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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUL 18 2022

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

ASHLEY MARIE CHILTON, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

PACIFIC EYE INSTITUTE, A Medical Group,
Inc., a California Corporation; UVP
Management, LLC, a Delaware Limited Liability
Company; and DOES 1-50, inclusive.

Defendants.

CASE NO.: CIVSB2200827

**FIRST AMENDED CLASS ACTION AND
PAGA REPRESENTATIVE COMPLAINT:**

- (1) FAILURE TO PAY ALL MINIMUM WAGES;
- (2) FAILURE TO PAY ALL OVERTIME WAGES;
- (3) MEAL PERIOD VIOLATIONS;
- (4) REST PERIOD VIOLATIONS;
- (5) WAGE STATEMENT VIOLATIONS;
- (6) WAITING TIME PENALTIES;
- (7) UNFAIR COMPETITION; and
- (8) PAGA PENALTIES

DEMAND FOR JURY TRIAL

1 Plaintiff Ashley Marie Chilton (“Plaintiff”) on behalf of herself, the State of California, and
2 all other similarly situated and/or aggrieved employees, alleges and complains of defendants Pacific
3 Eye Institute, A Medical Group, Inc., UVP Management, LLC, and DOES 1 to 50 (collectively,
4 “Defendants”) and each of them, as follows:

5 **INTRODUCTION**

6 1. Defendant Pacific Eye Institute, A Medical Group, Inc., is a network of
7 ophthalmologist and eye care clinics across the Inland Empire. Pacific Eye Institute provides a wide
8 range of eye care and vision correction services. Plaintiff brings this class action against Defendant
9 for alleged violations of the California Labor Code and Business and Professions Code.

10 2. Defendant UVP Management, LLC, is a network of ophthalmologist and eye care
11 clinics across California and the USA. Plaintiff brings this class action against Defendant for alleged
12 violations of the California Labor Code and Business and Professions Code.

13 3. As set forth below, Plaintiff alleges that Defendants had a uniform payroll
14 practice/policy that rounded Plaintiff and other non-exempt employees’ time entries to the nearest
15 15-minute increment. As a result of the policy/practice of rounding/shaving time, Plaintiff and other
16 similarly situated employees were not paid for all hours worked. Plaintiff alleges that Defendants
17 failed to pay all overtime compensation as a result of not accounting for all hours worked and failing
18 to properly calculate the regular rate of pay. Plaintiff further alleges that Defendants’ meal and rest
19 period policies and practices failed to provide her and all other similarly situated employees with
20 compliant/timely meal and rest periods, or premium wages in lieu thereof. Additionally, Plaintiff
21 alleges that Defendants failed to provide non-exempt employees with accurate written itemized
22 wage statements and failed to timely pay all final wages upon separation of employment. Finally,
23 Plaintiff alleges that Defendants failed to reimburse Plaintiff and other similarly situated employees
24 for necessary business expenses.

25 4. Based on these alleged Labor Code violations, Plaintiff now brings this class action
26 and PAGA representative action to recover unpaid wages, restitution, penalties, and other related
27 relief on behalf of herself and all others similarly situated.

1 **JURISDICTION AND VENUE**

2 5. Plaintiff, on behalf of herself and all others similarly situated employees hereby brings
3 this class action for recovery of unpaid wages and penalties under California Labor Code §§ 201-
4 203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 516, 1194, 1197.1, 1199, 2802-2804 *et*
5 *seq.*, 2698, *et seq.*, and applicable Industrial Welfare Commission Wage Orders (“Wage Orders”),
6 in addition to seeking declaratory relief and restitution pursuant to California Business and
7 Professions Code § 17200, *et. seq.* This class action is brought pursuant to California Code of Civil
8 Procedure § 382.

9 6. This Court has jurisdiction over Defendants’ violations of the California Labor Code
10 and applicable Wage Orders because the amount in controversy exceeds this Court’s jurisdictional
11 minimum.

12 7. Venue is proper in this judicial district pursuant to California Code of Civil Procedure
13 §§ 395(a) and 395.5, Defendants own, maintain offices, transact business, have an agent or agents
14 in the City of Upland within the County of San Bernardino, and/or otherwise are found within the
15 County of San Bernardino, and Defendants are within the jurisdiction of this Court for purposes of
16 service of process.

17 **PARTIES**

18 8. At all relevant times herein, Plaintiff, who is over the age of 18, was and currently is
19 a California resident residing in the State of California. Defendants employed Plaintiff as a non-
20 exempt employee in Hesperia, California in the County of San Bernardino.

21 9. Plaintiff is informed and believes and thereon alleges that defendant Pacific Eye
22 Institute, a Medical Group, Inc., is a California corporation authorized to and doing business in
23 Upland, California, and is and/or was the legal employer of Plaintiff and the Class Members during
24 the applicable statutory periods. Plaintiff was, and is, a victim of Defendants’ policies and/or
25 practices complained of herein and has been deprived of the rights guaranteed to her by California
26 Labor Code §§ 201-203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 516, 1194, 1197.1,
27 1199, and 2800 *et seq.*, 2698, *et seq.*, and California Business and Professions Code § 17200 *et seq.*,
28 and applicable Wage Orders.

1 10. Plaintiff is informed and believes and thereon alleges that defendant UVP
2 Management, LLC, is a Delaware Limited Liability Company authorized to and doing business in
3 Upland, California, and is and/or was the legal employer of Plaintiff and the Class Members during
4 the applicable statutory periods. Plaintiff was, and is, a victim of Defendants' policies and/or
5 practices complained of herein and has been deprived of the rights guaranteed to her by California
6 Labor Code §§ 201-203, 204, 210, 226, 226a, 226(e), 226.3, 226.7, 510, 512, 516, 1194, 1197.1,
7 1199, and 2800 *et seq.* and California Business and Professions Code § 17200 *et seq.*, and applicable
8 Wage Orders

9 11. Plaintiff is informed and believes, and based thereon alleges, that during the four years
10 preceding the filing of the Complaint and continuing to the present, Defendants did (and continue
11 to do) business in the State of California, County of San Bernardino. Defendants operate various
12 clinics, including the one at 11959 Mariposa Road in Hesperia, California. Further, Defendants have
13 a corporate office at 555 North 13th Avenue in Upland, California.

14 12. Plaintiff does not know the true names or capacities, whether individual, partner, or
15 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
16 Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
17 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
18 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
19 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
20 and proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices
21 alleged herein.

22 13. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
23 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
24 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
25 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of
26 them, were the agents, servants, and employees of each and every one of the other Defendants, as
27 well as the agents of all Defendants, and at all times herein mentioned were acting within the course
28 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,

and/or otherwise ratified each and every one of the acts or omissions complained of herein.

14. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the Classes.

COMMON FACTUAL ALLEGATIONS

15. Defendants are a network of ophthalmologist and eye care clinics with several locations throughout California. Defendants employed Plaintiff as a non-exempt employee with the title of “Ophthalmological Scribe” from approximately December 2, 2017, until September 2021. Plaintiff and other non-exempt employees, include scribes, technicians, nurses, medical records assistants, billing, and other non-exempt positions in Defendants’ offices throughout California.

16. At all relevant times, Plaintiff and other non-exempt employees were employed by UVP Management, LLC, and Pacific Eye Institute, A Medical Group, Inc (“Defendants”). Since both companies set the terms and conditions of Plaintiff and other non-exempt employees’ work, and control how non-exempt employees are paid and in what amounts, each is considered the employer of all non-exempt employees. Further, the work policies and procedures that both companies disseminated uniformly applied to all non-exempt employees who worked for both companies.

17. California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California’s labor laws. (*Martinez v. Combs* (2010) 49 Cal.4th 35, 65.) As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person. (See also Labor Code §§ 558, 558.1.)

18. California law also permits and recognizes the piercing of a corporate veil between sister companies and under the single enterprise rule. (*Hasso v. Hapke* (2014) 227 Cal.App.4th 107,

1 155.) The single enterprise rule applies where “there are two or more personalities, there is but one
2 enterprise; and that this enterprise has been so handled that it should respond, as a whole, for the
3 debts of certain component elements of it.” (*Hasso*, 227 Cal.App.4th at 155.) At all times relevant
4 hereto, Defendants have operated as a single entity (and/or enterprise) that jointly employed Plaintiff
5 and other non-exempt employees. Defendants put themselves out to the public and to Plaintiff and
6 other non-exempt employees as one entity.

7 19. Plaintiff alleges that other non-exempt employees were subjected to the same policies,
8 procedures, and practices, working conditions, and corresponding wage and hour violations to
9 which Plaintiff was subjected during her employment with Defendants.

10 20. First, at all relevant times, Defendants have had a consistent policy of rounding
11 Plaintiff and other non-exempt employees’ time entries to the nearest quarter hour. As a result of
12 this practice, Plaintiff and other non-exempt employees are not compensated for all the hours that
13 they work and all the overtime hours they work, in violation of Cal. Labor Code §§ 204, 510, 1194,
14 1197.1, 1199, and applicable Wage Orders.

15 21. The Court in *See’s Candy Shops v. Superior Court* (2012) 210 Cal.App.4th 889, 907,
16 held that rounding time policies can be lawful, “if the rounding policy is fair and neutral on its face
17 and ‘it is used in such a manner that it will not result, over a period of time, in failure to compensate
18 the employees properly for all the time they have actually worked,’ (29 C.F.R. § 785.48; see DLSE
19 Manual, *supra*, §§ 47.1, 47.2).”

20 22. Here, Defendants’ rounding time policy is not neutral on its face as Plaintiff and other
21 non-exempt employees are subject to discipline, including termination for being tardy in reporting
22 to work, or returning from a meal or rest period. Moreover, because Defendants is capable of
23 tracking the time worked by non-exempt employees to the minute, the policy itself exists not for the
24 convenience or benefit of the employees who are trying to report their time on timecards or
25 otherwise, but for Defendants’ benefit. As a result, the policy is not neutral on its face, and over a
26 period of time, Plaintiff and other non-exempt employees were not properly paid for all hours
27 worked in violation of Cal. Labor Code §§ 204, 510, 1194, 1197.1, 1199, and applicable Wage
28 Orders. Further, as a result of the unlawful rounding policy, Plaintiff and other non-exempt

1 employees were not properly paid at the correct overtime rate for hours worked in excess of eight
2 hours per shift. (Labor Code § 510).

3 23. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed
4 by an applicable state or local law, or by an order of the commission a civil penalty, restitution of
5 wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed,
6 one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
7 is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred
8 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
9 underpaid regardless of whether the initial violation is intentionally committed.

10 24. As set forth above, Defendants failed to compensate Plaintiff and other non-exempt
11 employees for all hours worked as a result of its unlawful rounding policy. To the extent permitted
12 by law, Plaintiff and other non-exempt employees are entitled to recover liquidated damages for
13 violations of Labor Code § 1197.1. Based upon these same factual allegations, Plaintiff and other
14 non-exempt employees are entitled to penalties under Labor Code § 1199.

15 25. Furthermore, Plaintiff and other non-exempt employees were not properly paid at the
16 correct overtime rate for all hours worked in excess of eight (8) hours per workday and/or forty (40)
17 hours per workweek. While Plaintiff and other non-exempt employees regularly worked overtime
18 hours, they were not compensated at one and one-half times their regular rate of pay because
19 Defendants failed to include all forms of compensation, including but not limited to, non-
20 discretionary bonuses and other forms of non-hourly remuneration when calculating the regular rate
21 of pay used in payment of overtime wages.

22 26. Under the California Labor Code (as well as the FLSA), courts have consistently held
23 that regularly paid non-discretionary bonuses (and other forms of pay) must be included in
24 determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber*
25 *v. The Americana Corp.* 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid
26 efficiency bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News,*
27 *Inc.* 435 F. Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgement to Plaintiff
28

1 under California and federal law on the grounds, that Defendant improperly calculated overtime by
2 excluding annual bonuses paid to employees from the “regular rate of compensation”].)

3 27. Labor Code § 510 requires an employer to compensate an employee who works more
4 than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours
5 worked on the seventh consecutive day, no less than one and one-half times (1 1/2) the regular rate
6 of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less than
7 twice the regular rate of pay when an employee works more than twelve (12) hours in a workday or
8 more than eight (8) hours on the seventh consecutive day of work. Pursuant to Section 3 of the
9 applicable Wage Orders, non-exempt employees shall not be employed more than eight (8) hours
10 in any workday or more than 40 hours in any workweek unless the employee receives one and one-
11 half (1 1/2) times such employee’s regular rate of pay for all hours worked over 40 hours in the
12 workweek.

13 28. By their policy of requiring Plaintiff and the other non-exempt employees to work in
14 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating
15 them at the rate of one-half (1 1/2) their regular rate of pay, and twice the regular rate for shifts more
16 than twelve (12) hours, Defendants willfully violated the provisions of Labor Code § 510 and the
17 applicable Wage Orders.

18 29. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed
19 by an applicable state or local law, or by an order of the commission a civil penalty, restitution of
20 wages, and liquidated damages as follows: (1) for any initial violation that is intentionally
21 committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which
22 the employee is underpaid. . . [and] (2) [f]or each subsequent violation for the same specific offense,
23 two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the
24 employee is underpaid regardless of whether the initial violation is intentionally committed.

25 30. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt
26 employees are entitled to recover liquidated damages for violations of Labor Code § 1197.1. Based
27 upon these same factual allegations, Plaintiff and the other non-exempt employees are entitled to
28 penalties under Labor Code § 1199.

1 31. Moreover, at all relevant times, Plaintiff and other non-exempt employees were
2 denied compliant and timely 30-minute off-duty meal periods as mandated by California law. As a
3 result of Defendants' uniform meal period policies/practices, Plaintiff and other non-exempt
4 employees were often unable to take 30-minute uninterrupted first meal periods before the end of
5 the fifth hour of work. Further, Plaintiff and other non-exempt employees would have their meal
6 period delayed beyond the fifth hour of work and/or cut short due to the demands of the job and
7 operational requirements, including heavy caseloads and staffing shortages. Further, when Plaintiff
8 and other non-exempt employees worked in excess of 10.0 hours in a shift, which was a regular
9 occurrence, they were not allowed and permitted to take all mandated and timely second meal
10 periods before the end of the tenth hour of work in violation of the Labor Code and applicable Wage
11 Orders.

12 32. Each time Plaintiff and other non-exempt employees were not provided a legally
13 compliant meal period, Defendants also failed to provide meal period premiums for missed or non-
14 compliant meal periods at the "regular rate of pay" as required by Labor Code § 226.7 and *Ferra v.*
15 *Loews Hollywood Hotel, LLC* (2021) 11 5th 858 ("*Ferra*").

16 33. Accordingly, due to Defendants' uniform meal period policies/practices, Plaintiff and
17 other non-exempt employees were also regularly denied legally compliant meal periods in violation
18 of Labor Code 226.7, 510, 516, and applicable IWC Wage Orders.

19 34. Next, at all relevant times, Plaintiff and other non-exempt employees were also not
20 provided with 10 minutes of net rest period time for every 4 hours worked, or major fraction thereof
21 due to Defendants' rest period policies/practices and work demands, including staffing shortages
22 and heavy caseloads. Further, Defendants had a policy that prevented Plaintiff and other non-exempt
23 employees from leaving the work premises during their rest breaks. As a result, Plaintiff and other
24 non-exempt employees were and are routinely unable to take legally compliant (10) minute duty-
25 free rest periods for every major fraction of four hours worked. This includes a second rest period
26 for shifts in excess of six hours, and a third rest period for shifts in excess of 10 hours in a workday.

27 35. By not relieving all non-exempt employees of all duties during rest periods,
28 Defendants failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services,*

1 *Inc.* (2016) 2 Cal. 5th 257, 269 [concluding that “during rest periods employers must relieve
2 employees of all duties and relinquish control over how employees spend their time.”]. In *Augustus*,
3 the California Supreme Court expressly rejected the employers’ assertion that it could provide an
4 on-duty rest period to employees who worked as security guards and further explained “that
5 employers [must] relinquish any control over how employees spend their break time and relieve
6 their employees of all duties.” *Id.* at 273.

7 36. Each time Plaintiff and other non-exempt employees were unable to take compliant
8 rest periods, Defendants failed and continue to fail to adequately pay rest period premium payments
9 at the “regular rate of pay” as required by Labor Code § 226.7 and *Ferra*.

10 37. Accordingly, due to Defendants’ uniform rest period policies/practices, Plaintiff and
11 other non-exempt employees were also regularly denied legally compliant rest breaks in violation
12 of Labor Code §§ 226.7, 512, and applicable Wage Orders.

13 38. Moreover, at all relevant times, Plaintiff and other non-exempt employees, at the
14 direction of Defendants and/or with Defendants’ knowledge and acquiescence, have used their
15 personal cell phones in the discharge of their duties, and for work-related purposes. Defendants
16 required Plaintiff and other non-exempt employees to incur the costs associated with business use
17 of their personal cell phones and did not provide any reimbursement of these costs. (See *Cochran*
18 *v. Schwan’s Home Service, Inc.* (2014) 228 Cal.App.4th 1137 (“We hold that when employees must
19 use their personal cell phones for work-related calls, Labor Code section 2802 requires the employer
20 to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited
21 minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.”) (reversing
22 denial of class certification in cell phone reimbursement class action and setting forth the applicable
23 law for these claims); *Aguilar v. Zep, Inc.*, 2014 WL 4245988 *17 (N.D. Cal. 2014) (granting
24 Plaintiff’s motion for partial summary judgment on the Mr. Toys’ cell phone reimbursement claim).

25 39. Here, although Plaintiff and other non-exempt employees routinely used their
26 personal cell phones in the discharge of their job duties with the knowledge or acquiescence of
27 Defendants, they were not reimbursed in any amount for expenses incurred. Defendants’ failure to
28 reimburse Plaintiff and other non-exempt employees for their on-going cell phone business expenses

1 incurred in their discharge of their duties continues through the present day. Indeed, any
2 reimbursement for cell phone expenses is absent from Plaintiff's wage statements during her
3 employment.

4 40. As a result of Defendants' failure to pay Plaintiff and other non-exempt employees
5 for all hours they were subject to the control of Defendants, including all minimum and overtime
6 wages, and failure to adequately pay for meal/rest period premiums at the "regular rate of pay",
7 Defendants issued wage statements which failed to accurately identify the gross wages earned, the
8 total hours worked, the net wages earned, and the correct corresponding number of hours worked at
9 each hourly rate, in violation of Labor Code § 226(a)(1), (2), (5), and (9).

10 41. Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of
11 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
12 employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for
13 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
14 deduction statement or fails to keep the required in subdivision (a) of Section 226."

15 42. Thus, for the violations of Labor Code section 226 described above, Plaintiff and other
16 non-exempt employees may also recover Labor Code § 226.3 penalties for Defendants' violations
17 of Labor Code § 226(a). As such, the wage statements Defendants issued to Plaintiff and other non-
18 exempt employees are in violation of Labor Code § 226 (a). Consequently, because Defendants
19 failed to comply with Labor Code § 226(a) and applicable Wage Orders, Plaintiff and other non-
20 exempt employees would be entitled to recover penalties under Labor Code §§ 226(e).

21 43. Finally, because of, Defendants' failure to pay all minimum and overtime wages, and
22 meal and rest period premiums at the "regular rate of pay", Defendants also failed and continue to
23 fail to pay Plaintiff and other non-exempt employees all wages owed at their time of separation from
24 employment in violation of Labor Code §§ 201-203 and applicable Wage Orders. Pursuant to Labor
25 Code §§ 201-202, an employer must provide non-exempt employees' wages at the time of discharge
26 or within up to seventy-two (72) hours of their resignation. Labor Code § 203 provides "if an
27 employer willfully fails to pay ... any wages of an employee who is discharged or who quits, the
28

1 wages of the employee shall continue as a penalty ...” for up to 30 days. Thus, non-exempt
2 employees would be entitled to recover penalties under Labor Code §§ 201-203.

3 CLASS ACTION ALLEGATIONS

4 44. Plaintiff brings this action on behalf of herself and the following Classes pursuant to
5 § 382 of the Code of Civil Procedure:

6 All non-exempt employees who work or worked for Defendants in
7 California, during the four years immediately preceding the filing of
the Complaint through the date of trial. (“Class”);

8 All non-exempt employees who worked for Defendants in California
9 and who worked overtime hours during at least one shift and earned
a non-discretionary bonus payment and/or other non-hourly pay,
10 during the four years immediately preceding the filing of the
Complaint through the date of trial. (“Overtime Subclass”);

11 All employees who work or worked for Defendants in California,
12 during the one year immediately preceding the filing of the Complaint
through the date of trial. (“Wage Statement Subclass”)

13 All employees who work or worked for Defendants in California, and
14 who left their employ during the three years immediately preceding
15 the filing of the Complaint through the date of trial. (“Waiting Time
Penalty Subclass”)
16 (collectively “the Classes”)

17 45. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
18 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
19 unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one
20 hundred (100) individuals. The identity of such membership is readily ascertainable via inspection
21 of Defendants’ employment and payroll records.

22 46. **Common Questions of Law and Fact Predominate/Well Defined Community of**
23 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
24 employees, which predominate over questions affecting only individual members including, without
25 limitation to:

26 1. Whether Defendants’ rounding and other timekeeping policies/practices resulted in a
27 failure to pay for all hours worked to the members of the Class;
28

2. Whether Defendants' paid overtime at the correct regular rate including all forms of compensation to members of the Overtime Subclass;

3. Whether Defendants provided legally compliant meal and rest periods or proper compensation in lieu thereof to members of the Class;

4. Whether Defendants reimbursed all necessary business expenses, including, but not limited to, a reasonable percentage of monthly cellular phone bills;

5. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Subclass pursuant to Labor Code § 226(a); and

6. Whether the timing and amount of payment of final wages to members of the Waiting Time Penalty Subclass at the time of separation from employment were unlawful.

47. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' policy and/or practice of rounding time entries, Defendants' failure to pay overtime at the correct "regular rate" including all forms of compensation, Defendants' failure to reimburse all necessary business expenses, Defendants' uniform policy of failing to provide compliant meal and rest periods or adequate compensation in lieu thereof, and Defendants' resulting failure to provide accurate itemized wage statements, and to pay for all wages due upon separation of employment. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

48. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes was deprived of minimum and overtime wages, was deprived of meal and rest period premium wages, was subject to Defendants' uniform meal and rest period policies/practices, was not reimbursed for business expenses, was not provided accurate

1 itemized wage statements, and was not paid all wages owed at the time of her separation of
2 employment.

3 49. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
4 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
5 attorneys are ready, willing and able to fully and adequately represent the members of the Classes.
6 Plaintiff's attorneys have prosecuted and are actively litigating several wage-and-hour class actions
7 in state and federal courts and are committed to vigorously prosecuting this action on behalf of the
8 members of the Classes.

9 50. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
10 important public interest in establishing minimum working conditions and standards in California.
11 These laws and labor standards protect the average working employee from exploitation by
12 employers who have the responsibility to follow the laws and who may seek to take advantage of
13 superior economic and bargaining power in setting onerous terms and conditions of employment.
14 The nature of this action and the format of laws available to Plaintiff and members of the Classes
15 make the class action format a particularly efficient and appropriate procedure to redress the
16 violations alleged herein. If each employee were required to file an individual lawsuit, Defendants
17 would necessarily gain an unconscionable advantage since they would be able to exploit and
18 overwhelm the limited resources of each individual plaintiff with their vastly superior financial and
19 legal resources.

20 51. Moreover, requiring each member of the Classes to pursue an individual remedy
21 would also discourage the assertion of lawful claims by employees who would be disinclined to file
22 an action against their former and/or current employer for real and justifiable fear of retaliation and
23 permanent damages to their careers at subsequent employment. Further, the prosecution of separate
24 actions by the individual class members, even if possible, would create a substantial risk of
25 inconsistent or varying verdicts or adjudications with respect to the individual class members against
26 Defendants herein; and which would establish potentially incompatible standards of conduct for
27 Defendants; and/or legal determinations with respect to individual class members which would, as
28 a practical matter, be dispositive of the interest of the other class members not parties to

1 adjudications or which would substantially impair or impede the ability of the class members to
2 protect their interests. Further, the claims of the individual members of the class are not sufficiently
3 large to warrant vigorous individual prosecution considering all of the concomitant costs and
4 expenses attending thereto. As such, the Classes identified in Paragraph 43 are maintainable as
5 Classes under § 382 of the Code of Civil Procedure.

6 **FIRST CAUSE OF ACTION**

7 **MINIMUM WAGE VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

9 52. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 53. Section 4 of the applicable Wage Orders and California Labor Code §§ 1197 and
11 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in
12 amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has
13 not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid
14 balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount
15 equal to the unpaid wages and interest accrued thereon.

16 54. At all relevant times herein, Defendants failed to conform their pay practices to the
17 requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform
18 and unlawful practice of rounding to the nearest 15-minute interval, which resulted in these
19 individuals not being paid for all hours actually worked. Accordingly, Plaintiff and members of the
20 Classes were not compensated for all hours worked including, but not limited to, all hours they were
21 subject to the control of Defendants and/or suffered or permitted to work under the California Labor
22 Code and applicable Wage Orders.

23 55. Labor Code § 1198 makes unlawful the employment of an employee under
24 conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an
25 employer who has failed to pay its employees the legal minimum wage is liable to pay those
26 employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal
27 to the wages due and interest thereon.

1 56. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
2 Plaintiff and the Classes have sustained economic damages, including but not limited to unpaid
3 wages and lost interest, in an amount to be established at trial, and they are entitled to recover
4 economic and statutory damages and penalties and other appropriate relief as a result of Defendants'
5 violations of the California Labor Code and applicable Wage Orders.

6 57. Defendants' practice and uniform administration of corporate policy regarding
7 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
8 members of the Classes in a civil action for the unpaid amount of minimum wages, liquidated
9 damages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according
10 to Labor Code §§ 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil Procedure § 1021.5.

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO PAY ALL OVERTIME WAGES**

13 **(AGAINST ALL DEFENDANTS)**

14 58. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

15 59. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and
16 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime
17 hours worked and provide a private right of action for the failure to pay all overtime compensation
18 for overtime work performed.

19 60. At all times relevant herein, Defendants were required to properly pay Plaintiff and
20 members of the Classes for all overtime hours worked pursuant to California Labor Code § 1194
21 and the applicable Wage Orders.

22 61. Section 3 of the applicable Wage Order requires an employer to pay an employee
23 "one and one-half (1 1/2) times the employee's regular rate of pay" for work in excess of 8 hours per
24 workday and/or in excess of 40 hours of work in the workweek. The same section also requires an
25 employer to pay an employee double the employee's regular rate of pay for work in excess of twelve
26 hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of work in
27 the workweek. Defendants caused Plaintiff to work overtime and hours but did not compensate
28 Plaintiff or members of the Classes at one and one-half times their regular rate of pay for such hours.

62. Defendants failed to conform their pay practices to the requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful policy/practice of (1) failing to pay for all hours worked due to rounding time entries to the nearest 15-minute interval, and (2) failing to include all forms of compensation, including but not limited to non-discretionary bonuses, into the calculation of the "regular rate of pay," both of which resulted in Plaintiff and the Classes not being paid all overtime wages owed.

63. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the members of the Classes in a civil action for the unpaid amount of overtime wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code §§ 204, 210, 510, 1194, and 1198, the applicable Wage Orders, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

64. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

65. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff and members of the Classes, with all required meal periods in accordance with the mandates of the California Labor Code and applicable Wage Orders, for the reasons set forth in the Common Allegations section of this Complaint.

66. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

67. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

68. Section 12 of the applicable Wage Orders and Labor Code §§ 226.7 and 516 establish the right of non-exempt employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof.

69. Due to their unlawful rest period policy and practices, Defendants did not authorize and permit Plaintiff and members of the Classes to take any rest periods to which they were legally entitled. Despite Defendants' violations, Defendants have not paid an additional hour of pay at the "regular rate of pay" to Plaintiff and members of the Classes at their respective regular rates of pay for each violation, in accordance with California Labor Code § 226.7.

70. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Classes in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§ 226.7 and 516, and Civil Code §§ 3287(b) and 3289.

FIFTH CAUSE OF ACTION

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(AGAINST ALL DEFENDANTS)**

71. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

72. Labor Code 226(a) states in pertinent part the following:

“(a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in

effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. . .”

73. As set forth above, during the Class Period, Defendants issued and continues to issue wage statements to its employees including Plaintiff and members of the Wage Statement Subclass, which are inadequate under Labor Code Section 226(a).

74. As a result of Defendants failure to pay Plaintiff and the Wage Statement Subclass for all regular and overtime wages, and missed meal and rest period premiums at the appropriate legal rate, Defendants failed to include required information on Plaintiff and the Wage Statement Subclass’ wage statements, including, but not limited to, the gross wages earned, the net wages earned in violation of Labor Code section 226(a)(1,2,5,9).

75. Defendants’ failure to comply with section 226(a) of the Labor Code was knowing and intentional.

76. As a result of Defendants’ issuance of inaccurate itemized wage statements to Plaintiff and members of the Wage Statement Subclass in violation of section 226(a) of the California Labor Code, Plaintiff and members of the Wage Statement Subclass are each entitled to recover an initial penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per every member of the Wage Statement Subclass from Defendants pursuant to section 226(e) of the Labor Code, costs and reasonable attorneys’ fees.

SIXTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

77. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

78. Labor Code 2802(a) states in pertinent part the following:

“(a) An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

79. As set forth above, Plaintiff and members of the Class must be compensated for all

1 necessary business expenditures, including, but not limited to, a reasonable portion of their monthly
2 personal cell phone bills necessarily incurred in their discharge of their duties. (See *Cochran v.*
3 *Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137 ("We hold that when employees must use
4 their personal cell phones for work-related calls, Labor Code section 2802 requires the employer to
5 reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited
6 minutes, the reimbursement owed is a reasonable percentage of their cell phone bills."); *Aguilar v.*
7 *Zep, Inc.*, 2014 WL 4245988 *17 (N.D. Cal. 2014) (granting Plaintiff's motion for partial summary
8 judgment on Plaintiff's cell phone reimbursement claim); *Ritchie v. Blue Shield of California*, 2014
9 WL 6982943, at *21 (N.D. Cal. 2014) (certifying class of cell phone reimbursement claim and
10 adopting the logic of *Cochran*).

11 80. At all relevant times, by failing to reimburse Plaintiff and the Class for all necessary
12 business expenditures, Defendants have failed to comply with Labor Code Section 2802 and the
13 applicable Wage Orders.

14 ///

15 ///

16 **SEVENTH CAUSE OF ACTION**

17 **WAITING TIME PENALTIES**

18 **(AGAINST ALL DEFENDANTS)**

19 81. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 82. The actionable period for this cause of action is three years prior to the filing of this
21 Complaint through the present, and on-going until the violation is corrected or the class is certified.

22 83. Labor Code §§ 201 and 202 require Defendants to pay all compensation due and
23 owing to Plaintiff and the Waiting Time Subclass during the actionable period for this cause of
24 action at or around the time that their employment is or was terminated or ended.

25 84. Labor Code § 203 provides that if an employer willfully fails to pay compensation
26 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, then the
27 employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

85. Defendants willfully failed to pay Plaintiff and the Waiting Time Subclass for all hours worked, including all minimum and overtime wages, and their meal and rest period premiums at the “regular rate of pay”, prior to or upon termination or separation from employment with Defendants as required by Labor Code §§ 201 and 202.

86. As a result, Defendants are liable to Plaintiff and the Waiting Time Subclass for waiting time penalties amounting to thirty (30) days wages for Plaintiff and the Waiting Time Subclass pursuant to Labor Code § 203. *See, e.g.* DLSE Manual, 4.3.4 (Failure to pay any sort of wages due upon termination entitles an employee to recover waiting time penalties).

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

87. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

88. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by failing to pay for all hours worked, and overtime wages at the legal rate, by failing to provide all legally required meal and rest periods or pay premium payments at the regular rate of pay in lieu thereof, by failing to provide accurate wage statements, by failing to reimburse for necessary business expenses, and by failing to pay all earned wages at the time of separation from employment.

89. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

90. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

91. The acts complained of herein occurred within the last four years immediately

1 preceding the filing of the Complaint in this action.

2 92. Plaintiff was compelled to retain the services of counsel to file this court action to
3 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf of
4 Defendants' current hourly non-exempt employees and to enforce important rights affecting the
5 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which
6 she is entitled to recover under Code of Civil Procedure § 1021.5.

7 **NINTH CAUSE OF ACTION**

8 **PRIVATE ATTORNEYS GENERAL ACT**

9 **(Labor Code § 2698 et seq.)**

10 **(AGAINST ALL DEFENDANTS)**

11 93. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

12 94. Defendants have committed several Labor Code violations against Plaintiff and other
13 non-exempt employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698
14 et seq., acting on behalf of herself and other non-exempt employees, bring this representative action
15 against Defendants to recover the civil penalties due to Plaintiff, other similarly non-exempt
16 employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f)
17 including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each subsequent
18 violation per employee per pay period for those violations of the Labor Code for which no civil
19 penalty is specifically provided based on the following Labor Code violations:

20 a. Failing to pay Plaintiff and other non-exempt employees for all hours worked,
21 including all minimum and overtime wages in violation of Labor Code §§ 204, 510, 1194, 1197,
22 1198, and 1182.12

23 b. Failing to provide Plaintiff and other non-exempt employees with all of their
24 statutorily mandated meal periods or compensation at the "regular rate of pay" in lieu thereof in
25 violation of Labor Code §§ 204, 510, 558, 1194 and 1198;

26 c. Failing to authorize and permit Plaintiff and other non-exempt employees with all
27 of their statutorily mandated rest periods or compensation at the "regular rate of pay" in lieu thereof
28 in violation of Labor Code §§ 226.7, and 516;

1 d. Failing to timely compensate Plaintiff and other non-exempt employees with all
2 earnings at their separation of employment in violation of Labor Code §§ 201-203; and

3 e. Failing to furnish Plaintiff and other non-exempt employees with complete,
4 accurate, itemized wage statements in violations of Labor Code § 226(a).

5 95. On or about January 5, 2022, Plaintiff notified Pacific Eye Institute, A Medical Group,
6 Inc. and UVP Management, LLC, via certified mail, and the California Labor and Workforce
7 Development Agency (“LWDA”) via its website of Defendants’ violations of the California Labor
8 Code § 2698 *et seq.*, with respect to violations of the California Labor Code identified in Paragraph
9 94(a)-(e). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA
10 of these violations, Plaintiff will have exhausted her administrative requirements for bringing a claim
11 under the Private Attorneys General Act with respect to these violations.

12 96. Plaintiff was compelled to retain the services of counsel to file this court action to
13 protect their interests and the interests of other non-exempt employees, and to assess and collect the
14 civil penalties owed by Defendants. Plaintiff has hereby incurred attorneys’ fees and costs, which she
15 is entitled to receive under California Labor Code § 2699.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Plaintiff prays for judgment for herself and for all others on whose behalf
18 this suit is brought against Defendants, as follows:

- 19 1. For an order certifying the proposed Classes;
- 20 2. For an order appointing Plaintiff as representative of the Classes;
- 21 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 22 4. Upon the First Cause of Action, for compensatory, consequential, general and special
23 damages according to proof pursuant to Labor Code §§ 204, 210, 510, and 1194;
- 24 5. Upon the Second Cause of Action, for compensatory, consequential, general and
25 special damages according to proof pursuant to Labor Code §§ 204, 210, 510, 1194, and 1198;
- 26 6. Upon the Third Cause of Action, for compensatory, consequential, general and
27 special damages according to proof pursuant to Labor Code §§ 226.7 and 512;

1 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 226.7 and 516;

3 8. Upon the Fifth Cause of Action, penalties pursuant to Labor Code § 2208, and
4 reasonable costs and attorneys' fees;

5 9. Upon the Sixth Cause of Action, penalties pursuant to Labor Code § 226(a), and
6 reasonable costs and attorneys' fees;

7 10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant to
8 Labor Code §§ 201-203.

9 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
10 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
11 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

12 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other non-exempt
13 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699
14 (a) and (f) including, but not limited to: (1) \$100 for each initial violation and \$200 for each
15 subsequent violation per employee per pay period for those violations of the Labor Code for which
16 no civil penalty is specifically provided under the Labor Code.

17 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
18 § 218.6 and Civil Code §§ 3287 and 3289;

19 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
20 218.5, 226, and Code of Civil Procedure § 1021.5; and

21 15. For such other relief that the Court may deem just and proper.

22 Dated: July 18, 2022

FALAKSSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

23
24 By: _____

25 Joshua Falakassa, Esq.
26 Mehrdad Bokhour, Esq.
27 Anwar D. Burton, Esq.
28 Attorneys for Plaintiff and the Putative Classes

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 eighteen years and not a party to the within action; my business address is 1901 Avenue of the Stars,
Suite 450, Los Angeles, California 90067.

5 On July 18, 2022, I served the following document(s) described as **FIRST AMENDED**
6 **CLASS ACTION AND PAGA REPRESENTATIVE COMPLAINT** on the interested parties in
this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

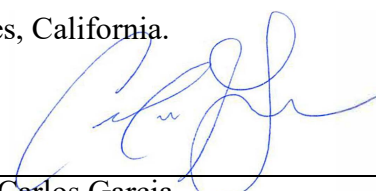
7 Pablo Orozco, Esq.
porozco@nilanjohnson.com
8 Chelsea Bodin, Esq.
cbodin@nilanjohnson.com
9 NILAN JOHNSON LEWIS PA
250 Marquette Avenue South, Suite 800
10 Minneapolis, MN 55401

11 **Counsel for defendants Pacific Eye**
12 **Institute, A Medical Group, Inc. and**
UVP Management, LLC

13 **BY MAIL:** I caused such envelope to be deposited in the mail at Los Angeles, California.
14 The envelope was mailed with postage thereon fully pre-paid. I am readily familiar with the firm's
15 practice of collection and processing of correspondence for mailing. Under that practice, the
correspondence is deposited with the U.S. Postal Service on that same day in the ordinary course of
business.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing
17 is true and correct.

18 Executed on July 18, 2022, at Los Angeles, California.

19 
20 _____
Carlos Garcia