

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 28 2022

BY 
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CIV SB 2202953

STEPHANIE CUEVAS, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

TARLANI CORP., a California Corporation;
and DOES 1 through 20, inclusive;

Defendants.

Case No.:

COMPLAINT

CLASS ACTION CLAIMS

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay for Rest and Recovery
Periods Under Labor Code § 226.2;
- (3) Failure to Provide Rest Breaks;
- (4) Failure to Provide Meal Periods;
- (5) Failure to Reimburse Expenses;
- (6) Failure to Timely Pay Final Wages;
- (7) Failure to Provide Accurate Itemized
Wage Statements;
- (8) Unfair and Unlawful Competition;

PAGA CLAIMS

- (9) Failure to Pay Minimum Wages;
- (10) Failure to Pay for Rest and Recovery
Periods Under Labor Code § 226.2;
- (11) Failure to Provide Rest Breaks;
- (12) Failure to Provide Meal Periods;
- (13) Failure to Reimburse Expenses;
- (14) Failure to Timely Pay Wages Each
Period;
- (15) Failure to Timely Pay Final Wages;
- (16) Failure to Provide Accurate Itemized
Wage Statements; and
- (17) Failure to Maintain Employment
Records

By Fax

1 Plaintiff Stephanie Cuevas (“Plaintiff”) on behalf of herself, on a representative basis,
2 and on behalf of others similarly situated, complains and alleges as follows.

3 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

4 1. Plaintiff brings this action against her employers, Defendants Tarlani Corp., and
5 DOES 1 through 20, inclusive, (collectively, the “Defendants”) on behalf of herself and all other
6 current and former nonexempt employees employed by Defendants in California within the last
7 four years (the “Represented Employees”), for Defendants’ violations of the California Labor
8 Code stemming from Defendants’ failure to pay all wages owed, including minimum and regular
9 wages, failure to pay for rest and recovery periods and other nonproductive time under Labor
10 Code § 226.2, failure to provide mandated meal periods and rest breaks, failure to reimburse
11 business expenses, failure to timely pay wages, failure to provide accurate itemized wage
12 statements, and failure to maintain employment records, among other claims.

13 2. Plaintiff was employed by Defendants from approximately September 2021
14 through January 2022.

15 3. Plaintiff alleges on information and belief that the Represented Employees were
16 subjected to the same policies, working conditions, and corresponding wage and hour violations
17 to which Plaintiff was subjected during her employment.

18 4. Plaintiff and the Represented Employees were not provided proper minimum and
19 regular wages owed due to Defendants’ policy which only provided compensation for each
20 patient seen (piece-rate, per-patient). Under this pay plan, Plaintiff and the Represented
21 Employees did not receive separate hourly compensation at no less than the minimum wage for
22 unpaid, on-duty, time including tasks such as scheduling appointments, completing paperwork
23 (e.g., documenting each patient’s care in the patient’s medical chart – “charting”), and travel
24 time to/from each patient’s visit. Also, the piece-rate compensation paid to Plaintiff and the
25 Represented Employees often resulted in a payment of wages at less than the required California
26 minimum wages for all hours worked.

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1 5. Additionally, Plaintiff and the Represented Employees are/were employees of
2 Defendants who were paid on a piece-rate basis. However, Defendants did not comply with the
3 requirements of Labor Code § 226.2 when it failed to provide separate payments to its piece-rate
4 employees for rest and recovery periods and other nonproductive time.

5 6. Furthermore, at all relevant times, Plaintiff and the Represented Employees were
6 denied paid rest breaks by virtue of Defendants' policy that only paid its employees for each
7 patient that they provided care for that day. As Plaintiff and Represented Employees could not
8 earn income during a rest break (*i.e.*, they could not take an off-duty rest break and treat a patient
9 simultaneously), Plaintiff and the Represented Employees were illegally denied paid rest breaks.

10 7. Defendants also failed to provide Plaintiff and the Represented Employees with
11 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
12 mandated by California law. Defendants did not schedule rest breaks and the Represented
13 Employees were often not authorized and/or permitted to take mandated rest breaks due to being
14 overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the
15 Represented Employees worked in excess of 10 hours in a shift, Defendants failed to authorize
16 and/or permit a third mandated rest break.

17 8. Also, at all relevant times, Plaintiff and the Represented Employees were denied
18 30-minute off-duty meal periods, as mandated by California law, during their employment with
19 Defendants. As a result of Defendants' policies and practices, Plaintiff and the Represented
20 Employees were subjected to meal period violations when they were: (1) unable to take an off-
21 duty meal period due to workload, (2) forced to take a meal period after the 5th hour of work,
22 and (3) not provided a mandated second meal period on occasions on shifts in excess of 10
23 hours.

24 9. Also, Defendants required Plaintiff and the Represented Employees to incur
25 substantial business-related expenses and costs without reimbursement. For example, Plaintiff
26 and the Represented Employees used their personal computers and cell phones to complete
27 paperwork, patient charts, and/or schedule appointments, yet Defendants did not provide
28 reimbursement for this expense. Furthermore, Defendants did not reimburse Plaintiff and the

1 Represented Employees for travel expenses and mileage costs when traveling to and from patient
2 visits.

3 10. Plaintiff also alleges that she and the Represented Employees were not paid all
4 wages due and owing upon separation of employment within the time required by Labor Code §§
5 201 – 203. Plaintiff further alleges that Defendants engaged in the practice of failing to pay all
6 wages due and owing to Plaintiff and the Represented Employees at the time their employment
7 ended with Defendants, including, but not limited to minimum wages, regular wages, wage
8 premiums, among others.

9 11. Plaintiff further alleges that Defendants failed to provide accurate itemized wage
10 statements that fully complied with the requirements of Labor Code § 226(a).

11 12. Plaintiff alleges that Defendants' violations of the wage and hour components of
12 the Labor Code and IWC Wage Orders enabled it to decrease expenses and to increase its level
13 of productivity and profits, thereby allowing Defendants to gain an unfair advantage over its
14 competitors.

15 13. At all material times, Defendants and DOES 1 through 20 were and/or are
16 Represented Employees' employers or persons acting on behalf of Represented Employees'
17 employer, within the meaning of California Labor Code § 558, who violated or caused to be
18 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
19 hours and days of work in any Order of the Industrial Welfare Commission and, as such, are
20 subject to penalties for each underpaid employee as set forth in Labor Code § 558 and under
21 California law.

22 14. Plaintiff brings this lawsuit seeking declaratory, injunctive, equitable, and
23 monetary relief against Defendants and each of them, on behalf of herself and the Represented
24 Employees to recover, among other things, unpaid wages and benefits, interest, attorneys' fees,
25 penalties, costs and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 218.6,
26 221, 223, 226, 226.2, 226.3, 226.7, 512, 558, 1174(d), 1194, 1194.2, and 2802, among possibly
27 other sections inadvertently omitted. Plaintiff also reserves the right to name additional
28 representatives throughout the State of California.

1 **II. JURISDICTION**

2 15. This Court has jurisdiction over the claims for relief of Plaintiff and the
3 Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

4 **III. VENUE**

5 16. Venue as to each Defendant is proper in this Court pursuant to Code of Civil
6 Procedure §§ 395(a) and 395.5. Defendants transact business in San Bernardino County and the
7 unlawful acts alleged herein have a direct effect on Plaintiff and the Represented Employees in
8 San Bernardino County. Furthermore, Defendants employed or employ Plaintiff and
9 Represented Employees in San Bernardino County.

10 **IV. PARTIES**

11 **Plaintiff**

12 17. Plaintiff and Class Representative Stephanie Cuevas was employed by
13 Defendants from approximately September 2021 through January 2022 and performed work for
14 Defendants in San Bernardino County.

15 **Defendants**

16 18. Plaintiff is informed and believes and thereon alleges that Defendant Tarlani
17 Corp. is a California corporation authorized to and doing business in San Bernardino County,
18 California, and is and/or was the legal employer of Plaintiff and the Represented Employees
19 during the applicable statutory periods.

20 19. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
21 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
22 inclusive, but on information and belief alleges that those Defendants are legally responsible for
23 the payment of penalties and damages to Plaintiff and all Represented Employees by virtue of
24 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
25 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
26 Defendants when ascertained.

27 20. Plaintiff is informed and believes and thereon alleges that she and the Represented
28 Employees worked under the joint direction and control of Defendants and that Defendants, and

1 each of them, acted in all respects pertinent to this action as the agent of the other Defendants,
2 carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of
3 each Defendant are legally attributable to the other Defendants. On information and belief, a
4 unity of interest and ownership between each Defendant exists such that all Defendants acted as
5 a single employer of Plaintiff and other Represented Employees.

6 21. Furthermore, Plaintiff is informed and believes and thereon alleges that
7 Defendants, and each of them, are an integrated enterprise and should be treated as a single
8 employer because these entities share an interrelation of operations, with common human
9 resources and personnel policies and shared common offices and facilities. Additionally,
10 Defendants also have a shared website, common management, a centralized control of labor
11 operations, and common ownership or financial control.

12 22. Plaintiff is informed and believes and thereon alleges that, in conducting
13 themselves in the manner described herein, Defendants, and each of them, were acting in active
14 concert with one another such that the acts of each were and are fully attributable to the others in
15 all material respects. Plaintiff is further informed and believes that at all relevant times
16 Defendants and each of them are now, and at all material times herein mentioned were, the
17 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
18 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
19 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
20 their remaining co-Defendants.

21 23. Plaintiff is further informed and believes that at all relevant times, Defendants
22 have been inadequately capitalized to conduct business, have failed to follow appropriate
23 corporate formalities, and have simply been a shell and instrumentality through which
24 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,
25 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
26 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the
27 separate existence of these corporate entities would permit abuse of the corporate privilege,
28 thereby sanctioning fraud and promoting injustice.

1 24. Pursuant to Labor Code § 2699.3(a), Plaintiff is in the process of giving written
2 notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by
3 certified mail to Defendants of the specific provisions of the Labor Code alleged to have been
4 violated, including the facts and theories to support the alleged violations. Plaintiff is currently
5 complying with the procedures for bringing suit specified in California Labor Code § 2699.3,
6 and this Complaint will be deemed amended to include the PAGA allegations enumerated below
7 when more than sixty-five (65) days have passed since the Notice was mailed to Defendants and
8 the LWDA chooses not to investigate the allegations herein.

9 **V. CLASS ACTION ALLEGATIONS**

10 25. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
11 alleged herein.

12 26. Plaintiff brings this action on behalf of herself and all others similarly situated as
13 a class action, pursuant to Code of Civil Procedure § 382.

14 27. The relevant time period for this class action is defined as the time period
15 beginning four years prior to the filing of this action until class certification (the “Relevant Time
16 Period”).

17 28. The Class, also referred to as the “Represented Employees,” that Plaintiff seeks to
18 represent is defined as follows:

19 **California Class**

20 All current and former nonexempt employees who resided
21 in California and who were employed by Defendants at any
22 time during the Relevant Time Period.

23 29. Plaintiff reserves the right to amend or modify the class description with greater
24 specificity or further division into subclasses or limitation to particular issues as appropriate.

25 30. Plaintiff, as Class Representative, is a member of the class that she seeks to
26 represent.

27 31. This action has been brought and may properly be maintained as a class action
28 under Code of Civil Procedure § 382 because there is a well-defined community of interest in the

litigation and the proposed class is easily ascertainable from Defendants' personnel and payroll records.

32. **Numerosity:** The potential members of the Class as defined are so numerous that a joinder of all Represented Employees is impracticable. Although the exact number is currently unknown to Plaintiff, this information is easily ascertainable from Defendants' payroll and personnel records.

33. **Commonality:** There are questions of law and fact common to the class which predominate over any questions affecting only individual members of the class, including without limitation:

i. Whether Defendants violated the California Labor Code and IWC Wage Order by failing to pay proper minimum and regular wages to Plaintiff and the Represented Employees for all hours worked;

ii. Whether Defendants violated California Labor Code and IWC Wage Order by paying the Represented Employees on a piece-rate basis yet not providing separate hourly compensation for rest periods and other nonproductive time;

iii. Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide paid rest breaks to Plaintiff and the Represented Employees and whether Defendants failed to compensate Plaintiff and the Represented Employees with one additional hour of wages at the regular rate of pay for each instance when a paid rest break was not provided;

iv. Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Represented Employees and whether Defendants failed to compensate Plaintiff and the Represented Employees with one additional hour of wages at the regular rate of pay for each instance when a compliant meal period was not provided;

v. Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to reimburse Plaintiff and the Represented Employees for business expenses incurred while discharging their duties or in obedience to the directions of their

1 employer;

2 vi. Whether Defendants violated the California Labor Code by failing to
3 timely pay all wages due upon separation of employment between Defendants and Plaintiff and
4 Represented Employees, whether such separation was voluntary or involuntary;

5 vii. Whether Defendants violated the California Labor Code by failing to
6 provide Plaintiff and Represented Employees with complete, accurate, itemized wage statements;

7 viii. Whether Defendants violated California Business & Professions Code §§
8 17200 *et seq.* due to the: failure to pay all wages owed, failure to provide mandated paid rest
9 breaks, failure to provide mandated meal periods, failure to reimburse business expenses, and
10 failure to timely pay final wages; and

11 ix. Whether Plaintiff and Represented Employees are entitled to equitable
12 relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

13 34. **Typicality:** Plaintiff's claims, as the Class Representative, are typical of the
14 claims of The Class. Plaintiff, like other members of The Class, was subjected to Defendants'
15 ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all
16 wages owed, failure to provide mandated meal periods, failure to provide mandated paid rest
17 breaks, failure to reimburse business expenses, failure to timely pay final wages, and failure to
18 provide accurate itemized wage statements.

19 35. **Adequacy of Representation.** Plaintiff, as the Class Representative, will fairly
20 and adequately represent and protect the interests of the Class. Plaintiff's interests are not in
21 conflict with those of the Class. Class Representative's counsel are competent and experienced in
22 litigating large employment class actions and other complex litigation matters, including cases
23 like this case.

24 36. **Superiority of Class Action.** Class certification is appropriate because a class
25 action is superior to other available means for the fair and efficient adjudication of this
26 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
27 law and fact common to the Class predominate over any questions affecting only individual
28 members of the Class. Each Represented Employee has been damaged and is entitled to

1 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
2 treatment will allow those similarly situated persons to litigate their claims in the manner that is
3 most efficient and economical for the parties and the judicial system.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY MINIMUM WAGES**

6 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

7 37. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
8 alleged herein.

9 38. Plaintiff and the Represented Employees were not exempt from the requirement
10 to be paid at least the applicable California minimum wage throughout the statutory period for
11 each hour worked.

12 39. Plaintiff and the Represented Employees were not provided proper minimum and
13 regular wages owed due to Defendants' policy which only provided compensation for each
14 patient seen (piece-rate, per-patient). Under this pay plan, Plaintiff and the Represented
15 Employees did not receive separate hourly compensation at no less than the minimum wage for
16 unpaid, on-duty, time including tasks such as scheduling appointments, completing paperwork
17 (e.g., documenting each patient's care in the patient's medical chart – "charting"), and travel
18 time to/from each patient's visit. Also, the piece-rate compensation paid to Plaintiff and the
19 Represented Employees often resulted in a payment of wages at less than the required California
20 minimum wages for all hours worked.

21 40. Also, Defendants' piece-rate pay plan often resulted in a payment of wages to
22 Plaintiff and the Represented Employees at less than the required California minimum wages for
23 all hours worked. Regardless of actual time spent with the patients, Defendants' per-patient pay
24 policy often illegally resulted in a rate of pay under the applicable minimum wage.

25 41. Consequently, Defendants violated California Labor Code laws and minimum
26 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
27 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

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1 42. Furthermore, Plaintiff and the Represented Employees were denied paid rest
2 breaks by virtue of Defendants' policy that only paid the Represented Employees on a piece-rate
3 basis without separation compensation for rest breaks. As Plaintiff and Represented Employees
4 could not earn income during a rest break (i.e., they could not take an off-duty rest break and
5 treat a patient simultaneously), Plaintiff and the Represented Employees were illegally denied
6 paid rest breaks. Thus, Defendants violated California Labor Code laws, *inter alia*, Labor Code
7 §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and Cal. Code Regs., tit. 8, section 11090,
8 subds. 1 and 4(B).

9 43. Plaintiff is informed and believes and thereon alleges that Defendants
10 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Represented
11 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

12 44. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
13 Represented Employees were entitled to be paid wages throughout the statutory period for each
14 hour worked, including proper minimum wages, yet Defendants chose not to pay them in
15 accordance thereto.

16 45. At all material times, Defendants DOES 1 through 20 were and/or are Plaintiff's
17 and the Represented Employees' employers or persons acting on behalf of Plaintiff and the
18 Represented Employees' employer, within the meaning of California Labor Code § 558, who
19 violated or caused to be violated Labor Code § 204 and a provision or provisions of Part 2,
20 Chapter 1 of the California Labor Code regulating hours and days of work respectively.

21 46. During employment of Plaintiff and the Represented Employees, Defendants
22 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

23 47. As a result of the Defendants' wrongful conduct, Plaintiff and the Represented
24 Employees have been damaged in amounts to be proven at trial.

25 48. Plaintiff, on behalf of herself and the Represented Employees, seeks recovery of
26 all unpaid minimum wages, liquidated damages, penalties, interest, attorneys' fees and costs of
27 suit, pursuant to Labor Code §§ 1194 and 1194.2, against Defendants in an amount to be proven
28 at trial.

1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY FOR REST AND RECOVERY PERIODS AND OTHER**
3 **NONPRODUCTIVE TIME**

4 (Labor Code § 226.2)

5 49. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 50. Plaintiff and the Represented Employees are and/or were employees of
8 Defendants who were paid on a piece-rate basis.

9 51. Labor Code § 226.2 requires employers that pay their employees on a piece-rate
10 basis to provide separate payment for rest and recovery periods at a regular hourly rate that is no
11 less than the higher of the applicable minimum wage or “an average hourly rate determined by
12 dividing the total compensation for the workweek, exclusive of compensation for rest and
13 recovery periods and any premium compensation for overtime, by the total hours worked during
14 the workweek, exclusive of rest and recovery periods.” Labor Code § 226.2(a)(3)(A).

15 52. Furthermore, Labor Code § 226.2 requires employers that pay their employees on
16 a piece-rate basis to provide separate payment for nonproductive time at an hourly rate that is no
17 less than the applicable minimum wage. Labor Code § 226.2(a)(4).

18 53. At all relevant times herein, Defendants failed to compensate the Represented
19 Employees, including Plaintiff, for all rest and recovery periods and all other nonproductive time
20 separate from any piece-rate compensation at the rate required by Labor Code § 226.2.
21 Therefore, Defendants violates Labor Code § 226.2 every pay period with respect to Plaintiff and
22 each and every one of the Represented Employees.

23 54. As a result of Defendant’s violation of Labor Code § 226.2, Plaintiff and the
24 Represented Employees seek to recover, in a civil action, the unpaid balance of the full amount
25 of unpaid payments for rest and recovery periods and other nonproductive time, including
26 interest thereon, reasonable attorneys’ fees, and costs of suit.

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1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REST BREAKS**

3 (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

4 55. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
5 alleged herein.

6 56. Plaintiff and the Represented Employees are and/or were employees of
7 Defendants who did not receive proper protections and benefits of the laws governing mandatory
8 rest breaks.

9 57. Labor Code § 226.7 requires employers, including Defendants, to provide rest
10 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

11 58. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
12 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
13 each work period. Employees shall receive a 10-minute rest period every four hours or major
14 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
15 hours worked, for which there shall be no deduction from wages.

16 59. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
17 Order, Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay
18 at her regular rate of compensation for each day that the rest period is not provided.

19 60. At all relevant times, Plaintiff and the Represented Employees were denied
20 mandated paid rest breaks by virtue of Defendants' policy that only paid its employees for each
21 patient seen. As Plaintiff and Represented Employees could not earn income during a rest break
22 (i.e., they could not take an off-duty rest break and treat a patient simultaneously), Plaintiff and
23 the Represented Employees were illegally denied paid rest breaks.

24 61. Defendants also failed to provide Plaintiff and the Represented Employees with
25 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
26 mandated by California law. Defendants did not schedule rest breaks and the Represented
27 Employees were often not authorized and/or permitted to take mandated rest breaks due to being
28 overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the

1 Represented Employees worked in excess of 10 hours in a shift, Defendants failed to authorize
2 and/or permit a third mandated rest break.

3 62. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
4 Order every pay period with respect to Plaintiff and the Represented Employees because Plaintiff
5 and the Represented Employees were not provided with all mandatory rest periods and
6 Defendants failed to pay Plaintiff and the Represented Employees one additional hour of
7 compensation in lieu thereof.

8 63. At all relevant times herein, Defendants failed to provide Plaintiff and the
9 Represented Employees all mandated rest breaks and failed to pay wage premiums in lieu of
10 mandated rest periods, thereby receiving an economic benefit.

11 64. By their failure to provide Plaintiff and the Represented Employees with rest
12 breaks as required by California law, and failing to pay one hour of additional wages in lieu of
13 each rest break not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and
14 IWC Wage Order § 12. Accordingly, Defendants are liable for one hour of additional wages at
15 the employee's regular rate of compensation for each workday that a paid rest break was not
16 lawfully provided in an amount to be proven at time of trial.

17 65. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
18 and IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiff and the
19 Represented Employees for unpaid wage premiums, penalties, costs, and interest.

20 **FOURTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE MEAL PERIODS**

22 (Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

23 66. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
24 alleged herein.

25 67. Plaintiff and the Represented Employees are and/or were employees of
26 Defendants who did not receive proper protections and benefits of the laws governing mandatory
27 meal periods.

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1 68. Labor Code § 226.7 requires employers, including Defendants, to provide
2 employees with meal periods as mandated by the Industrial Welfare Commission.

3 69. Labor Code § 512(a), in part, provides that employers, including Defendants, may
4 not employ an employee for a work period of more than five hours per day without providing an
5 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
6 except that if the total work period per day of the employee is no more than six hours, the meal
7 period may be waived by mutual consent of both the employer and the employee. Employers
8 may not employ an employee for a work period more than 10 hours per day without providing
9 the employee with a second meal period of not less than 30 minutes.

10 70. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
11 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
12 pay for each meal period that is missed.

13 71. At all relevant times herein, Plaintiff and the Represented Employees were denied
14 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
15 practices, Plaintiff and the Represented Employees were subjected to meal period violations
16 when they were: (1) unable to take an off-duty meal period due to workload, (2) forced to take a
17 meal period after the 5th hour of work, and (3) not provided a mandated second meal period on
18 occasions on shifts in excess of 10 hours.

19 72. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
20 Order every pay period with respect to Plaintiff and the Represented Employees because Plaintiff
21 and the Represented Employees were not provided with all mandatory meal periods and
22 Defendants failed to pay Plaintiff and the Represented Employees one additional hour of
23 compensation at the regular rate of pay in lieu thereof.

24 73. At all relevant times herein, Defendants failed to provide Plaintiff and the
25 Represented Employees all mandated meal periods and failed to pay wage premiums in lieu of
26 mandated meal or rest periods, thereby receiving an economic benefit.

27 74. On information and belief, Plaintiff and the Represented Employees did not
28 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers

1 obtained from Plaintiff and the Represented Employees were not willfully obtained, were not
2 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
3 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Represented
4 Employees to take meal periods in accordance with California law.

5 75. By their failure to provide Plaintiff and the Represented Employees with meal
6 periods as required by California law, and failing to pay one hour of additional wages in lieu of
7 each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and
8 IWC Wage Order § 11. Accordingly, Defendants are liable for one hour of additional wages at
9 the employee's regular rate of compensation for each work day that a meal period was not
10 lawfully provided in an amount to be proven at time of trial.

11 76. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
12 and IWC Wage Order § 11, Defendants, and each of them, are liable to Plaintiff and the
13 Represented Employees for unpaid wage premiums, penalties, costs, and interest.

14 **FIFTH CAUSE OF ACTION**

15 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

16 (Labor Code § 2802)

17 77. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
18 alleged herein.

19 78. Plaintiff and the Represented Employees are and/or were employees of
20 Defendants who did not receive proper protections and benefits of the laws governing
21 reimbursement of business expenses.

22 79. Labor Code § 2802(a) requires that the employer indemnify its employees for
23 expenses incurred while discharging their duties or in obedience to directions of their employer.

24 80. At all relevant times herein mentioned, as a condition of employment, Defendants
25 required Plaintiff and the Represented Employees to incur substantial business-related expenses
26 and costs without reimbursement. For example, Plaintiff and the Represented Employees used
27 their personal computers and cell phones to complete paperwork, patient charts, and/or schedule
28 appointments, yet Defendants did not provide reimbursement for this expense. Furthermore,

Defendants did not reimburse Plaintiff and the Represented Employees for travel expenses and mileage costs when traveling to and from patient visits.

81. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they failed to reimburse Plaintiff and the Represented Employees for expenses incurred as a direct consequence of Plaintiff's employment with Defendant and/or under the direction of Defendants.

82. At all relevant times herein, Defendants failed to reimburse the Represented Employees, including Plaintiff, for expenses incurred while discharging duties to Defendants, thereby receiving an economic benefit.

83. As a direct result of Defendants' violation of Labor Code § 2802 and IWC Wage Order § 9(B), Plaintiff and the Represented Employees have suffered, and continue to suffer, substantial losses related to such incurred expenses, expenses, and attorney's fees in seeking to compel Defendants to fully perform their obligations under the law, all in an amount to be proved at time of trial.

84. Labor Code § 2802(b) states that "[a]ll awards made by a Court for reimbursement of necessary expenditures" shall carry interest, at the same rate as judgments in civil actions, and said interest will accrue from the date on which the employee incurred the necessary expenditure or loss including, but not limited to, reasonable costs and attorney's fees incurred by the employee enforcing the rights granted pursuant to Labor Code § 2802. The exact amount of the necessary expenditures or losses is in an amount to be proven at time of trial.

85. Furthermore, Labor Code § 2802(c) states that "[f]or the purposes of this section, the term 'necessary expenditures or losses' shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee in enforcing the rights granted by this section." Therefore, Plaintiff and the Represented Employees seek to recover the unreimbursed expenses, interest on the unreimbursed expenses, and the costs and attorney's fees necessarily incurred in pursuing same. The exact amount of reimbursements, interest, costs, and attorney's fees will be in an amount to be proved at the time of trial.

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1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY FINAL WAGES**

3 (Labor Code §§ 201 – 203)

4 86. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
5 alleged herein.

6 87. Plaintiff and the Represented Employees are and/or were employees of
7 Defendants who did not receive proper protections and benefits of the laws governing the timing
8 and payment of wages.

9 88. Labor Code § 201 requires that the employer immediately pay any wages, without
10 abatement or reduction, to any employee who is discharged.

11 89. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
12 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
13 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

14 90. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
15 penalty from the due date thereof at the same rate until paid or until an action therefore is
16 commenced, but the wages shall not continue for more than thirty (30) days.

17 91. At all relevant times, Defendants employed a policy and practice whereby
18 Plaintiff and the Represented Employees were not paid all wages due and owing upon separation
19 of employment within the time required by Labor Code §§ 201 and 202.

20 92. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
21 wages due and owing to Plaintiff and the Represented Employees upon separation of
22 employment, including, but not limited to, minimum and regular wages, as well as meal and rest
23 period premiums.

24 93. Plaintiff alleges that, at all times material to this action, Defendants had a planned
25 pattern and practice of failing to timely pay Plaintiff and the Represented Employees all wages
26 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.
27 Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiff and the Represented
28 Employees the above-described waiting time penalty, all in an amount to be shown according to

1 proof at trial and within the jurisdiction of this Court.

2 **SEVENTH CAUSE OF ACTION**

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

4 (Labor Code § 226)

5 94. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 95. Plaintiff and the Represented Employees are and/or were employees of
8 Defendants who did not receive proper protections and benefits of the laws governing the
9 provision of accurate itemized wage statements.

10 96. Labor Code § 226(a) requires an employer to provide its employees with itemized
11 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
12 inclusive dates of the pay period, the employee's name and the last four digits of his or her
13 Social Security number (or employee identification number), the name and address of the legal
14 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
15 corresponding number of hours worked at each hourly rate by the employee.

16 97. Defendants violates Labor Code § 226(a) every pay period with respect to
17 Plaintiff and the Represented Employees because the wage statements that Defendants issued to
18 Plaintiff and the Represented Employees failed to provide any information regarding hours
19 worked, and therefore the wage statements did not state "total hours worked by the employee" in
20 direct violation of Labor Code § 226(a)(2).

21 98. Furthermore, Defendants violate Labor Code § 226(a) every pay period because
22 the wage statements failed to accurately state gross wages earned, all deductions, net wages
23 earned, the name and address of the legal entity that is the employer, and all applicable hourly
24 rates in effect during the pay period and the corresponding number of hours at each hourly rate
25 by the employee.

26 99. Moreover, Labor Code § 226.2 states that "[f]or employees compensated on a
27 piece-rate basis during a pay period, the following shall apply for that pay period: [...] (2) the
28 itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items

1 specified in that subdivision, separately state the following, to which the provisions of Section
2 226 shall also be applicable: (A) the total hours of compensable rest and recovery periods, the
3 rate of compensation, and the gross wages paid for those periods during the pay period [and] (B)
4 [...] the total hours of other nonproductive time, [...] the rate of compensation, and the gross
5 wages paid for that time during the pay period.”

6 100. At all relevant times, Defendants failed to provide a wage statement to Plaintiff
7 and the Represented Employees that complied with the requirements of Labor Code §
8 226.2(a)(2) because the wage statements did not include any information regarding compensable
9 rest and recovery periods, nonproductive time, or the rates of pay and compensation for the
10 same. As such, Defendants violate Labor Code § 226 and § 226.2 every pay period with respect
11 to Plaintiff and the Represented Employees.

12 101. Defendants’ failure to provide the required writing deprived Plaintiff and the
13 Represented Employees of the ability to know, understand, and question the calculation and rate
14 of pay and hours used to calculate the wages paid by Defendants. Therefore, Plaintiff and the
15 Represented Employees had no way to dispute the resulting miscalculation of wages, all of
16 which resulted in an unjustified economic enrichment to said Defendants. As a direct result,
17 Plaintiff and the Represented Employees have suffered and continue to suffer, substantial losses
18 related to the use and enjoyment of such wages, lost interest on such wages and expenses and
19 attorney’s fees in seeking to compel Defendants to fully perform its obligation under state law,
20 all to their respective damages in amounts according to proof at trial.

21 102. As a result of Defendants’ knowing and intentional failure to comply with Labor
22 Code § 226(a), Plaintiff and the Represented Employees have suffered an injury in that each was
23 prevented from knowing, understanding and disputing the wage payments paid to them.
24 Furthermore, Plaintiff and the Represented Employees have each suffered an injury in that the
25 failure to show all wages earned on the itemized wage statements resulted in Plaintiff and the
26 Represented Employees being denied all necessary deductions, payments, and withholdings
27 owed by the employer, including, but not limited to, the failure to make all necessary
28 contributions for unemployment benefits, social security benefits, proper payment of taxes and

1 withholdings, and other mandated state and federal benefits.

2 103. Plaintiff has also been injured as a result of having to bring this action to attempt
3 to obtain correct wage information following Defendants' refusal to comply with many of the
4 mandates of California's Labor Code and related laws and regulations.

5 104. Labor Code § 226(e) requires Defendants to pay the greater of all actual damages
6 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
7 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
8 attorney's fees and costs, to Plaintiff and the Represented Employees who were injured by
9 Defendants' failure to comply with Labor Code § 226(a). The exact amount of the applicable
10 penalty is all in an amount to be shown according to proof at trial.

11 **EIGHTH CAUSE OF ACTION**

12 **UNFAIR AND UNLAWFUL COMPETITION**

13 (Business and Professions Code § 17200 *et seq.*)

14 105. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
15 alleged herein.

16 106. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
17 competition, which includes any "unlawful, unfair or fraudulent business act or practice." The
18 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
19 due to the unfair and unlawful business practices of Defendants as alleged herein.

20 107. Defendants, and each of them, are "persons" as defined under Business &
21 Professions Code § 17021.

22 108. As alleged herein, Defendants engaged in conduct that violated California's wage
23 and hour laws, including failure to pay minimum and regular wages, failure to provide mandated
24 meal periods and rest breaks, failure to reimburse business expenses, and failure to timely pay
25 final wages, all in order to decrease their costs and increase their profits.

26 109. At all times relevant herein, Defendants did not pay Plaintiff and the Represented
27 Employees wages and monies and other financial obligations to which they were entitled.

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1 110. As a result of Defendants' failure to comply with the Labor Code and IWC
2 Orders, Represented Employees, including Plaintiff, suffered a loss of wages and monies, all in
3 an amount to be shown according to proof at trial. Defendants' ongoing violations of the
4 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

5 111. Defendants' violations of the California Labor Code and IWC Wage Orders and
6 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
7 practices because it was done in a systematic manner over a period of time to the detriment of the
8 Plaintiff and all others similarly-situated.

9 112. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
10 unlawful, and harmful to Plaintiff, other Represented Employees, and to the general public.
11 Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code
12 of Civil Procedure § 1021.5.

13 113. A violation of California Business & Professions Code § 17200, *et seq.* may be
14 predicated on the violation of any state or federal law. All of the acts described herein as
15 violations of, among other things, the California Labor Code and IWC Wage Orders, are
16 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
17 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
18 practices in violation of California Business and Professions Code §§ 17200, *et seq.*

19 114. Plaintiff, individually, and on behalf of the Represented Employees, has no plain,
20 speedy, and/or adequate remedy at law to redress the injuries which they have suffered as a
21 consequence of Defendants' unfair, unlawful and/or fraudulent business practices. As a result of
22 the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually,
23 and on behalf of the Represented Employees, has suffered and will continue to suffer irreparable
24 harm unless Defendants, and each of them, are restrained from continuing to engage in said
25 unfair, unlawful and/or fraudulent business practices.

26 115. Plaintiff, individually, and on behalf of the Represented Employees, is entitled to,
27 and does, seek such relief as may be necessary to disgorge the profits which Defendants have
28 acquired, or of which Plaintiff and Represented Employees have been deprived, by means of the

1 above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the
2 Represented Employees are not obligated to establish individual knowledge of the unfair
3 practices of Defendants in order to recover restitution.

4 116. Plaintiff, individually, and on behalf of the Represented Employees, is further
5 entitled to and do seek a declaration that the above described business practices are unfair,
6 unlawful and/or fraudulent, and injunctive relief restraining Defendants, and each of them, from
7 engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in
8 the future.

9 117. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiff and
10 Represented Employees are entitled to restitution of the wages withheld and retained by
11 Defendants during a period that commences four years prior to the filing of this complaint; a
12 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
13 Represented Employees; an award of attorneys' fees pursuant to California Code of Civil
14 Procedure § 1021.5 and other applicable laws; and an award of costs.

15 **VI. LABOR CODE PRIVATE ATTORNEYS GENERAL ACT CAUSES OF ACTION**
16 **(Cal. Lab. Code §§ 2698 – 2699.5)**

17 118. Plaintiff is an “aggrieved employee” under the PAGA as she was employed by
18 Defendants during the applicable statutory period and suffered one or more of the Labor Code
19 violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil
20 action filed on behalf of herself and all other similarly situated current and former aggrieved
21 employees in California against whom one or more of the alleged violations was committed
22 (hereinafter the “Aggrieved Employees”).

23 119. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to
24 Labor Code § 2699, as well as attorneys' fees, costs, and/or other damages as permitted by
25 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
26 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor
27 does he, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

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1 120. Pursuant to Labor Code § 2699.3(a), Plaintiff is in the process of giving written
2 notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by
3 certified mail to Defendants of the specific provisions of the Labor Code alleged to have been
4 violated, including the facts and theories to support the alleged violations. Plaintiff is currently
5 complying with the procedures for bringing suit specified in California Labor Code § 2699.3,
6 and this Complaint will be deemed amended to include the PAGA allegations enumerated below
7 when more than sixty-five (65) days have passed since the Notice was mailed to Defendants and
8 the LWDA chooses not to investigate the allegations herein.

9 **NINTH CAUSE OF ACTION**

10 **PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES**

11 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

12 121. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
13 alleged herein.

14 122. Plaintiff and the Aggrieved Employees were not exempt from the requirement to
15 be paid at least the applicable California minimum wage throughout the statutory period for each
16 hour worked.

17 123. Plaintiff and the Aggrieved Employees were not provided proper minimum and
18 regular wages owed due to Defendants’ policy which only provided compensation for each
19 patient seen (piece-rate per-patient pay). Under this pay plan, Plaintiff and the Represented
20 Employees did not receive separate hourly compensation at no less than the minimum wage for
21 unpaid, on-duty, time including tasks such as scheduling appointments, completing paperwork
22 (e.g., documenting each patient’s care in the patient’s medical chart), and travel time to/from
23 each patient’s visit. Also, the piece-rate compensation paid to Plaintiff and the Represented
24 Employees often resulted in a payment of wages at less than the required California minimum
25 wages for all hours worked.

26 124. Also, Defendants’ piece-rate pay plan often resulted in a payment of wages to
27 Plaintiff and the Aggrieved Employees at less than the required California minimum wages for
28 all hours worked. Regardless of actual time spent with the patients, Defendants’ per-patient pay

1 policy often illegally resulted in a rate of pay under the applicable minimum wage.

2 125. Consequently, Defendants violated California Labor Code laws and minimum
3 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
4 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

5 126. Furthermore, Plaintiff and the Aggrieved Employees were denied paid rest breaks
6 by virtue of Defendants' policy that only paid the Aggrieved Employees on a piece-rate basis
7 without separation compensation for rest breaks. As Plaintiff and the Aggrieved Employees
8 could not generate piece-rate compensation during a rest break (i.e., per patient seen), Plaintiff
9 and the Aggrieved Employees were illegally denied paid rest breaks. Thus, Defendants violated
10 California Labor Code laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage
11 Order 9, § 4, and Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

12 127. Plaintiff is informed and believes and thereon alleges that Defendants
13 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
14 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

15 128. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
16 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
17 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

18 **TENTH CAUSE OF ACTION**

19 **PAGA ASSESSMENT FOR FAILURE TO PAY FOR REST AND RECOVERY**
20 **PERIODS AND OTHER NONPRODUCTIVE TIME**

21 (Labor Code § 226.2)

22 129. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
23 alleged herein.

24 130. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
25 who were paid on a piece-rate basis.

26 131. Labor Code § 226.2 requires employers that pay their employees on a piece-rate
27 basis to provide separate payment for rest and recovery periods at a regular hourly rate that is no
28 less than the higher of the applicable minimum wage or "an average hourly rate determined by

1 dividing the total compensation for the workweek, exclusive of compensation for rest and
2 recovery periods and any premium compensation for overtime, by the total hours worked during
3 the workweek, exclusive of rest and recovery periods.” Labor Code § 226.2(a)(3)(A).

4 132. Furthermore, Labor Code § 226.2 requires employers that pay their employees on
5 a piece-rate basis to provide separate payment for nonproductive time at an hourly rate that is no
6 less than the applicable minimum wage. Labor Code § 226.2(a)(4).

7 133. At all relevant times herein, Defendants failed to compensate the Aggrieved
8 Employees, including Plaintiff, for all rest and recovery periods and all other nonproductive time
9 separate from any piece-rate compensation at the rate required by Labor Code § 226.2.
10 Therefore, Defendants violates Labor Code § 226.2 every pay period with respect to Plaintiff and
11 each and every one of the Aggrieved Employees.

12 134. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
13 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
14 and seeks to recover all attorneys’ fees, costs, and/or any other damages permitted under PAGA.

15 **ELEVENTH CAUSE OF ACTION**

16 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS**

17 (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

18 135. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
19 alleged herein.

20 136. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
21 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

22 137. Labor Code § 226.7 requires employers, including Defendants, to provide rest
23 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

24 138. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
25 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
26 each work period. Employees shall receive a 10-minute rest period every four hours or major
27 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
28 hours worked, for which there shall be no deduction from wages.

139. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage Order, Defendants shall pay Plaintiff and the Aggrieved Employees one additional hour of pay at her regular rate of compensation for each day that the rest period is not provided.

140. At all relevant times, Plaintiff and the Aggrieved Employees were denied mandated paid rest breaks by virtue of Defendants' policy that only paid its employees for each patient seen. As Plaintiff and the Aggrieved Employees could not earn income during a rest break (i.e., they could not take an off-duty rest break and treat a patient simultaneously), Plaintiff and the Aggrieved Employees were illegally denied paid rest breaks.

141. Defendants also failed to provide Plaintiff and the Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the Aggrieved Employees were often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the Aggrieved Employees worked in excess of 10 hours in a shift, Defendants failed to authorize and/or permit a third mandated rest break.

142. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay period with respect to Plaintiff and the Aggrieved Employees because Plaintiff and the Aggrieved Employees were not provided with all mandatory rest periods and Defendants failed to pay Plaintiff and the Aggrieved Employees one additional hour of compensation in lieu thereof.

143. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

TWELFTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PROVIDE COMPLIANT MEAL PERIODS

(Labor Code § 226.7 and 512; IWC Wage Order § 11, 12)

144. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

1 145. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
2 who did not receive proper protections and benefits of the laws governing mandatory meal
3 periods.

4 146. Labor Code § 226.7 requires employers, including Defendants, to provide
5 employees with meal periods as mandated by the Industrial Welfare Commission.

6 147. Labor Code § 512(a), in part, provides that employers, including Defendants, may
7 not employ an employee for a work period of more than five hours per day without providing an
8 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
9 except that if the total work period per day of the employee is no more than six hours, the meal
10 period may be waived by mutual consent of both the employer and the employee. Employers
11 may not employ an employee for a work period more than 10 hours per day without providing
12 the employee with a second meal period of not less than 30 minutes.

13 148. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
14 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
15 pay for each meal period that is missed.

16 149. At all relevant times herein, Plaintiff and the Aggrieved Employees were denied
17 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
18 practices, Plaintiff and the Aggrieved Employees were subjected to meal period violations when
19 they were: (1) unable to take an off-duty meal period due to workload, (2) forced to take a meal
20 period after the 5th hour of work, and (3) not provided a mandated second meal period on
21 occasions on shifts in excess of 10 hours.

22 150. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
23 Order every pay period with respect to Plaintiff and the Aggrieved Employees because Plaintiff
24 and the Aggrieved Employees were not provided with all mandatory meal periods and
25 Defendants failed to pay Plaintiff and the Aggrieved Employees one additional hour of
26 compensation at the regular rate of pay in lieu thereof.

27 151. On information and belief, Plaintiff and the Aggrieved Employees did not
28 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers

1 obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not
2 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
3 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved
4 Employees to take meal periods in accordance with California law.

5 152. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the
6 assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and
7 seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

8 **THIRTEENTH CAUSE OF ACTION**

9 **PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

10 (Labor Code § 2802)

11 153. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
12 alleged herein.

13 154. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
14 who did not receive proper protections and benefits of the laws governing reimbursement of
15 business expenses.

16 155. Labor Code § 2802(a) requires that the employer indemnify its employees for
17 expenses and losses incurred while discharging their duties or in obedience to the directions of
18 their employer.

19 156. At all relevant times herein mentioned, as a condition of employment, Defendants
20 required Plaintiff and the Aggrieved Employees to incur substantial business-related expenses
21 and costs without reimbursement. For example, Plaintiff and the Represented Employees used
22 their personal computers and cell phones to complete paperwork, patient charts, and/or schedule
23 appointments, yet Defendants did not provide reimbursement for this expense. Furthermore,
24 Defendants did not reimburse Plaintiff and the Represented Employees for travel expenses and
25 mileage costs when traveling to and from patient visits.

26 157. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they
27 failed to reimburse Plaintiff and the Aggrieved Employees for expenses incurred as a direct
28 consequence of Plaintiff's employment with Defendant and/or under the direction of Defendants.

1 158. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available remedies pursuant to Labor Code § 2699, and
3 seeks to recover all attorneys' fees, costs, and/or any other damages permitted under the PAGA.

4 **FOURTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

6 (Labor Code § 204)

7 159. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
8 alleged herein.

9 160. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
10 who did not receive proper protections and benefits of the laws regarding the timing of payment
11 of wages each period.

12 161. Labor Code § 204(a) states that all wages earned by a person are due and payable
13 twice during each calendar month, and further states that wages earned during the first through
14 fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that
15 wages earned between the sixteenth and last day of the month must be paid by the tenth day of
16 the following month.

17 162. Furthermore, Labor Code § 204(d) states "[t]he requirements of this section shall
18 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
19 the wages are paid not more than seven calendar days following the close of the payroll period."

20 163. At all relevant times herein, Defendants did not provide Plaintiff and the
21 Aggrieved Employees with all wages due and owing each period within the time required by
22 Labor Code § 204. Moreover, Defendants did not provide Plaintiff and the Aggrieved
23 Employees with all wages due and owing each pay period, including, but not limited to,
24 minimum wages and meal and rest period premiums within the time specified by § 204.

25 164. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
26 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
27 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

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1 **FIFTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

3 (Labor Code §§ 201 – 203)

4 165. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
5 alleged herein.

6 166. Plaintiff and the Aggrieved Employees are and/or were “non-exempt” employees
7 of Defendants who did not receive proper protections and benefits of the laws governing the
8 timing and payment of final wages.

9 167. Labor Code § 201 requires that the employer immediately pay any wages, without
10 abatement or reduction, to any employee who is discharged.

11 168. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
12 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
13 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

14 169. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
15 penalty from the due date thereof at the same rate until paid or until an action therefore is
16 commenced, but the wages shall not continue for more than thirty (30) days.

17 170. At all relevant times here, Defendants did not provide Plaintiff and the Aggrieved
18 Employees with all wages due and owing upon separation of employment, including, but not
19 limited to, minimum, regular, and overtime wages, as well as meal and rest period premiums,
20 within the time specified by Labor Code §§ 201 – 203.

21 171. Plaintiff alleges that, at all times material to this action, Defendants had a planned
22 pattern and practice of failing to timely pay to Plaintiff and the Aggrieved Employees all wages
23 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.

24 172. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the
25 assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and
26 seeks to recover all attorneys’ fees, costs, and/or any other damages permitted under PAGA.

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1 **SIXTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR**

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

4 (Labor Code § 226)

5 173. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 174. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing the provision of
9 accurate itemized wage statements.

10 175. Labor Code § 226(a) requires an employer to provide its employees with itemized
11 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
12 inclusive dates of the pay period, the employee's name and the last four digits of his or her
13 Social Security number (or employee identification number), the name and address of the legal
14 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
15 corresponding number of hours worked at each hourly rate by the employee.

16 176. Defendants violates Labor Code § 226(a) every pay period with respect to
17 Plaintiff and the Aggrieved Employees because the wage statements that Defendants issued to
18 Plaintiff and the Aggrieved Employees failed to provide any information regarding hours
19 worked, and therefore the wage statements did not state "total hours worked by the employee" in
20 direct violation of Labor Code § 226(a)(2).

21 177. Furthermore, Defendants violate Labor Code § 226(a) every pay period because
22 the wage statements failed to accurately state gross wages earned, all deductions, net wages
23 earned, the name and address of the legal entity that is the employer, and all applicable hourly
24 rates in effect during the pay period and the corresponding number of hours at each hourly rate
25 by the employee.

26 178. Furthermore, Labor Code § 226.2(a) states "[f]or employees compensated on a
27 piece-rate basis during a pay period, the following shall apply for that pay period: [...] (2) the
28 itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items

1 specified in that subdivision, separately state the following, to which the provisions of Section
2 226 shall also be applicable: (A) the total hours of compensable rest and recovery periods, the
3 rate of compensation, and the gross wages paid for those periods during the pay period [and] (B)
4 [...] the total hours of other nonproductive time, [...] the rate of compensation, and the gross
5 wages paid for that time during the pay period.”

6 179. At all relevant times, Defendants failed to provide a wage statement to Plaintiff
7 and the Aggrieved Employees that complied with the requirements of Labor Code § 226.2(a)(2)
8 because the wage statements did not include any information regarding compensable rest and
9 recovery periods, nonproductive time, or the rates of pay and compensation for the same. As
10 such, Defendants violate Labor Code § 226 and § 226.2 every pay period.

11 180. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
12 to Plaintiff and the Aggrieved Employees because Defendants failed to provide complete and
13 accurate wage statements to Plaintiff and the Aggrieved Employees that complied with the
14 requirements of Labor Code § 226(a). See *Lopez v. Friant & Associates, LLC* (2017) 15
15 Cal.App.5th 773, 788 (“a plaintiff seeking civil penalties under PAGA for a violation of section
16 226(a) does not have to satisfy the “injury” and “knowing and intentional” requirements of
17 section 226(e)(1)”).

18 181. As a result of the Defendants’ violations of Labor Code §226(a)(9), Plaintiff seeks
19 the assessment of all applicable and available PAGA remedies pursuant to Labor Code §§ 226.3
20 and 2699, and seeks to recover all attorneys’ fees, costs, and/or any other damages permitted
21 under PAGA. See *Raines v. Coastal Pacific Food Distributors, Inc.* (2018) 23 Cal.App.5th 667,
22 675 (“Section 226.3 provides the civil penalty for failure to comply” with Labor Code § 226).

23 **SEVENTEENTH CAUSE OF ACTION**

24 **PAGA ASSESSMENT FOR FAILURE TO MAINTAIN EMPLOYMENT RECORDS**

25 (Labor Code § 1174(d) and IWC Wage Order § 7(A)(3),(5))

26 *Plaintiff and the Aggrieved Employees against All Defendants*

27 182. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
28 alleged herein.

1 183. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
2 who did not receive proper protections and benefits of the laws governing the recording and
3 maintaining of employment records, timekeeping, and so forth.

4 184. Labor Code § 1174(d) requires that employers “[k]eep, at a central location in the
5 state or at the plants or establishments at which employees are employed, payroll records
6 showing the hours worked daily by and the wages paid to, and the number of piece-rate units
7 earned by and any applicable piece rate paid to, employees employed at the respective plants or
8 establishments.”

9 185. The applicable IWC Wage Order § 7(A) states that “[e]very employer shall keep
10 accurate information with respect to each employee including the following: ... (3) Time records
11 showing when the employee begins and ends each work period. Meal periods, split shift intervals
12 and total daily hours worked shall also be recorded ... [and] (5) Total hours worked in the
13 payroll period and applicable rates of pay.”

14 186. Here, Defendants failed to record and maintain employment information,
15 including time records, meal period information, and other required information for the
16 Aggrieved Employees. Therefore, Defendants violated Labor Code § 1174(d) and IWC Wage
17 Order § 7(A)(3) and (5) for every pay period for every Aggrieved Employee.

18 187. Plaintiff alleges that Defendants intentionally, willfully, and improperly failed to
19 record and maintain the records required by Labor Code § 1174(d) and IWC Wage Order §
20 7(A)(3) and (5).

21 188. Labor Code § 1174.5 states that “[a]ny person employing labor who willfully fails
22 to maintain [...] accurate and complete records required by subdivision (d) of Section 1174 [...] shall be subject to a civil penalty of five hundred dollars (\$500).”

24 189. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the
25 assessment of all applicable and available PAGA remedies pursuant to Labor Code §§ 1174.5 and
26 2699, and seeks to recover all attorneys’ fees, costs, and/or any other damages permitted under
27 PAGA.

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1 **VII. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of herself, on a representative basis, and all others
3 similarly situated, prays for judgment and relief against Defendants, jointly and severally, as
4 follows:

5 1. As to the Eighth through Seventeenth Causes of Action, the assessment of all
6 applicable and available remedies under the PAGA;

7 2. For reasonable attorneys' fees and costs as permitted under the PAGA;

8 3. That the First through Seventh Causes of Action be certified as a class action;

9 4. That Plaintiff be appointed as Class Representative;

10 5. That counsel for Plaintiff be appointed Class Counsel;

11 6. For all applicable statutory penalties recoverable under the First through Seventh
12 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and
13 Orders of the Industrial Welfare Commission;

14 7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by
15 law, including those pursuant to the Labor Code;

16 8. For injunctive relief and/or restitution as provided by the Labor Code and
17 Business and Professions Code § 17200, *et seq.*;

18 9. For a declaratory judgment that Defendants have violated Labor Code §§ 200,
19 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.2, 226.3, 226.7, 256, 512, 558, 1174(d), 1194,
20 and 2802, among other sections inadvertently omitted;

21 10. For an award of damages in the amount of unpaid compensation including, but
22 not limited to, unpaid wages, benefits, and penalties according to proof, including interest
23 thereon;

24 11. For pre- and post-judgment interest; and

25 12. For such other relief as the Court deems just and proper.

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Dated: January 28, 2022

BY:

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