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Attorneys for Plaintiffs
STEPHANIE NAVARRETTE, GUILLERMO HERNANDEZ,
AND OREL ZAMORA

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

STEPHANIE NAVARRETTE, an
individual; GUILLERMO HERNANDEZ,
an individual; and OREL ZAMORA, an
individual; on behalf of themselves and
other employees and members of the
general public similarly situated;

Plaintiffs,

vs.

MY USA HEALTH, LLC, a California
limited liability company; KLB
NATIONAL LLC, a Nevada limited
liability company; JERRY GRIDER, an
individual; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 30-2021-01230591-CU-OE-CXC

Assigned for all purposes to: Hon. James J. Di
Cesare, Department C16

FIRST AMENDED COMPLAINT FOR:

- 1) Failure to Pay Minimum Wages
- 2) Failure to Pay Overtime Wages
- 3) Failure to Provide Meal Periods
- 4) Failure to Provide Rest Breaks
- 5) Unreimbursed Business Expenses
- 6) Failure to Provide Accurate Itemized Wage Statements
- 7) Failure to Pay All Wages Due Upon Separation From Employment
- 8) Unfair or Unlawful Business Practices, Bus. & Prof. Code §§ 17200, *et seq.*
- 9) Private Attorneys General Act (PAGA)

DEMAND FOR JURY TRIAL

Action Filed: November 8, 2021
Trial Date: None Set

1 Plaintiffs Stephanie Navarrette, Guillermo Hernandez, and Orel Zamora
2 (“Plaintiffs”) individually, and on behalf of other members of the general public similarly
3 situated, allege as follows:

4 **PARTIES, JURISDICTION AND VENUE**

5 1. Plaintiff Stephanie Navarrette is an individual and resident of Los Angeles
6 County, California.

7 2. Plaintiff Guillermo Hernandez is an individual and resident of Orange County,
8 California.

9 3. Plaintiff Orel Zamora is an individual and resident of Orange County,
10 California.

11 4. Plaintiffs is informed and believes and, on that basis, alleges that Defendant
12 My USA Health, LLC (the “Company”) is a California limited liability company with its
13 principal place of business located in Anaheim, California.

14 5. Plaintiffs are informed and believe and, on that basis, allege that Defendant
15 KLB National LLC is a Nevada limited liability company with its principal place of business
16 in Anaheim, California.

17 6. Plaintiffs are informed and believe and, on that basis, allege that Defendant
18 Jerry Grider is an individual and resident of Orange County, California.

19 7. Plaintiffs are informed and believe and, on that basis, alleges that Defendant
20 My USA Health, LLC, KLB National LLC, and Defendant Jerry Grider (collectively, the
21 “Defendants”) are joint contractors, employers, and alter egos of one another, and at all times
22 were the agents, partners, joint venturers, joint employers, representatives, servants,
23 successors-in-interest, co-conspirators and assigns, each of the other, and at all times
24 relevant hereto were acting within the course and scope of their authority as such agents,
25 partners, joint ventures, joint employers, representatives, servants, employees, successors,
26 co-conspirators and assigns, and all acts or omissions allege herein were duly committed
27 with the ratification, knowledge, permission, encouragement, authorization, and consent of
28 each defendant designated herein.

8. Plaintiffs are informed and believe and, on that basis, allege that Defendant Jerry Grider is the owner, director, officer, and/or managing agent of Defendant My USA Health, LLC and Defendant KLB Services, LLC, and that Defendant Jerry Grider made all decisions regarding or relating to compensation of Plaintiffs and all others similarly situated.

9. Plaintiffs were employees of Defendants. By way of this First Amended Complaint (and any amendment thereto) Plaintiffs seek damages and other relief that render this matter an “unlimited” civil case within the meaning of California law.

10. The true names and capacities of the Doe Defendants (Does 1 through 10, inclusive) are unknown to Plaintiffs at this time and Plaintiffs are informed and believe that the DOE Defendants are in some way responsible and liable for the illegal conduct, injury and damages she has experienced. The Doe Defendants are believed to be joint or additional employers, or otherwise liable for the conduct complained of herein, whether because of alter-ego status, agency principles, aider and abettor (or conspirator) status, statutorily-imposed or authorized liability, or otherwise. If necessary, Plaintiffs will amend this First Amended Complaint to allege the true names and capacities of the Doe Defendants when ascertained and the legal basis upon which they are liable.

11. The Court has personal jurisdiction over Defendants because they are citizens of this State, residents of this State, do business in this State, and/or otherwise have minimum contacts with this State. The Court has personal jurisdiction over Plaintiffs because each are residents of California and each have sufficient minimum contacts with this State.

12. Venue is proper in Orange County as Defendants reside in Orange County.

13. Plaintiffs submitted a PAGA Letter to California's Labor & Workforce Development Agency and file this First Amended Complaint after 65 days of that letter.

GENERAL ALLEGATIONS

14. Plaintiffs and those similarly situated are current and former insurance agents who worked for Defendants during the period commencing four years prior to November 8, 2021.

1 15. Defendants are an insurance brokerage company that employed Plaintiffs and
2 other insurance agents similarly situated. Defendants held the licenses of Plaintiffs and other
3 class members in order for Plaintiffs and other class members to perform sales on behalf of
4 Defendants.

5 16. At all times during the relevant time period, Defendants exercised significant
6 control over Plaintiffs and those similarly situated, including but not limited to:

7 (a) Requiring Plaintiffs and those similarly situated to use a pre-approved
8 script in making sales calls;

9 (b) Designating the days and hours of work for Plaintiffs and those
10 similarly situated;

11 (c) Requiring Plaintiffs and those similarly situated to work from
12 Defendants' Fullerton office and not from home or any other location;

13 (d) Requiring Plaintiffs and those similarly situated to attend mandatory
14 Saturday meetings and trainings;

15 (e) Requiring Plaintiffs and those similarly situated to wear uniforms;

16 (f) Hiring and firing Plaintiffs and those similarly situated.

17 17. The Company also defrayed its business expenses by charging Plaintiffs and
18 those similarly situated a monthly "desk fee" for use of a desk, internet, and phone in
19 Defendants' Fullerton office.

20 18. The Company provided no compensation to Plaintiffs or those similarly
21 situated.

22 19. After terminating the employment of Plaintiffs and those similarly situated,
23 Defendants refused to release the insurance licenses of Plaintiffs and those similarly situated
24 from its control. As a result, Plaintiffs and those similarly situated were prevented from
25 engaging in insurance sales and otherwise remain inactive from their chosen profession for
26 a period of six months in order for the license to be released.

1 **CLASS ALLEGATIONS**

2 20. Plaintiffs bring this action on their own behalf and on behalf of all other
3 members of the general public similarly situated and, thus, seek class certification under
4 Code of Civil Procedure section 382.

5 21. The proposed class is defined as follows: All current and former insurance
6 agents of Defendants residing in California at any time during the period from four years
7 prior to November 8, 2021 to the date of final judgment.

8 22. Plaintiffs reserve the right to establish subclasses as appropriate.

9 23. The class is ascertainable and there is a well-defined community of interest in
10 the litigation:

11 (a) Numerosity: The class members are so numerous that joinder of all
12 class members is impracticable. The membership of the entire class is unknown to Plaintiffs
13 at this time, however the class is estimated to be 40+ individuals and the identity of such
14 membership is readily ascertainable by inspection of Defendants' records.

15 (b) Typicality: Plaintiffs' claims are typical of all other class members'
16 claims as demonstrated herein. Plaintiffs will fairly and adequately protect the interests of
17 the other class members with whom they have a well-defined community of interest.

18 (c) Adequacy: Plaintiffs will fairly and adequately protect the interests of
19 each class member, with whom they have a well-defined community of interest and
20 typicality of claims, as demonstrated herein. Plaintiffs have no interest that is antagonistic
21 to the other class members. Plaintiffs' attorneys, the proposed class counsel, are versed in
22 the rules governing class action discovery, certification, and settlement. Plaintiffs have
23 incurred, and during the pendency of this action will continue to incur, costs and attorneys'
24 fees, that have been, are, and will be necessarily expended for the prosecution of this action
25 for the substantial benefit of each class member.

1 (d) Superiority: A class action is superior to other available methods for
2 the fair and efficient adjudication of this litigation because individual joinder of all class
3 members is impractical.

4 (e) Public Policy Considerations: Certification of this lawsuit as a class
5 action will advance public policy objectives. As discussed herein, Defendants failed to pay
6 any remuneration to Plaintiffs and other class members, in violation of California public
7 policy. Defendants also interfered with the right of employees to continue in their chosen
8 profession after leaving Defendants' employment, in contravention of California's clear
9 policy against the restraint of engaging in a lawful profession, trade, or business, as set forth
10 in Business & Professions Code Section 16600 *et seq.*

11 24. Common questions of law and fact predominate over questions affecting
12 individual members. The following common questions of law or fact, among others, exist
13 as to the member of the class:

14 (a) Whether Plaintiffs and class members were "employees" under *S.G.*
15 *Borello & Sons, Inc. v. Dept. of Indust. Relations* (1989) 48 Cal.3d 341 or any other
16 applicable standard.

17 (b) Whether Defendants failed to pay Plaintiffs and other class members
18 minimum wages for work performed;

19 (c) Whether Defendants required Plaintiffs and other class members to
20 work over eight (8) hours in a day or forty (40) hours in a week and failed to pay the legally
21 required overtime compensation to Plaintiffs and other class members;

22 (d) Whether Defendants failed to provide Plaintiffs and other class
23 members duty-free meal periods of at least 30 minutes within the first five hours of work;

24 (e) Whether Defendants failed to provide Plaintiffs and other class
25 members duty-free rest breaks of at least 10 minutes for every four (4) hours of work or
26 major fraction thereof;

1 (f) Whether Defendants failed to pay meal and/or rest break premiums for
2 each day in which a legally-compliant meal or rest break was not provided;

3 (g) Whether Defendants failed to reimburse Plaintiffs and other class
4 members for reasonably-incurred business expenses;

5 (h) Whether Defendants coerced or compelled Plaintiffs and other class
6 members to patronize Defendants in the purchase of goods or services as a condition of
7 employment;

8 (i) Whether Defendants failed to pay all wages due to Plaintiffs and other
9 class members within the required time after their separation from employment;

10 (j) Whether Defendants failed to timely pay wages to Plaintiffs and other
11 class members during their employment;

12 (k) Whether Defendants complied with wage reporting as required by the
13 California Labor Code, including section 226;

14 (l) Whether Defendants' conduct was willful;

15 (m) Whether Defendants refused to release Plaintiffs' and other class
16 members' insurance licenses, thereby preventing Plaintiffs and other class members from
17 pursuing their lawful profession, trade, or business; and

18 (n) Whether Defendants' actions constituted an unfair business practices
19 under California Business & Professions code section 17200 *et seq.*;

20 **FIRST CAUSE OF ACTION**

21 Failure To Pay Minimum Wages

22 (Against All Defendants)

23 25. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 as
24 though fully set forth herein.

25 26. During the relevant time period set forth herein, California Labor Code
26 sections 1194, 1197 and 1197.1 provide that the minimum wage to be paid to employees,

1 and the payment of a lesser wage than the minimum so fixed, is unlawful.

2 27. As a pattern and practice during the relevant time period set forth herein,
3 Defendants failed to pay minimum wages to Plaintiffs and the other class members as
4 required, pursuant to California Labor Code sections 1194, 1197 and 1197.1.

5 28. Specifically, Plaintiffs and other putative class members were required to
6 perform work as insurance salespersons at Defendants' Fullerton location under the control
7 of Defendants. Defendants mandated the hours of work, the mode and manner in which
8 work was to be performed, hired and fired Plaintiffs and other putative class members, and
9 mandated Plaintiffs and other putative class members wear uniforms. Defendants, however,
10 paid no remuneration to Plaintiffs or other class members whatsoever.

11 29. Defendants failed to maintain any timekeeping system to track the hours of
12 work by each employee.

13 30. Defendants' failure to pay Plaintiffs and other class members the minimum
14 wage as required violates California Labor Code sections 1194, 1197 and 1997.1. Pursuant
15 to those sections, Plaintiffs and the other class members are entitled to recover the unpaid
16 balance of their minimum wage compensation as well as interest, costs, and attorneys' fees,
17 and liquidated damages in an amount equal to the wages unlawfully unpaid and interest
18 thereon.

19 31. Pursuant to California Labor Code section 1194.2, Plaintiffs and the other
20 class members are entitled to recover liquidated damages in an amount equal to the wages
21 unlawfully unpaid and interest thereon.

22 **SECOND CAUSE OF ACTION**

23 Failure To Pay Overtime Wages

24 (Against the All Defendants)

25 32. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 as
26 though fully set forth herein.

1 33. California Labor Code section 1198 and the applicable Industrial Welfare
2 Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without
3 compensating them at a rate of pay either time-and-one-half or two-times that person’s
4 regular rate of pay, depending on the number of hours worked by the person on a daily or
5 weekly basis.

6 34. Specifically, the applicable IWC Wage Order provides that Defendants are
7 and were required to pay Plaintiffs and the other class members employed by Defendants,
8 who work(ed) more than eight (8) hours in a day or more than forty (40) hours in a
9 workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours
10 in a day or more than forty (40) hours in a workweek.

11 35. The applicable IWC Wage Order further provides that Defendants are and
12 were required to pay Plaintiffs and the other class members overtime compensation at a rate
13 of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in
14 a day.

15 36. California Labor Code 510 codifies the right to overtime compensation at one-
16 and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a
17 day or forty (40) hours in a week or for the first eight (8) hours on the seventh day of work,
18 and overtime compensation at twice the regular hourly rate for hours worked in excess of
19 twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of
20 work.

21 37. During the relevant time period as set forth herein, Plaintiffs and other class
22 members worked in excess of eight (8) hours in a day and/or in excess of forty (40) hours in
23 a week.

24 38. As a pattern and practice, during the relevant time period set forth herein,
25 Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiffs and
26 the other class members.

39. Specifically, Plaintiffs and other putative class members were required to perform work as insurance salespersons at Defendants' Fullerton location under the control of Defendants. Defendants mandated the hours of work, the mode and manner in which work was to be performed, hired and fired Plaintiffs and other putative class members, and mandated Plaintiffs and other putative class members wear uniforms. Defendants, however, paid no remuneration to Plaintiffs or other class members whatsoever.

40. Defendants failed to maintain a timekeeping system in order to track the works worked of Plaintiffs and/or other class members.

41. Defendants' failure to pay Plaintiffs and the other class members overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

42. Pursuant to California Labor Code section 1194, Plaintiffs and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

Failure to Provide Meal Periods

(Against the All Defendants)

43. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 as though fully set forth herein.

44. During the relevant time period as set forth herein, the IWC Wage Order and California Labor Code sections 226.7 and 512(a) were applicable to Defendants' employment of Plaintiffs and the other class members.

45. During the relevant time period as set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

46. During the relevant time period as set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require,

1 cause or permit an employee to work for a work period of more than five (5) hours per day
2 without providing the employee with a meal period of not less than thirty (30) minutes,
3 except that if the total work period per day of the employee is no more than six (6) hours,
4 the meal period may be waived by mutual consent of both the employer and employee.

5 47. During the relevant time period as set forth herein, the applicable IWC Wage
6 Order and California Labor Code section 512(a) further provide that an employer may not
7 require, cause, or permit an employee to work for a work period of more than ten (10) hours
8 per day without providing the employee with a second uninterrupted meal period of not less
9 than thirty (30) minutes, except that if the total hours worked is no more than twelve (12)
10 hours, the second meal period may be waived by mutual consent of the employer and the
11 employee only if the first meal period was not waived.

12 48. As a pattern and practice during the relevant time period set forth herein,
13 Plaintiffs and the other class members who were scheduled to work for a period of time
14 longer than six (6) hours, and who did not waive their legally-mandated meal periods by
15 mutual consent, were required to work for periods longer than five (5) hours without an
16 uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

17 49. As a pattern and practice during the relevant time period set forth herein,
18 Plaintiffs and the other class members who were scheduled to work for a period of time in
19 excess of six (6) hours were required to work for periods longer than five (5) hours without
20 an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

21 50. Specifically, Plaintiffs and other class members were required to perform “call
22 backs” during lunch breaks and perform other work, including writing thank you cards for
23 recent sales and making other notes regarding sales made.

24 51. As a pattern and practice during the relevant time period as set forth herein,
25 Defendants intentionally and willfully required Plaintiffs and other class members to work
26 during meal periods and failed to compensate Plaintiffs and the other class members the
27 meal period premium for failure to provide the legally-compliant meal period pursuant to
28

1 California Labor Code section 226.7. No valid waiver exists to excuse the meal period
2 violations.

3 52. Defendants' conduct violates applicable IWC Wage Order and California
4 Labor Code sections 226.7 and 512(a).

5 53. Pursuant to the applicable IWC Wage Order and California Labor Code
6 section 226.7(b), Plaintiffs and other class members are entitled to recover from Defendants
7 one additional hour of pay at the employee's regular rate of pay for each workday that the
8 meal or rest period is not provided.

9 **FOURTH CAUSE OF ACTION**

10 Failure To Provide Rest Breaks

11 (Against All Defendants)

12 54. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 as
13 though fully set forth herein.

14 55. During the relevant time period as set forth herein, the IWC Wage Order and
15 California Labor Code sections 226.7 and 512(a) were applicable to Defendants'
16 employment of Plaintiffs and the other class members.

17 56. During the relevant time period set forth herein, California Labor Code section
18 226.7 provides that no employer shall require an employee to work during any rest period
19 mandated by an applicable order of the California IWC. During the relevant time period set
20 forth herein, the applicable IWC Wage Order provides that "[e]very employer shall authorize
21 and permit all employees to take rest periods, which insofar as practicable shall be in the
22 middle of each work period," and that the "rest period time shall be based on the total hours
23 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
24 thereof" unless the total daily work time is less than three and one-half (3½) hours.

25 57. As a pattern and practice during the relevant time period set forth herein,
26 Defendants required Plaintiffs and the other class members to work four (4) or more hours
27
28

1 without authorizing or permitting a ten (10) minute rest period per each four (4) hour period
2 worked.

3 58. Specifically, Plaintiffs and the other class members were not permitted to stop
4 working during any four-hour increment. Indeed, Plaintiffs and the other class members
5 received an immediate text messages and, if they did not immediately respond, a phone call
6 if they were away from their desks or “on pause” for more than two minutes. Plaintiffs and
7 the other class members were specifically told they were not allowed “no more then [sic] 5
8 seconds on pause,” meaning they were to take no longer than five seconds between sales
9 calls. Plaintiffs and the other class members also received numerous text messages and
10 phone calls prohibiting them from using the restroom during working hours or when another
11 sales rep was currently using the restroom.

12 59. As a pattern and practice during the relevant time period set forth herein,
13 Defendants willfully required Plaintiffs and the other class members to work during rest
14 periods and failed to pay Plaintiffs and the other class members a rest period premium for
15 failure to provide rest periods. No valid waiver exists to excuse the rest break violations.

16 60. Defendants’ conduct violates applicable IWC Wage Order and California
17 Labor Code sections 226.7.

18 61. Pursuant to the applicable IWC Wage Order and California Labor Code
19 section 226.7(b), Plaintiffs and other class members are entitled to recover from Defendants
20 one additional hour of pay at the employee’s regular rate of pay for each workday that the
21 meal or rest period is not provided.

22 **FIFTH CAUSE OF ACTION**

23 Unreimbursed Business Expenses

24 (Against All Defendants)

25 62. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 as
26 though fully set forth herein.

63. At all relevant times, Labor Code section 2802 required and continues to require employers to fully reimburse employees for expenses incurred in the discharge of their work-related duties or while carrying out the directions of their employer.

64. Plaintiffs and other class members were required by Defendants to purchase uniforms, and to subsidize Defendants' business costs, including but not limited to rent, phone costs, and internet costs, in violation of Labor Code section 2802(a)-(c).

65. In addition to other appropriate relief, Plaintiffs are entitled to full reimbursement of all expenses owed, plus interest, attorney's fees and costs, as provided for in Labor Code section 2802.

SIXTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Wage Statements

(Against All Defendants)

66. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 as though fully set forth herein.

67. Labor Code section 226(a) requires that employers furnish to their employees semi-monthly or at the time of each payment of wages, an accurate itemized statement in writing showing such matters as the name and address of the legal entity that is the employer the gross wages earned, the total hours worked, the net wages earned and all applicable hourly rates and the corresponding hours worked at those rates during the pay period.

68. Labor Code section 226(a) applied to Defendants employment of Plaintiffs and the other class members.

69. Defendants failed to provide *any* wage statements to Plaintiffs throughout the relevant time period, as set forth herein.

70. Plaintiffs and the other class members have suffered the requisite “injury” as a result of the violations, and Defendants’ violation was “knowing and intentional,” as those terms are used in Labor Code section 226. Plaintiffs and the other class members are entitled to the greater of (i) all actual damages or (ii) \$50 for the initial wage statement violation,

1 and \$100 for each subsequent violation, not to exceed an aggregate penalty of \$4,000 (Labor
2 Code § 226(e)(1)), in addition to attorneys' fees and costs.

3 **SEVENTH CAUSE OF ACTION**

4 Failure To Pay All Wages Due Upon Separation From Employment

5 (Against All Defendants)

6 71. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 24 as
7 though fully set forth herein.

8 72. Labor Code sections 201 and 202 impose time requirements on tendering to a
9 discharged or quitting employee their final wages. At all relevant times, Labor Code section
10 201 provided that, if an employer discharged an employee, the employee's wages earned and
11 unpaid at the time of discharge are due and payable immediately. At all relevant times,
12 Labor Code section 202 provided that, if an employee quits without giving 72 hours advance
13 notice, all of his or her wages are due within 72 hours of quitting; if an employee quits and
14 provides 72 hours or more of advance notice, all of his or her wages are due at the time of
15 quitting. Plaintiffs and other class members' employment with Defendants ended over thirty
16 (30) days ago and, to this day, they have not received all the wages due to them.

17 73. Defendants have willfully failed to pay Plaintiffs and other class members all
18 wages due in violation of Labor Code sections 201 and 202. Neither Plaintiffs nor the other
19 class members who are former employees received any final wages whatsoever, including
20 no wages for minimum wage or overtime wage.

21 74. At all relevant times, Labor Code section 203 provided that, if employers (such
22 as the Theater Company) willfully fail to pay any wages of an employee who is discharged
23 or quits in the time required by Labor Code section 201 or 202, the wages of the employee
24 shall continue as a penalty from the due date thereof at the same rate until paid or until an
25 action therefor is commenced, but the wages shall not continue for more than thirty (30)
26 days. Accordingly, Plaintiffs are entitled to receive statutory penalties up to a maximum
27 of thirty (30) days, as well as attorney's fees and costs, under Labor Code section 203.

1 **EIGHTH CAUSE OF ACTION**

2 Unfair Or Unlawful Business Practices

3 (Against All Defendants)

4 75. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 74 as
5 though fully set forth herein.

6 76. At all relevant times, Defendants' practices as alleged above, have been unfair,
7 unlawful, deceptive, and harmful to Plaintiffs, others similarly situated, and the general
8 public. Defendants' illegal practices, as alleged in this First Amended Complaint, constitute
9 violations of Business and Professions Code sections 17200 *et seq.* A practice that violates
10 any state law or regulation may constitute the basis of an unlawful business practice
11 prohibited by Business and Professions Code sections 17200 *et seq.*

12 77. In light of all the above-alleged violations, pursuant to Business and
13 Professions Code sections 17200 *et seq.*, Plaintiffs and other class members are entitled to
14 restitution of wages and other expenses and property held by Defendants and/or other relief
15 requiring Defendants to pay all wages and other sums due to Plaintiffs and the other class
16 members and to disgorge profits obtained through the unlawful, unfair or deceptive business
17 practices. Defendants have been unjustly enriched as a result of their unlawful, unfair, or
18 deceptive business practices.

19 78. In addition to the above-alleged violations, Defendants also interfered with the
20 right of Plaintiffs and other class members to continue in their chosen profession after
21 leaving Defendants' employment, in contravention of California's clear policy against the
22 restraint of engaging in a lawful profession, trade, or business, as set forth in Business &
23 Professions Code Section 16600 *et seq.*, by refusing to release their insurance licenses.
24 Plaintiffs and the other class members were unable to work and suffered lost income for a
25 period of six months after leaving the Company's employment.

26 79. In addition to the above-alleged violations, Defendants have committed other
27 illegal, unfair, and/or deceptive business acts. Under California Labor Code section 450(a),
28

1 it is unlawful for an employer to “compel or coerce any employee, or applicant for
2 employment, to patronize his or her employer, or any other person, in the purchase of any
3 thing of value.” Defendants required Plaintiffs and the other class members to pay a “desk
4 fee” to Defendants in order to work for Defendants, in violation of section 450(a).

5 80. Plaintiffs are entitled to restitution for Defendants’ actions, the equitable
6 remedy of disgorgement, and reasonable attorneys’ fees and costs.

7 81. Plaintiffs meet the standing requirement of Business and Professions Code
8 section 17203, in that they have suffered injury in fact and have lost money as a result of
9 Defendants’ actions, as more fully set forth in this pleading.

10 **NINTH CAUSE OF ACTION**

11 Penalties under Private Attorneys General Act (“PAGA”)

12 (Against All Defendants)

13 82. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 81 as
14 though fully set forth herein.

15 83. At all times set forth herein, PAGA was applicable to Plaintiffs’ employment
16 by Defendants.

17 84. At all times set forth herein, PAGA provides that any provision of law under
18 the California Labor Code that provides for a civil penalty to be assessed and collected by
19 the LWDA for violations of the California Labor Code may, as an alternative, be recovered
20 through a civil action brought by an aggrieved employee on behalf of herself and other
21 current or former employees pursuant to procedures outlined in California Labor Code
22 section 2699.3.

23 85. Plaintiffs were employed by Defendants and the alleged violation was
24 committed against them during the time of employment and they are, therefore, aggrieved
25 employees. Plaintiffs and the other employees are “aggrieved employees” as defined by
26 California Labor Code section 2699(c) in that they are all current or former employees of
27 Defendants, and one of more of the alleged violations were committed against them.
28

1 86. On November 8, 2021, Plaintiffs provided written notice by online submission
2 to the LWDA and by U.S. Certified Mail to Defendants, and each of them (the “PAGA
3 Notice”). The PAGA Notice set forth the specific provisions of the California Labor Code
4 alleged to have been violated and included the facts and theories to support each of the
5 alleged violations. A true and correct copy of the PAGA Notice is attached hereto as Exhibit
6 “A.”

7 87. Plaintiffs, therefore, have satisfied the administrative prerequisites under
8 California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in
9 addition to other remedies, for violations of California Labor Code sections 201, 202, 203,
10 204, 210, 221, 225.5, 226.3, 226, 226.7, 226.8, 450, 510, 512, 558, 1174, 1194, 1194.2,
11 1197, 1197.1, 1198, and 2802.

12 88. PAGA expressly establishes that any provision of the California Labor Code
13 that provides for a civil penalty to be assessed and collected by the LWDA, or any of its
14 departments, divisions, commissions, boards, agencies or employees for a violation of the
15 California Labor Code may be recovered through a civil action brought by an aggrieved
16 employee on behalf of himself or herself, and other current or former employees.

17 89. Whenever the LWDA, or any of its departments, divisions, commissions,
18 boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil
19 action is authorized to exercise the same discretion, subject to the same limitations and
20 conditions, to assess a civil penalty.

21 Willful Misclassification of Individuals as Independent Contractors

22 90. Defendants’ intentional and willful misclassification of Plaintiffs and the other
23 aggrieved employees as independent contractors is in violation of Labor Code section
24 226.8(a)(1)-(2).

25 Unpaid Minimum Wages

26 91. Defendants’ failure to pay legally required minimum wages to Plaintiffs and
27 the other aggrieved employees is in violation of the Wage Order and constitutes unlawful or
28

1 unfair activity prohibited by California Labor Code sections 204, 1194, 1194.2, 1197 and
2 1197.1.

3 Unpaid Overtime Wages

4 92. Defendants' failure to pay legally required overtime wages to Plaintiffs and
5 the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful
6 or unfair activity prohibited by California Labor Code sections 204, 510 and 1198.

7 Meal Periods & Rest Breaks

8 93. Defendants' failure to provide legally-required meal periods and rest breaks to
9 Plaintiffs and the other aggrieved employees is in violation of the Wage Orders and
10 constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7(b)
11 and (c) and 512(a).

12 Failure to Maintain Time Records

13 94. Defendants' failure to maintain time records of the hours worked by Plaintiffs
14 and the other aggrieved employees constitutes unlawful and/or unfair activity prohibited by
15 California Labor Code section 1174(d).

16 Failure to Provide Accurate Wage Statements

17 95. Defendants' failure to provide wage statements to Plaintiffs and the other
18 aggrieved employees constitutes unlawful and/or unfair activity prohibited by California
19 Labor Code section 226(a).

20 Failure to Pay All Wages Due Upon Separation

21 96. Defendants' failure to pay wages to Plaintiffs and other aggrieved employees
22 upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful
23 and/or unfair activity prohibited by California Labor Code sections 201 and 202.

24 Unreimbursed Business Expenses

25 97. Defendants' failure to reimburse Plaintiffs and the other aggrieved employees
26 for all necessary expenditures incurred in direct consequence of the discharge of their duties,
27
28

1 including but not limited to uniforms, rent, phone costs, and internet costs, constitutes
2 unlawful and/or unfair activity prohibited by California Labor Code section 2802(a)-(c).

3 Compelled Patronage

4 98. Plaintiffs and the other aggrieved employees were required to work out of
5 Defendants' offices and were required to pay Defendants a "desk fee" that included a fee for
6 using the desk, internet, and telephone at the office. This compelled purchase from
7 Defendants constitutes unlawful and/or unfair activity prohibited by California Labor Code
8 section 450(a).

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs, individually and on behalf of the general public similarly
11 situated, prays for relief and judgment against Defendants, jointly and severally, as
12 follows:

13 **Class Certification**

- 14 1. That this action be certified as a class action;
15 2. That Plaintiffs be appointed as class representatives;
16 3. That counsel for Plaintiffs be appointed as Class Counsel; and
17 4. That Defendants provide to Class Counsel immediately the names and most
18 current contact information (addresses, email and telephone numbers) of all class members.

19 **On the First Cause of Action**

- 20 5. For all recoverable damages and unpaid minimum wages;;
21 6. For liquidated damages pursuant to Labor Code section 1194.2 and/or 1197.1;

22 **On the Second Cause of Action**

- 23 7. For all recoverable damages and unpaid overtime wages;

24 **On the Third Cause of Action**

- 25 8. For premium pay for meal period violations under Labor Code section 226.7;

26 **On the Fourth Cause of Action**

- 27 9. For premium pay for rest break violations under Labor Code section 226.7;
28

1 **On the Fifth Cause of Action**

2 10. For the full reimbursement of expenses owed, including interest thereon, under
3 Labor Code section 2802;

4 **On the Sixth Cause of Action**

5 11. For statutory penalties under Labor Code section 226 or actual damages
6 incurred as a result of Defendants failure to issue accurate itemized wage statements;

7 **On the Seventh Cause of Action**

8 12. For statutory penalties under Labor Code section 203, up to the statutory
9 maximum;

10 **On the Eighth Cause of Action**

11 13. For restitution of all unpaid wages, straight time, overtime wages, minimum
12 wages, and expenses incurred along with the disgorgement of profits received as a result of
13 Defendants' unfair or unlawful business practices;

14 **On the Ninth Cause of Action**

15 14. For civil penalties pursuant to California Labor Code sections 2699(a) & (f)
16 for violation of California Labor Code sections 201, 202, 203, 204, 210, 221, 225.5, 226.3,
17 226, 226.7, 226.8, 450, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802.

18 **On all Causes of Action**

19 15. For attorneys' fees under Civil Code section 1021.5, all provisions of the
20 Labor Code that authorize attorneys' fees and costs (including, e.g., Labor Code §§ 218.5,
21 226, 203, 1194(a), 1194.3, 2802, 2699(g), 3287, and 3289), the "catalyst" theory, and/or any
22 other applicable theory or doctrine;

23 16. For prejudgment interest on all amounts owing commencing from the date on
24 which the sums were due;

25 17. For costs of suit herein;

26 18. For all such other relief as the Court deems just and proper.

1 Dated: January 21, 2022

SCHEPPACH BAUER PC
THOREY M. BAUER
JOHN M. SCHEPPACH

By: 

THOREY M. BAUER
Attorneys for Plaintiffs
STEPHANIE NAVARRETTE,
GUILLERMO HERNANDEZ, AND OREL
ZAMORA

8 **DEMAND FOR JURY TRIAL**

9 Plaintiffs demand a trial by jury on all issues, claims and causes of action so triable.

11 Dated: January 21, 2022

SCHEPPACH BAUER PC
THOREY M. BAUER
JOHN M. SCHEPPACH

By: 

THOREY M. BAUER
Attorneys for Plaintiffs
STEPHANIE NAVARRETTE,
GUILLERMO HERNANDEZ, AND OREL
ZAMORA

EXHIBIT “A”

PAGA NOTICE

November 8, 2021

VIA CERTIFIED MAIL TO:

Jerry Grider
Agent for Service of Process for
My USA Health LLC
1310 E. Chapman Avenue, Suite 303
Fullerton, California 92831

The Corporate Experts Limited
Agent of Service of Process for
KLB National LLC
9708 Gillespie Street, Suite 104
Las Vegas, NV 89183

Jerry Grider
146 Kauai Lane
Placentia, CA 92870

VIA ONLINE SUBMISSION TO:

**The State Of California,
Labor & Workforce Development
Agency**

Current Website Address:

[http://www.dir.ca.gov/Private-Attorneys-
General-Act/Private-Attorneys-General-](http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-)

Re: *Navarrette, et al. v. My USA Health LLC*
PAGA Notice

Dear Employer and the LWDA:

Stephanie Navarrette, Guillermo “Drew” Hernandez, and Orel Zamora (collectively, “Claimants”), on behalf of themselves and all other aggrieved employees, and through their undersigned representative, hereby provide notice pursuant to the California Private Attorneys General Act of 2004, Labor Code sections 2698-2699.5 (“PAGA”) of alleged violations of the California Labor Code committed by My USA Health LLC, its alter ego KLB National LLC, and the owner and manager of both entities, Jerry Grider (collectively, the “Company”). Pursuant to the requirements of PAGA, the Labor Code provisions allegedly violated, including the alleged facts and theories in support thereof, are set forth in the paragraphs below. All citations herein are to the California Labor Code as it is presently constituted. The Labor Code may be amended in one or more respects after the date of this PAGA Notice.

I. BACKGROUND

The PAGA group covered by this PAGA Notice includes all current and former insurance agents employed by the Company in California at any time during the applicable limitations period (collectively, and along with Claimants, referred to herein as the “Aggrieved Employees”).

The Company is an insurance brokerage business that employed and continues to employ the Aggrieved Employees. Aggrieved Employees worked for the Company as insurance sales agents. The Company provided leads to Aggrieved Employees and allowed Aggrieved Employees to be in its “downline,” meaning that the licenses of the Aggrieved Employees were attached to the Company and the sales of the Aggrieved Employees created revenue for the Company.

At all times, the Company misclassified Aggrieved Employees as independent contractors. California Labor Code section 2783(a) provides that whether an individual “licensed by the Department of Insurance” is an employee or independent contractor shall be governed by the California Supreme Court’s holding in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

At all times, Aggrieved Employees failed to meet the standard set forth for “independent contractors” in *Borello* and, as a result, were misclassified as independent contractors. At all times, the Company exercised significant control over the terms and conditions of the Aggrieved Employees’ work, including but not limited to, requiring Aggrieved Employees to use its pre-approved script on sales calls, requiring Aggrieved Employees to work in a specified location (its Fullerton office) and not from home or other location, requiring Aggrieved Employees to work a set daily schedule, requiring Aggrieved Employees to attend mandatory Saturday meetings and trainings, requiring Aggrieved Employees to wear a uniform (which they purchased themselves), and “hiring” and “firing” Aggrieved Employees.

The Company also defrayed its business expenses by charging Aggrieved Employees a monthly “desk fee” each month for the use of a desk and telephone extension at the Company’s office. Despite paying the “desk fee,” the Company controlled the telephone and desk use, often turning off phone access to Aggrieved Employees at the Company’s whim.

The Company never paid Aggrieved Employees any form of remuneration.

Under the governing standard, Aggrieved Employees qualified as “employees” entitled to the full protections of the Labor Code and the applicable Industrial Welfare Commission Wage order.

II. LABOR CODE VIOLATIONS

The Company’s misclassification of Aggrieved Employees as independent contractors gives rise to numerous Labor Code violations:

Willful Misclassification of Individuals as Independent Contractors

The Company incorrectly and willfully misclassified Claimants and the other Aggrieved Employees as independent contractors. The Company's willfulness is demonstrated by the fact that the Company prohibited them from "freelancing" and performing "personal things," and by the fact that the Company performed typical employer functions, such as "hiring," "suspending," and "firing" Claimants and other Aggrieved Employees.

The Company's willful misclassification of Claimants and the other Aggrieved Employees violates and is actionable under Labor Code section 226.8(a)(1)-(2) and gives rise to the penalties specified in Labor Code sections 226.8(b)-(c).

Unpaid Minimum Wages

Aggrieved Employees routinely worked long hours for the Company, and they did not receive the wages required by law.

Throughout their employment, the Company paid less than minimum wages to Aggrieved Employees and required Aggrieved Employees to agree either verbally or in writing to work for less than the minimum wage, which violates and is actionable under California Labor Code section 1194, 1194.2, 1197 and 204, and sections 4(A), (B) of the applicable IWC Wage Order.

Unpaid Overtime Wages

While Claimants and Aggrieved Employees were misclassified as independent contractors, they worked sufficient hours to be entitled to overtime and double-time pay, which they did not receive. The Company's failure to pay overtime and/or double-time wages to the Aggrieved Employees was a violation of, and is actionable under, Labor Code sections 510, 1198, and 204.

Meal Periods & Rest Breaks

At all relevant times, the Company failed to provide Aggrieved Employees with the legally-compliant meal periods (first and second) and rest breaks (first, second, and third) to which they were entitled. The Company incorrectly believed that meal periods and rest breaks were not required by law for these employees and, as a result, repeated violations of the meal period and rest break rules occurred. There are no meal period records as to the Aggrieved Employees, giving rise to a presumption of meal period infractions.

No valid waiver exists to excuse the meal period violations. The Company did not properly pay Aggrieved Employees the required premium wages owed for the meal period violations. The Company's non-provision of complaint meal periods, and the Company's non-payment of the required meal period premiums, violated and is actionable under Labor Code § 512(a) and Labor Code § 226.7(b) & (c).

Likewise, no valid waiver exists to excuse the rest period violations. The Company did not properly pay Aggrieved Employees the required premium wages owed for the rest period violations. The Company's non-provision of compliant rest periods, and the Company's non-payment of the required rest period premiums, violated and is actionable under Labor Code sections 226.7(b) and (c). The Company's failure to provide legally-compliant rest periods also violated regulatory law. (IWC Wage Orders, § 12 [rest period requirements].)

Failure to Maintain Time Records

At all relevant times, the Company failed to keep an accurate record of the hours worked by Aggrieved Employees and their associated wages, in violation of Labor Code section 1174(d). The Company erroneously believed it was exempt from these requirements.

Failure to Provide Accurate Wage Statements & Recordkeeping

At all relevant times, the Company failed to provide wage statements to Aggrieved Employees at any time during or after their employment, in violation of Labor Code section 226(a). The Company did not issue wage statements to Aggrieved Employees, although they were "employees" under the law, and were entitled to such wage statements. The Company's non-compliance with California's wage statement requirements violated and is actionable under Labor Code sections 226(a) and 226.3.

Failure to Pay all Wages Due Upon Separation

As a result of the Company's failure to pay minimum wages and overtime wages to Aggrieved Employees (as discussed above), the Company did not provide separated employees (including all Claimants) with final pay that contained all wages due to them under California law. This deficiency in final pay was willful within the meaning of Labor Code § 203. The Company's non-provision of timely and sufficient final pay to separated employees violated, and is actionable under, Labor Code sections 201, 202, 203, 208, 226(a), and 226.3.

Unreimbursed Business Expenses

Labor Code section 2802 requires employers to fully reimburse employees for expenses incurred in the discharge of their work-related duties or while carrying out the directions of their employer. Aggrieved Employees were required to work from the Company's office and required to pay a "desk fee" for use of desks, internet, and telephone extensions used in carrying out their duties. Aggrieved Employees were also required to purchase and wear a Company uniform. However, as "employees," Aggrieved Employees were entitled to the protections of Labor Code section 2802, and all these expenses should have been exclusively borne by the Company without cost to the Aggrieved Employees. The Company's failure to properly pay expenses of the Aggrieved Employees violates and is actionable under Labor Code section 2802(a)-(c).

Compelled Patronage

Aggrieved Employees were required to work out of the Company's office and required to pay the Company a "desk fee" that included a fee for using the desk, internet, and telephone. This compelled purchase from the Company violates and is actionable under California Labor Code section 450(a).

III. CIVIL PENALTIES SOUGHT

For all the above-specified Labor Code violations, Claimants, on behalf of themselves and all Aggrieved Employees, seek all available civil penalties provided by PAGA, and any civil penalties specifically provided by statute for the alleged Labor Code violations (including Labor Code §§ 201, 202, 203, 204, 210, 221, 225.5, 226.3, 226, 226.7, 226.8, 450, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2699) that are recoverable un PAGA.

The civil penalties are sought against both the Company and, to the fullest extent authorized by law, the Company's owner and manager, Jerry Grider ("Grider"). (Labor Code §§ 226.8, 558, 558.1, 1197.1, 1199; *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809.) On information and belief, Grider cause the Labor Code and Wage Order violations asserted in this PAGA Notice and is therefore individually liable. On information and belief, Grider made, allowed, participated in the creation of, and/or authorized decisions, conditions, policies, or practices that caused the Labor Code and Wage Order violations herein asserted, including the willful misclassification of Claimants and other Aggrieved Employees as independent contractors, unpaid minimum wages, unpaid overtime wages, meal period and rest break violations, failure to maintain time records, failure to provide accurate wage statements, failure to pay all wages due at termination, failure to reimburse business expenses, and compelled patronage of the Company.

Claimants, on behalf of themselves and all other Aggrieved Employees, also reserve the right to assert claims for Labor Code violations and associated civil penalties that are uncovered in the discovery process but that are presently unknown.

Sincerely,

A handwritten signature in black ink, appearing to read "Thorey M. Bauer", written over a horizontal line.

Thorey M. Bauer
of Scheppach Bauer PC