to California Labor Code sections 1194, 1197 and 1197.1. This is so because Plaintiff and others
2 were misclassified as salaried employees and were not paid on an hourly basis. For those
3 employees who were paid hourly, the company had a policy and practice of rounding down hours
4 and time shaving to the detriment of employees. Moreover, to the extent that hourly, non-exempt
5 employees worked through meal periods and while “off the clock”, they did not receive any
6 compensation for those hours worked in violation of California’s minimum wage laws.
7 Furthermore, Plaintiff worked “off the clock” all the time due to her status of being salaried but
8 was not paid for all hours worked due to her misclassification.

9 10. Due to the above “off the clock” work as alleged above and the misclassification as a
10 exempt, salaried employee, PACIFIC PACE also violated Labor Code §510 because
11 it failed to pay Plaintiff and other similarly situated aggrieved employees overtime, even
12 though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
13 throughout their employment. Plaintiff and others’ actual work hours entitled them to overtime
14 compensation, especially due to the “off the clock” as described above, however, they were not
15 paid accurately and fully for their overtime hours worked. Furthermore, for the hourly
16 employees, the company failed to include and consider all compensation, including
17 nondiscretionary bonuses, incentive payments, shift pay differentials, and other such forms of
18 compensation in the regular rate of pay for purposes of calculating the overtime rate.

19 11. PACIFIC PACE also violated Labor Code § 226.7 and the applicable Industrial
20 Welfare Commission Wage Order (no. 5) because it failed to provide Plaintiff and others with
21 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their
22 employment. PACIFIC PACE did not completely relieve Plaintiff and others of all duty during
23 said rest periods. PACIFIC PACE did not pay to Plaintiff and others one additional hour of pay
24 at Plaintiff’s regular rate of compensation for each workday that one or more statutory rest
25 periods was not provided. It was not company policy and not part of the company culture for
26 employees such as Plaintiff and others to take rest breaks. They were understaffed and were
27 responsible for taking care of too many patients. Moreover, Plaintiff’s status as an exempt
28 employee prevented her from taking statutory rest breaks to which she was entitled. As such, the
culture at PACIFIC PACE did not lend itself to the employees receiving statutory breaks wherein

1 they were relieved of all work duties. It was the normal practice and custom of PACIFIC PACE
2 not to authorize, permit, and enforce statutory rest periods. As such, the work environment and
3 culture at PACIFIC PACE was not conducive to receiving statutory rest breaks under California
4 law.

5 12. PACIFIC PACE violated Labor Code §§ 512 and 226.7 along with the applicable
6 Industrial Welfare Commission Wage Order (no. 5) because it failed to provide Plaintiff and
7 others the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work
8 throughout their employment. PACIFIC PACE did not completely relieve Plaintiff and others of
9 all duty during said meal periods. PACIFIC PACE did not pay to Plaintiff and others one
10 additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
11 more statutory meal periods was not provided. Plaintiff did not receive timely (before the 5th
12 hour) meal periods wherein she was relieved of all duty due to her misclassified status as a
13 salaried, exempt employee. Like rest breaks, the culture at PACIFIC PACE did not lend itself to
14 the employees receiving statutory meal breaks wherein they were relieved of all work duties. It
15 was the normal practice and custom of PACIFIC PACE not to authorize, permit, and enforce
16 statutory meal periods. As such, the work environment and culture at PACIFIC PACE was not
17 conducive to receiving timely, uninterrupted meal periods, especially a second meal period for
18 shifts of 10 hours or longer.

19 13. Furthermore, during the relevant time period and due to allegations above, PACIFIC
20 PACE failed to pay Plaintiff and others all wages due to them within any time period specified
21 by California Labor Code section 204.

22 14. PACIFIC PACE was also in violation of California Labor Code section 226(a), by
23 failing to provide accurate, itemized wage statements and include pertinent information on the
24 wage statements, including but not limited to, all hours worked (minimum wages and overtime
25 due to the "off the clock" work), all applicable hourly rates, gross wages earned, net wages
26 earned, premium pay for the missed meal and rest breaks, all deductions, the correct start and
27 end of the pay period, the correct name and address of the legal employer, all required employee
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1 identifying information, among others. As such, PACIFIC PACE did not provide Plaintiff and
2 other similarly situated aggrieved employees with complete, accurate itemized wage statements.

3 15. During the relevant time period, PACIFIC PACE also failed to keep accurate and
4 complete payroll records showing the actual hours worked per day (including the times that
5 meal breaks were taken) and the wages paid to Plaintiff and others pursuant to California Labor
6 Code sections 1174(d).

7 16. PACIFIC PACE also violated Labor Code § 203 because it willfully failed to pay
8 Plaintiff and other similarly situated aggrieved employees earned and due wages upon
9 separation of employment, either immediately upon involuntary termination, or within 72
10 hours of resignation. These earned but unpaid wages include minimum wages and
11 compensation for all hours worked, overtime compensation, premium pay for missed meal and
12 rest breaks, and business expense reimbursement, among others.

13 17. Additionally, during the relevant time period, Plaintiff and others incurred necessary,
14 business-related expenses and costs that were not reimbursed by PACIFIC PACE. These costs
15 include, but are not limited to, the cost of uniforms as well as personal cell phones for work
16 purposes. Accordingly, PACIFIC PACE was in violation of California Labor Code sections
17 2800 and 2802 as well as Labor Code Section 221 for unlawfully deducting for uniforms that
18 were to be used to effectuate job duties.

19 18. Furthermore, it is Plaintiff's position that PACIFIC PACE has also violated Labor Code
20 Section 558 and has engaged in business practices which violate Business and Professions
21 Code Section 17200.

22 **FIRST CAUSE OF ACTION**

23 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

24 **(California Industrial Welfare Commission Order 5-2001, California Code of**
25 **Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

26 **(Plaintiff against all named defendants and all DOE defendants)**

27 19. Plaintiff re-alleges and incorporates by reference each and every allegation in
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1 paragraphs 1 through 18, inclusive, of this Complaint as though fully set forth herein.

2 20. At all times relevant herein, Defendants were required to compensate its employees for
3 all hours worked upon reporting for work at the appointed time stated by the employer
4 pursuant to Industrial Welfare Commission Order 5-2001, California Code of Regulations,
5 Title 8, Section 11050.

6 21. For the three (3) years preceding filing of this action, Defendants failed to compensate
7 Plaintiff for all hours worked.

8 22. Under the aforementioned wage order and regulations, Plaintiff is to recover
9 compensation for all hours worked but not paid by Defendants for the three (3) years
10 preceding the filing of this Complaint.

11 23. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
12 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
13 this Court.

14 24. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
15 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
16 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
17 reasonable attorney's fees and costs of suit.

18 25. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
19 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
20 amount known to Plaintiff once she has obtained all of his payroll records from
21 Defendants.

22 **SECOND CAUSE OF ACTION**

23 **FAILURE TO PAY MINIMUM WAGES**

24 **(California Labor Code Sections 1194, 1194.2, 1197)**

25 **(Plaintiff against all named defendants and all DOE defendants)**

26 26. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.
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1 27. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
2 to suffer or permit a California employee to work without paying wages at the minimum wage
3 rate for all hours worked as required by the applicable Industrial Welfare Commission
4 (hereinafter "IWC") Wage Order No. 5-2001, codified at California Code of Regulations, Title
5 8, Section 11050, subdivision 4.

6 28. Pursuant to IWC Wage Order no. 5-2001, subdivision 2(K), at all relevant times, "hours
7 worked" included "the time during which an employee is subject to the control of an employer,
8 and includes all the time the employee is suffered or permitted to work, whether or not required
9 to do so..."

10 29. During her employment, Plaintiff was regularly required as a matter of uniform
11 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
12 was paid less than the minimum wage rate by Defendants for hours worked in violation of
13 California Labor Code Section 1197 and the applicable California Industrial Wage
14 Commission wage order(s).

15 30. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
16 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
17 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
18 to believe that their acts or omissions were not contrary to California law.

19 31. For all hours worked by Plaintiff for which she was paid less than the minimum wage
20 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
21 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
22 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
23 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

24 32. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
25 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
26 trial.

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THIRD CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(California Industrial Welfare Commission Order 5-2001, California Code of Regulations Title 8 Section 11050)

(Plaintiff against all named defendants and all DOE defendants)

33. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 32, inclusive, of this Complaint as though fully set forth herein.

34. Pursuant to Industrial Welfare Commission Order No. 5-2001, California Code of Regulations, Title 8, Section 11050, for the period of Plaintiff's employment, Defendants were required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

35. Plaintiff was a non-exempt employee entitled to the protections of the California Industrial Welfare Commission Order No. 5-2001, California Code of Regulations, Title 8, Section 11050.

36. Plaintiff worked more than eight (8) hours in a single workday, more than twelve (12) hours in a single day, or forty (40) hours in a single workweek on numerous occasions.

37. Plaintiff was entitled to the above overtime premiums.

38. Defendants did not pay Plaintiff premium wages of at least one and one-half times Plaintiff's regular rate of pay for hours worked past eight (8) in a day or two times Plaintiff's regular rate of pay for hours worked past twelve (12) in a day.

39. Defendants did not pay Plaintiff premium wages of at least one and one-half times Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

40. Plaintiff worked at least one pay period in which she was not properly paid overtime within the three (3) years prior to the initiation of this lawsuit.

1 41. Defendants know or should know the actual dates of overtime worked, the amount of
2 overtime worked, and the amount of unpaid overtime due.

3 42. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
4 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
5 Court.

6 43. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
7 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the
8 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
9 reasonable attorney's fees and costs of suit.

10 44. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
11 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
12 trial.

13 **FOURTH CAUSE OF ACTION**

14 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

15 **(California Labor Code Section 226)**

16 **(Plaintiff against all named and all DOE defendants)**

17 45. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 44, inclusive, of this Complaint as though fully set forth herein.

19 46. Pursuant to California Labor Code Section 226, every employer must furnish each
20 employee an itemized statement of wages and deductions at the time of payment of wages.

21 47. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
22 accurately reflected all information required by Labor Code Section 226, including but not
23 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
24 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
25 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
26 Plaintiff in accordance with California Labor Code Section 226(a).

27 48. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
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greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to the 1-year period immediately preceding the date this lawsuit was filed.

49. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained damages, including loss of earnings, in an amount to be established at trial. As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs and attorney's fees pursuant to statute.

50. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

FIFTH CAUSE OF ACTION

FAILURE TO PAY WAGES OWED EVERY PAY PERIOD

(California Labor Code Section 204)

(Plaintiff against all named defendants and all DOE defendants)

51. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 50, inclusive, of this Complaint as though fully set forth herein.

52. California Labor Code Section 204 establishes the fundamental right of all employees in the State of California to be paid wages in a timely fashion for their work.

53. At all times relevant during the liability period, Defendants failed to pay Plaintiff the full amount of all owed wages when due as required by California Labor Code Section 204.

54. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the liability period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked, including overtime hours and the minimum wage along with premiums for missed meal breaks

and rest breaks.

55. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount, subject to proof, to the extent she was not paid all wages each pay period. The precise amount of unpaid wages is not presently known to Plaintiff but can be determined directly from Defendants' records or indirectly based on information from Defendants' records.

56. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

SIXTH CAUSE OF ACTION

VIOLATION OF LABOR CODE SECTION 558

(California Labor Code Section 558)

(Plaintiff against all named defendants and all DOE defendants)

57. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 56, inclusive, of this Complaint as though fully set forth herein.

58. California Labor Code Section 558 states that any person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was filed.

59. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558. Thus, Defendants are subject to civil penalties under the following laws:

- a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular wages, including minimum wages for all hours worked and overtime wages for

1 overtime hours worked. As such, Defendants violated Section 558 under which
2 penalties are due. Plaintiff therefore prays for penalties of \$50.00 for the first pay
3 period and \$100.00 for each subsequent violation for each pay period for which
4 Plaintiff was underpaid in addition to an amount sufficient to recover underpaid
5 wages.

6 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
7 relief associated with Plaintiff's prosecution of this cause of action under California
8 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
9 paying Plaintiff for her overtime hours worked and minimum wages for all hours
10 worked.

11 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
12 fees for relief associated with Plaintiff's prosecution of this cause of action under
13 California Labor Code Sections 200, et seq.
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15 60. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
16 the statutes, regulations, and wage orders alleged in this cause of action along with any
17 allowable interest, penalties, attorney's fees, and costs according to proof at trial.

18 61. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs an
19 attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.
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21 **SEVENTH CAUSE OF ACTION**

22 **FAILURE TO MAINTAIN ACCURATE RECORDS**

23 **(California Labor Code Section 1174(d))**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 62. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 61, inclusive, of this Complaint as though fully set forth herein.

27 63. Labor Code section 1174(d) requires that employers, including Defendants, maintain
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1 accurate records showing the hours worked daily by its employees and to whom wages were
2 paid.

3 64. Additionally, the "Records" section of the applicable IWC Wage Order obligates the
4 employer, including Defendants, to keep accurate information with respect to each one of their
5 employees including, but not limited to, the total wages paid each payroll period, and time
6 records showing when the employee begins and ends each work period, meal periods, split
7 shift intervals; the total daily hours worked; the total hours worked in the payroll period, and
8 the applicable rates of pay.

9 65. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails
10 to maintain accurate and complete records required by Labor Code section 1174(d) is subject
11 to a penalty. On information and belief, Defendants intentionally failed to maintain accurate
12 records of Plaintiff's total daily hours, the total hours worked in the payroll period, the
13 applicable rates of pay, and total wages earned for the payroll period.

14 66. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and
15 continues to suffer substantial losses related to Defendants' failure to record and maintain
16 records of meal and rest periods as well as time records.

17 67. Plaintiff seeks all available remedies for Defendants' violations including, but not
18 limited penalties, and costs to the extent permitted by law and according to proof at trial.

19 **EIGHTH CAUSE OF ACTION**

20 **FAILURE TO GIVE REST BREAKS**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 68. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 67, inclusive, of this Complaint as though fully set forth herein.

24 69. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 25 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which
26 provides that every employer shall authorize and permit all employees to take rest
27 periods, which insofar as practicable shall be in the middle of each work period.
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1 The authorized rest period time shall be based on the total hours worked daily at the
2 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;

3 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which
4 provides that if an employer fails to provide an employee a rest period in
5 accordance with the applicable provisions of this order, the employer shall pay the
6 employee one (1) hour of pay at employee's regular rate of compensation for each
7 workday that the rest period is not provided;

8 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which
9 penalizes the employer \$50.00 for each initial violation, per employee, of any
10 provision of the Wage Order, and \$100.00 for each additional violation thereafter
11 per employee; and
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13 d. California Labor Code section 226.7, which states that (a) no employer shall require
14 any employee to work during any rest period mandated by an applicable order of
15 the Industrial Welfare Commission, and (b) if an employer fails to provide an
16 employee a rest period in accordance with an applicable order of the Industrial
17 Welfare Commission, the employer shall pay the employee one (1) additional hour
18 of pay at employee's regular rate of compensation for each work day that the rest
19 period is not provided.
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21 70. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute
22 rest break after every four (4) hours of work or major fraction thereof, as required by California
23 law.

24 71. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
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1 regulations, and wage orders alleged in this cause of action along with any allowable interest,
2 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
3 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

4 72. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
5 fees as well as interest under Labor Code section 218.6.

6 73. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
8 trial.

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10 **NINTH CAUSE OF ACTION**

11 **FAILURE TO GIVE MEAL BREAKS**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 74. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 73, inclusive, of this Complaint as though fully set forth herein.

15 75. Plaintiff brings this cause of action under the following laws, for the following
16 reasons:
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- 18 a. California Labor Code section 512(a), which requires that employees be given a 30-
19 minute uninterrupted meal break after five (5) hours of work, and a second
20 uninterrupted meal break after ten (10) hours of work;
21 b. California Labor Code section 226.7, which states that (a) no employer shall require
22 any employee to work during any meal period mandated by an applicable order of
23 the Industrial Welfare Commission, and (b) if any employer fails to provide an
24 employee a meal period in accordance with an applicable order of the Industrial
25 Welfare Commission, the employer shall pay the employee one (1) additional hour
26 of pay at the employee's regular rate of compensation for each workday that the
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meal period is not provided;

- c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11050, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, 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;
- d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11050, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as codified under California Code of Regulations Section 11050, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5) as enforceable law.

76. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted to take a second relieved meal break after ten (10) hours of work, as required by California law. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 5, as codified under California Code of Regulations Sections 11050 et. seq. requires that employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of all

1 work duty. California Labor Code section 226.7 provides that employers may not require their
2 employees to work through their meal periods. California Labor Code section 226.7 and
3 California Code of Regulations section 11050 requires that if the employer fails to provide the
4 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
5 of pay for each work day that the meal period is not given.

6 77. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
7 regulations, and wage orders alleged in this cause of action along with any allowable interest,
8 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
9 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

10 78. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
11 fees as well as interest under Labor Code section 218.6.

12 79. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
14 trial.

15 **TENTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **Individual and Representative Claim for PAGA penalties under California Labor Code**
18 **sections 201, 202, 203, 204 and/or 204b, 210, 221, 226, 226.3, 226.7, 510, 512, 558, 1174,**
19 **1174.5, 1194, 1197, 1198, 2802)**

20 **(Plaintiff Against all Named Defendants and all DOE Defendants)**

21 80. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 79, inclusive, of this Complaint as though fully set forth herein.

23 81. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
24 Defendants of the specific violations of the California Labor Code that Defendants
25 and DOE defendants have violated and continue to violate.

26 82. Pursuant to California Labor code section 2699.3, no response was received from the
27 LWDA within 65 days of the postmark date of the above-alleged letter.

1 83. Plaintiff therefore has exhausted all administrative remedies required of her under
2 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
3 cause of action and pursue penalties in a representative action for Defendants' violations of the
4 Labor Code.

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

11 85. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
12 violator and had one or more of the alleged violations committed against her, and therefore is
13 properly suited to represent the interests of other current and former hourly, non-exempt
14 employees who worked for PACIFIC PACE at any of its California locations during the
15 relevant PAGA Period.

16 86. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
17 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
18 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

19 87. Plaintiff therefore has exhausted all administrative remedies required of her under
20 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
21 cause of action and pursue penalties in a representative action for Defendants' violations of the
22 Labor Code.

23 88. California Labor Code section 2699 et seq. imposes penalties upon culpable
24 Defendants for violating the Labor Code.

25 89. California Labor Code section 558 establishes a civil penalty as follows: Any
26 employer or other person action on behalf of an employer who violates, or causes to be
27 violated, a section of this chapter or any provision regulating hours and days of work in any
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1 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
2 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
3 dollars (\$50) for each underpaid employee for each pay period for which the employee was
4 underpaid... (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
5 employee for each pay period for which the employee was underpaid...

6 90. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
7 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
8 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
9 employees in this specific cause of action under the Private Attorneys General Act.

10 91. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
11 the following:

12 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 221,
13 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802 via 2698 and 2699
14 and any other Labor Codes and Industrial Welfare Commission Wage Order Provisions
15 (no. 5) violated based on the facts alleged in this Complaint.

16 92. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney’s fees,
17 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
18 employees as alleged herein in an amount to be shown according to proof at trial and within the
19 jurisdictional limits of this Court.

20 **ELEVENTH CAUSE OF ACTION**

21 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

22 **(California Labor Code Sections 201, 202, 203)**

23 **(Plaintiff against all named defendants and all DOE defendants)**

24 93. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 92, inclusive, of this Complaint as though fully set forth herein.

26 94. Pursuant to California Labor Code Section 201(a), an employer who discharges an
27 employee must immediately pay for all compensation due and owing.
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1 95. Pursuant to California Labor Code Section 202, when an employee resigns, the
2 employer must pay all compensation due and owing within 72 hours of resignation, or on the
3 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

4 96. Pursuant to California Labor Code Section 203, if an employer willfully fails to
5 pay, without abatement or reduction, any wages of an employee whose employment ends, the
6 wages of the employee shall continue as a penalty from the due date at the same rate until paid
7 or until an action is commenced; however, the wages shall not continue for more than 30 days
8 for failure to pay an employee owed wages.

9 97. After Plaintiff's employment with Defendants ended, Defendants willfully
10 refused and continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

11 98. Under this cause of action, Plaintiff prays for penalties due under the statutes
12 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
13 proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 1 year
14 immediately preceding the filing of this lawsuit.

15 99. Under this cause of action, Plaintiff also prays for attorney's fees and costs
16 under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages
17 as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

18 100. Under this cause of action, Plaintiff prays for penalties due under the statutes
19 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
20 proof at trial.

21 **TWELFTH CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

23 **(Plaintiff against all Named Defendants and DOE Defendants, and each of them)**

24 101. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 100, inclusive, of this Complaint as though fully set forth herein.

26 102. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
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1 employee for all necessary expenditures or losses incurred by the employee in direct
2 consequence of the discharge of his or her duties.”

3 103. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
4 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
5 of completing her job duties, which were not reimbursed by Defendant. These expenses
6 include, but are not limited to the cost of uniforms and personal cell phones.

7 104. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
8 and attorney’s fees and costs, under Labor Code section 2802.

9 **THIRTEENTH CAUSE OF ACTION**

10 **FAILURE TO PROVIDE PERSONNEL RECORDS**

11 **(Plaintiff against All Named Defendants and DOE Defendants, and each of them)**

12 105. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 104, inclusive, of this Complaint as though fully set forth herein.

14 106. Labor Code section 1198.5 dictates “every current and former employee, or his or her
15 representative, has the right to inspect and receive a copy of the personnel records that the
16 employer maintains relating to the employee’s performance or to any grievance concerning the
17 employee.”
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19 107. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, “the employer
20 shall make the contents of those personnel records available for inspection to the current or
21 former employee, or his or her representative, at reasonable intervals and at reasonable
22 times...” On information and belief, Defendants intentionally failed to provide Plaintiff with
23 personnel records when requested by Plaintiff via letter on November 8, 2021, as required by
24 law. Plaintiff requested her personnel records in accordance with California Labor Code
25 section 1198.5(k) on November 8, 2021, via U.S. certified mail, return receipt requested.
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27 108. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her
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1 records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
2 suffered and continues to suffer substantial losses related to Defendants' failure to provide
3 personnel records.

4 109. Plaintiff seeks all available remedies for Defendants' violations including, but not
5 limited penalties, and costs to the extent permitted by law and according to proof at trial.
6 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants
7 in the amount of \$750.00, along with costs and attorney's fees.

8 **FOURTEENTH CAUSE OF ACTION**

9 **FAILURE TO PROVIDE PAY RECORDS**

10 **(Against All Named Defendants and all DOE Defendants)**

11 110. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 109, inclusive, of this Complaint as though fully set forth herein.

13 111. Labor Code section 226 sub-section (b) dictates "an employer...shall afford current
14 and former employees the right to inspect or copy records pertaining to their employment,
15 upon reasonable request to the employer..."

16 112. Moreover, pursuant to sub-section (c) of Labor Code section 226, "an employer who
17 receives a written or oral request to inspect or copy records pursuant to subdivision (b)
18 pertaining to a current or former employee shall comply with the request as soon as
19 practicable, but no later than 21 calendar days from the date of the request." On information
20 and belief, Defendants intentionally failed to provide Plaintiff with pay records when requested
21 by Plaintiff via certified letter, return receipt requested, on November 8, 2021, and as required
22 by law. Plaintiff requested her pay records in accordance with California Labor Code section
23 226 on November 8, 2021, via certified mail. Defendant failed to provide Plaintiff with an
24 opportunity to inspect or copy her pay records within 21 days.
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1 113. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and
2 continues to suffer substantial losses related to Defendants' failure to provide pay records.
3 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants
4 in the amount of \$750.00, along with costs and attorney's fees.

5 114. Plaintiff seeks all available remedies for Defendants' violations including, but not
6 limited penalties, and costs to the extent permitted by law and according to proof at trial.
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8 **FIFTEENTH CAUSE OF ACTION**

9 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

10 **(California Business and Professions Code Section 17200)**

11 **(Plaintiff against All Named Defendants and all DOE defendants)**

12 115. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 114, inclusive, of this Complaint as though fully set forth herein.

14 116. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
15 constitutes unfair and unlawful business practices under California Business and Professions
16 Code Section 17200, et seq.

17 117. Defendant's violations of California labor laws and the Labor Code constitutes a
18 business practice because it was done repeatedly over a significant period of time in a
19 systematic manner that was detrimental to Plaintiff and other aggrieved employees.

20 118. For the four years preceding the filing of this action, Plaintiff has suffered damages
21 and request damages and/or restitution of all monies and profits to be disgorged from
22 Defendant PACIFIC PACE in an amount according to proof at time of trial, but in excess of
23 the jurisdiction of this Court.

24 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
25 follows:

- 26 1. For compensatory damages to Plaintiff in an amount subject to proof at trial;
27 2. For special and consequential damages to the extent allowed by law;
28

3. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
4. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
5. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
6. For restitution and disgorgement for all unfair business practices by Defendant PACIFIC PACE against Plaintiff in an amount subject to proof at trial;
7. For an order enjoining Defendant PACIFIC PACE from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
10. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claim;
11. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law via PAGA;
12. For the imposition of civil penalties and/or statutory penalties;
13. For all interest as allowed by law;
14. For all costs and disbursements incurred in this suit;
15. Reasonable attorney's fees where available by law, including but not limited to,

pursuant to Labor Code section 2698 et seq., and the Labor Code generally;
and/or other applicable laws; and

16. For such other and further relief as this Court may deem proper.

DATED: January 19, 2022

MESSRELIAN LAW INC.

By

Harout Messreliah, Esq.

Attorneys for Plaintiff Ivette Zoltzman

DEMAND FOR JURY TRIAL

Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

DATED: January 19, 2022

MESSRELIAN LAW INC.

By

Harout Messreliah, Esq.

Attorneys for Plaintiff Ivette Zoltzman