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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEBORAH SHAW, DENISE URIBE, SONIA LEDOUX, DAUNTE JONES, SUSAN TINNEY, DANIELE BLACKWELL, TAVARIS MCCOY, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

THE PERMANENTE MEDICAL GROUP, INC., a California corporation; KAISER FOUNDATION HEALTH PLAN, INC., a California corporation; KAISER FOUNDATION HOSPITALS, a California corporation; SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, a California corporation, and DOES 1 to 100, inclusive

Defendants.

CASE NO.: 22STCV11259

FOURTH AMENDED CONSOLIDATED CLASS AND REPRESENTATIVE ACTION COMPLAINT FOR

(1) FAILURE TO REIMBURSE BUSINESS EXPENSES (LABOR CODE § 2802);
(2) FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS (LABOR CODE § 226 AND 226.3);
(3) WAITING TIME PENALTIES (LABOR CODE § 201 – 203);
(4) UNFAIR COMPETITION IN VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE §17200, et seq.; AND
(5) PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.

DEMAND FOR JURY TRIAL

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Tavaris Mccoy and the Proposed Classes

Plaintiffs Deborah Shaw, Denise Uribe, Sonia LeDoux, Daunte Jones, Susan Tinney, Daniele Blackwell, Tavaris Mccoy ("Plaintiffs"), on behalf of themselves, the State of California, and all others similarly situated (hereinafter "Class Members") complain and allege as follows:

OVERVIEW OF CLAIMS

1. Plaintiffs bring this action on behalf of themselves and all others similarly situated, as a class action and on behalf of the California general public, against Defendants The Permanente Medical Group, Inc. (TPMG), Kaiser Foundation Health Plan, Inc. (KFHP), Kaiser Foundation Hospitals (KFH), Southern California Permanente Medical Group (SCPMG), and Does 1 to 100 (collectively "Defendants") for their (1) failure to reimburse Plaintiffs and their fellow employees business expenses incurred; (2) failure to pay all similarly situated California employees unreimbursed business expenses due immediately or within seventy-two hours of termination, or resignation, as well as all associated waiting time penalties, in violation of California Labor Code sections 201-203; (3) failure to provide accurate, itemized, wage statements to all similarly situated California employees arising from the failure to reimburse business expenses, in violation of California Labor Code section 226; (4) PAGA violations based on the foregoing; and, (5) unfair business practices based on the foregoing. Plaintiffs allege that Defendants have violated California statutory laws as described below.

2. The "Class Period" is designated as the period from March 1, 2020 through April 1, 2022. Defendants' violations of California's wage and hour laws and unfair competition laws, as described more fully below, have been ongoing throughout the Class Period.

3. The "PAGA Period" is designated as the period from December 2, 2020 through trial or approval of settlement. Defendants' violations of California's wage and hour laws, as described more fully below, have been ongoing throughout the PAGA Period.

VENUE

4. Venue is proper in this county under section 395.5 of the California Code of Civil Procedure. Many, of the putative Class Members were employed and/or performed work during the Class Period by Defendants in Los Angeles County. Many of the acts alleged herein, including

Defendant's failure to reimburse employees for their business expenses, occurred in Los Angeles County. Venue is therefore proper in Los Angeles County.

JURISDICTION

5. Defendants are within the jurisdiction of this Court. Defendants transact millions of dollars through their business as quality healthcare providers that operate various health facilities throughout the country including the state of California and the County of Los Angeles. Thus, Defendants have obtained the benefits of the laws of the State of California. In addition, Plaintiffs assert no claims arising under federal law. Rather, Plaintiffs bring causes of action based solely on, and arising from, California law. The claims of the Class are also based solely on California law described herein.

6. Further, this action is not amenable to federal jurisdiction pursuant to 28 U.S.C. §1332, as (1) more than two-thirds of the members of the Class as defined below are citizens of the state of California, (2) the Defendants from whom significant relief is sought, whose alleged conduct forms a significant basis for the claims asserted by the Class, are registered and have their principal offices in the state of California, and (3) the principal injuries resulting from the conduct alleged herein incurred in the state of California.

THE PARTIES

A. The Plaintiffs

7. Plaintiff Deborah Shaw is a California resident and, from September 14, 2020, has been employed by Southern California Permanente Medical Group as a disability case manager assigned in Pasadena, California. At all relevant times, Plaintiff was hired to provide services to Defendants' customers. At all relevant times through the present, and on-going, Defendants' employees, including Plaintiff during her and their employment, were not reimbursed by Defendants for all business expenses for work purposes, and other business expenses.

8. Plaintiff Denise Uribe is a California resident and, from February 24, 2016 until December 1, 2021, was employed by KFHP as a member services staff assigned in Pasadena, California. At all relevant times, Plaintiff was hired to provide services to Defendants' customers.

At all relevant times through the present, and on-going, Defendants' employees, including Plaintiff during her and their employment, were not reimbursed by Defendants for all business expenses for work purposes, and other business expenses.

9. Plaintiff Sonia LeDoux worked for Defendant TPMG as a medical assistant for 26 years until she was terminated in January of 2022. At all relevant times, Plaintiff was hired to provide services to Defendants' customers. At all relevant times through the present, and on-going, Defendants' employees, including Plaintiff during her and their employment, were not reimbursed by Defendants for all business expenses for work purposes, and other business expenses.

10. At all material times, Plaintiff Daunte Jones was a resident of the State of California and was employed as an HR analyst and housekeeping aide in California by Defendants KFHP, and KFH in California within four years from December 3, 2021. At all relevant times through the present, and on-going, Defendants' employees, including Plaintiff during his and their employment, were not reimbursed by Defendants for all business expenses for work purposes, and other business expenses.

11. At all material times, Plaintiff Susan Tinney was a resident of the State of California and was employed as a registered nurse in California by Defendant TPMG within four years of the filing of this action. At all relevant times through the present, and on-going, Defendants' employees, including Plaintiff during her and their employment, were not reimbursed by Defendants for all business expenses for work purposes, and other business expenses.

12. At all material times, Plaintiff Daniele Blackwell was a resident of the State of California and was employed as an assistant medical staff coordinator in California by SCPMG within four years of the filing of this action. At all relevant times through the present, and on-going, Defendants' employees, including Plaintiff during her and their employment, were not reimbursed by Defendants for all business expenses for work purposes, and other business expenses.

13. At all material times, Plaintiff Tavaris McCoy was a resident of the State of California and was employed as an HR analyst in California by Defendants KFHP within four years from December 3, 2021. At all relevant times through the present, and on-going, Defendants' employees, including Plaintiff during his and their employment, were not reimbursed by Defendants for all business expenses for work purposes, and other business expenses.

Plaintiffs also seek to represent the following class: "all exempt and nonexempt individuals employed in the State of California by Defendants who primarily worked from home for some period of time between March 1, 2020 and April 1, 2022." (Collectively referred to as "Class Members" and/or the "Class") Plaintiffs also seek to represent the State of California on behalf of the following group of aggrieved employees: "all exempt and nonexempt individuals employed in the State of California by Defendants who primarily worked from home for some period of time between March 1, 2020 and April 1, 2022." (Collectively, referred to as the "Aggrieved Employees" or "aggrieved employees.").

B. The Defendants

14. Defendant TPMG is a California corporation headquartered in Oakland, California. Defendant is a quality healthcare provider that operates various health facilities throughout the country, including the State California. To provide their services to their customers, Defendants employ HR analysts, housekeeping aides, registered nurses, assistant medical staff coordinator, disability case managers, medical assistants, and member services staff such as the Plaintiffs, the Aggrieved Employees, and the Class Members.

15. Defendant KFHP is a California corporation headquartered in Oakland, California. Defendant is a quality healthcare provider that operates various health facilities throughout the country, including the State California. To provide their services to their customers, Defendants employ HR analysts, housekeeping aides, registered nurses, assistant medical staff coordinator, disability case managers, medical assistants, and member services staff such as the Plaintiffs, the Aggrieved Employees, and the Class Members.

16. Defendant KFH is a California corporation headquartered in Oakland, California. Defendant is a quality healthcare provider that operates various health facilities throughout the country, including the State California. To provide their services to their customers, Defendants employ HR analysts, housekeeping aides, registered nurses, assistant medical staff coordinator, disability case managers, medical assistants, and member services staff such as the Plaintiffs, the Aggrieved Employees, and the Class Members.

17. Defendant Southern California Permanente Medical Group, Inc. is a California corporation headquartered in Pasadena, California. Defendant is a quality healthcare provider that operates various health facilities throughout the country, including the State California. To provide their services to their customers, Defendants employ HR analysts, housekeeping aides, registered nurses, assistant medical staff coordinator, disability case managers, medical assistants, and member services staff such as the Plaintiffs, the Aggrieved Employees, and the Class Members.

18. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiffs, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

19. Plaintiffs are informed and believes, and based thereon allege, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiffs, the Aggrieved Employees, and the Class Members.

20. 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. Cal. Labor Code §§558 and 558.1.

FACTUAL ALLEGATIONS

21. Plaintiffs, the Aggrieved Employees, and the Class Members are and were employed by TPMG, KFH, SCPMG, and KFHP, quality healthcare providers that operate various health facilities throughout the country including the state of California.

22. While many of Defendants' employees work on-site, Plaintiffs assert that, per Defendants' policies, some positions, including HR analysts, housekeeping aides, registered nurses, assistant medical staff coordinator, disability case managers, medical assistants, and member services staff, are/were eligible for telecommuting. 25. Defendants' employees fall into three categories: full-time employees who work on-site; full-time employees who work from their home, or "telecommute" and/or part-time employees who work from home. Pursuant to Defendants' policies, some of the Plaintiffs worked at home for the entirety of their employment with Defendants. However, some of the Plaintiffs only began working from home in 2020, due to the COVID-19 pandemic. Plaintiffs allege that Defendants failed to reimburse Plaintiffs, Class Members, and Aggrieved employees, all the costs they incurred to perform their work from home. These costs included, but were not limited to, setting up home offices, acquiring/paying for internet access, rent for the space, utilities, insurance, depreciation, cellular phone usage, chairs, desks, printers, paper and other supplies. Plaintiffs also allege that Defendants failed to reimburse for the costs incurred to attend meetings, when Defendants required in-person appearances. <u>As such, Defendants failed to reimburse Plaintiffs, the Aggrieved Employees, and the Class Members' business expenses in violation of Labor Code §2802.</u>

23. Cal. Labor Code §2802 (a) provides that:

> 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.

24. Thus, employees such as Plaintiffs, the Aggrieved Employees, and the Class Members, are entitled to reimbursement for the expenses they incurred during the course of their duties. The duty to reimburse even extends to the use of equipment the employee may already own, and would be required to pay for anyway. *Cochran v. Schwan's Home Serv., Inc*. (2014) 228 Cal. App. 4th 1137, 1144 ("The threshold question in this case is this: Does an employer always have to reimburse an employee for the reasonable expense of the mandatory use of a personal cell phone, or is the reimbursement obligation limited to the situation in which the employee incurred an extra expense that he or she would not have otherwise incurred absent the job? The answer is that reimbursement is always required. Otherwise, the employer would receive a windfall because it would be passing its operating expenses on to the employee.") After all, the purpose of 2802 is to "prevent employers from passing along their operating expenses onto their employees." *Gattuso v. Harte-Hanks Shoppers, Inc*., (2007) 42 Cal. 4th 554, 562.

25. Thus, Defendants requirement for Plaintiffs, the Aggrieved Employees, and the Class Members to set up home offices, and incur other business expenses, at their own expense violates California's laws regarding reimbursement of business expenses.

26. Plaintiffs allege that Defendants failed to pay them, and similarly aggrieved employees, unreimbursed business expenses, including at the time of discharge for terminated employees, or within seventy-two hours for employees who resigned during the relevant period, in violation of California Labor Code sections 201-203. Due to Defendants' failure to provide Plaintiffs and other similarly situated employees reimbursement for all work-related expenses, Plaintiffs were not paid all monies due to them upon their departure from Defendants. California Labor Code section 203 mandates that all payments owed to the employee shall continue to accrue, as a penalty to the employer, from the date of termination at the same rate until paid, or until an action is commenced; but shall not accrue for more than thirty-days. Plaintiffs also seek these "waiting time penalties" pursuant to section 203 for themselves and all similarly aggrieved

employees in the relevant period, or one year prior to the date of this letter, to present.

27. Because Defendants did not reimburse Plaintiffs, proposed class members, and aggrieved employees for all work-related expenses due, Defendants also failed to provide accurate itemized wage statements to Plaintiffs, proposed class members, and aggrieved employees as required by California Labor Code sections 226(a)(1) and as they relate to the payment of expenses related to working from home. Given that Defendants failed to pay Plaintiffs and those they seek to represent unreimbursed business expenses, Defendants violated California Labor Code section 226(a)(9) in that the wage statements reflected improper rates of pay. These failures caused Plaintiffs and the Class members to suffer injury as defined by California Labor Code section 226(e)(2)(B)(i). Defendants also failed to provide reimbursement, or a record of reimbursements, on wage statements. As a result of Defendants' failures, Plaintiffs and proposed class members are entitled to recover the damages and penalties and attorneys' fees as set forth in California Labor Code section 226(e)(1).

28. Plaintiffs contend that Defendants caused violations of the California Labor Code and/or provisions of the applicable Industrial Welfare Commission Orders as specified in California Labor Code section 558 and are therefore liable for civil penalties set forth within that section and as authorized by California Labor Code section 2699(a). Defendants' conduct further violated each applicable Labor Code section as set forth in California Labor Code section 2699.5, and California Business and Professions Code section 17200, et seq.

CLASS ACTION ALLEGATIONS

29. Plaintiffs bring this action, on behalf of themselves and all others similarly situated, as a class action pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent the following class: "all exempt and nonexempt individuals employed in the State of California by Defendants who primarily worked from home for some period of time between March 1, 2020 and April 1, 2022."

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

litigation, the proposed class is easily ascertainable, and Plaintiffs are proper representatives of the Class:

a. Numerosity: The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiffs are informed and believe that Defendants employed over 30,000 Class Members in California. The Class Members are dispersed throughout California. Joinder of all members of the proposed classes is therefore not practicable.

b. Commonality: There are questions of law and fact common to Plaintiffs and the Class that predominate over any questions affecting only individual members of the Class. These common questions of law and fact include, without limitation:

i. Whether Defendants violated 2802 of the Labor Code and section 17203 of the California Business and Professions Code during the Class Period by failing to reimburse Plaintiffs and the Class Members for their work-related expenses including, but not limited to, their home office and mileage expenses;

ii. Whether the systematic acts and practices of Defendants as alleged herein violated, inter alia, applicable provisions of the California Labor Code, including but not limited to section 2802 and California Business & Professions Code section 17200, et seq.

iii. Whether Plaintiffs and the Class are entitled to restitution under Business and Professions Code § 17200;

iv. The proper formula(s) for calculating damages, interest, and restitution owed to Plaintiffs and the Class Members;

v. The nature and extent of class-wide damages.

c. Typicality: Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and Class Members sustained injuries and damages, and were deprived of property rightly belonging to them, arising out of and caused by Defendants' common course of conduct in violation of law as alleged herein, in similar ways and for the same types of unpaid wages.

d. Adequacy of Representation: Plaintiffs are members of the Class and will fairly and adequately represent and protect the interests of the Class and Class Members. Plaintiffs' interests do not conflict with those of Class and Class Members. Counsel who represent Plaintiffs are competent and experienced in litigating large wage and hour class actions, and other employment class actions, and will devote sufficient time and resources to the case and otherwise adequately represent the Class and Class Members.

e. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each Class Member has been damaged or may be damaged in the future by reason of Defendants' unlawful policies and/or practices. Certification of this case as a class action will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Certifying this case as a class action is superior because it allows for efficient and full disgorgement of the ill-gotten gains Defendants have enjoyed by maintaining their unlawful compensation and non-reimbursement policies and will thereby effectuate California's strong public policy of protecting employees from deprivation or offsetting of compensation earned in their employment. If this action is not certified as a Class Action, it will be impossible as a practical matter, for many or most Class Members to bring individual actions to recover monies unlawfully withheld from their lawful compensation due from Defendants, due to the relatively small amounts of such individual recoveries relative to the costs and burdens of litigation.

FIRST CAUSE OF ACTION
FAILURE TO REIMBURSE BUSINESS EXPENSES
[Cal. Labor Code § 2802]
On Behalf of Plaintiffs and the Class Against All Defendants

31. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

32. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

33. By requiring Plaintiffs and the Class Members to shoulder their own work-related expenses, Defendants failed to reimburse Plaintiffs and the Class for their business-related home office and mileage expenses.

34. As a result, throughout the Class Period, Plaintiffs and the Class incurred hundreds of dollars per month in unreimbursed expense for which they are entitled to be reimbursed, plus interest.

35. Defendants’ failure to pay for or reimburse the work-related business expenses of Plaintiffs and Class Members violated non-waivable rights secured to Plaintiffs and Class Members by Labor Code § 2802. *See* Labor Code §2804. Plaintiffs and similarly situated Class Members are entitled to reimbursement for these necessary expenditures, plus interest and attorneys’ fees and costs, under Labor Code § 2802(c).

SECOND CAUSE OF ACTION
FAILURE TO PAY UNREIMBURSED BUSINESS EXPENSES UPON TERMINATION
[Cal. Lab. Code §§ 201 – 204]
On Behalf of Plaintiffs and the Class

36. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

37. Defendants failed to take any actions to provide Plaintiffs and similarly situated employees with reimbursement for their business expenses incurred as a result of working from home.

38. In doing so, Defendants failed to pay Plaintiffs and proposed class members unreimbursed business expenses when they were due, in violation of California Labor Code section 204. Defendants further failed to pay Plaintiffs and proposed class members whose employment with Defendants ended during the relevant period these payments when due, including immediately upon termination or within seventy-two (72) hours of resignation, and failed to pay those sums for up to thirty (30) days thereafter, in violation of California Labor Code

sections 201-202.

39. Defendants willfully failed to pay unreimbursed business expenses when due to the Plaintiffs and other proposed class members because Defendants knew or should have known wages were due to Plaintiffs and other proposed class members, but Defendants failed to pay them.

40. Defendants' violations give rise to civil penalties, pursuant to California Labor Code section 203. Plaintiffs and proposed class members are therefore entitled to the relief requested below.

THIRD CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS DUE TO FAILURE TO PAY UNREIMBURSED BUSINESS EXPENSES
[Cal. Lab. Code § 226]
On Behalf of Plaintiffs and the Class

41. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

42. During the relevant time period, because Defendants failed to reimburse Plaintiffs, and proposed class members, for business expense incurred to work from home, Defendants also failed to actually furnish accurate itemized wage statements to Plaintiffs and proposed class members. Defendants failed to furnish itemized wage statements containing information as required by California Labor Code sections 226(a)(1) gross payments earned and (5) net payments earned. Given that Defendants failed to reimburse Plaintiffs, and those they seek to represent, business expenses incurred, Defendants violated California Labor Code section 226(a)(9) in that the wage statements reflected improper rates of pay. These failures caused Plaintiffs and the Class members to suffer injury as defined by California Labor Code section 226(e)(2)(B)(i). Defendants also failed to provide reimbursement, or a record of reimbursements, on wage statements. As a result of Defendants' failures, Plaintiffs and proposed class members are entitled to recover the damages and penalties and attorneys' fees as set forth in California Labor Code section 226(e)(1).

43. As a result of Defendants' violations of California Labor Code section 226(a), Plaintiffs and the Class members are also entitled to recover the penalties, and interest thereon, as set forth in California Labor Code section 226.3.

44. Plaintiffs also seek penalties for Defendants' violations of California Labor Code section 226(a)(1), (5), and (9) pursuant to California Labor Code sections 2699.3 and 2699.5, and attorneys' fees pursuant to section 2699(g)(1).

45. Plaintiffs and proposed class members are therefore entitled to the relief requested below.

<u>FOURTH CAUSE OF ACTION</u>
UNFAIR COMPETITION LAW (UCL) VIOLATIONS
(BUS. & PROF. CODE § 17200, ET SEQ.)
On Behalf of Plaintiffs and the Class Against All Defendants

46. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

47. Section 17200 of the California Business & Professions Code prohibits any unlawful, unfair, or fraudulent business practices. Business & Professions Code § 17204 allows "any person who has suffered injury in fact and has lost money or property" to prosecute a civil action for violation of the UCL. Such a person may bring such an action on behalf of himself and others similarly situated who are affected by the unlawful, unfair, or fraudulent business practice.

48. Under section 17208 of the California Business and Professions Code, the statute of limitations for a claim under Section 17200 is four years. Accordingly, the actionable period for this cause of action is four years prior to the filing of this Complaint through the present, and on-going until the violations are corrected, or the Class is certified.

49. Section 90.5(a) of the Labor Code states that it is the public policy of California to enforce vigorously minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

50. As a direct and proximate result of Defendants' unlawful business practices, Plaintiffs and the Class Members have suffered economic injuries. Defendants have profited from their unlawful, unfair, and/or fraudulent acts and practices.

51. Plaintiffs and similarly situated Class Members are entitled to monetary relief

pursuant to Business & Professions Code §§ 17203 and 17208 for unreimbursed business expenses, due and interest thereon, from at least four years prior to the filing of this complaint through to the date of such restitution, at rates specified by law. Defendants should be required to disgorge all the profits and gains it has reaped and restore such profits and gains to Plaintiffs and Class Members, from whom they were unlawfully taken.

52. Through their actions alleged herein, Defendants have engaged in unfair competition within the meaning of section 17200 of the California Business & Professions Code, because Defendants' conduct, as herein alleged has damaged Plaintiffs and the Class Members by wrongfully denying them reimbursement for business expenses, and therefore was substantially injurious to Plaintiffs and the Class Members.

53. Defendants engaged in unfair competition in violation of sections 17200 et seq. of the California Business & Professions Code by violating Sections 201-203, 226, and 2802 of the California Labor Code.

54. Defendants' course of conduct, act and practice in violation of the California laws mentioned above constitute independent violations of sections 17200 et seq. of the California Business and Professions Code.

55. Plaintiffs and similarly situated Class Members are entitled to enforce all applicable penalty provisions of the Labor Code pursuant to Business & Professions Code § 17202.

56. Plaintiffs have assumed the responsibility of enforcement of the laws and public policies specified herein by suing on behalf of themselves and other similarly situated Class Members previously or presently employed by Defendants in California. Plaintiffs' success in this action will enforce important rights affecting the public interest. Plaintiffs will incur a financial burden in pursuing this action in the public interest. Therefore, an award of reasonable attorneys' fees to Plaintiffs is appropriate pursuant to Code of Civil Procedure §1021.5, and Labor Code § 1194.

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FIFTH CAUSE OF ACTION
PLAINTIFFS AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ. FOR VIOLATIONS OF LABOR CODE § 2802, 201-204, and 226

57. Plaintiffs, on behalf of themselves and all aggrieved employees, re-allege and incorporate by reference all previous paragraphs.

58. Based on the above allegations incorporated by reference, Defendants have violated Labor Code § 2802, 201-204, and 226.

59. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, Plaintiffs and all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

$100 for the initial violation per employee per pay period; and

$200 for each subsequent violation per employee per pay period.

These penalties shall be allocated seventy-five percent (75%) to the Labor and Workforce Development Agency (LWDA) and twenty-five percent (25%) to the affected employees. These penalties are separately available for each of Defendants' violations of the California Labor Code. See e.g. *Hernandez v. Towne Park, Ltd.*, No. CV 12-02972 MMM (JCGx) 2012 U.S.Dist. LEXIS 86975, at *59, fn. 77 (C.D.Cal. June 22, 2012) (holding that although the plaintiff did not seek stacked PAGA penalties, that "PAGA penalties can be 'stacked,' i.e., multiple PAGA penalties can be assessed for the same pay period for different Labor Code violations."); See *Lopez v. Friant & Assocs., LLC*, No. A148849, 2017 Cal. App. LEXIS 839, at *1 (Ct. App. Sep. 26, 2017) ("hold[ing] a plaintiff seeking civil penalties under PAGA for a violation of Labor Code section 226(a) does not have to satisfy the 'injury' and 'knowing and intentional' requirements of section 226(e)(1) and acknowledging that a Plaintiff could recover separately under PAGA for violations of Labor Code §§ 226(a) and 226(e)); accord *Schiller v. David's Bridal, Inc.,* No. 1:10-cv-00616 AWI SKO) 2010 U.S. Dist. LEXIS 81128, at *17 (E.D. Cal. July 14, 2010); *Pulera v. F & B, Inc.*, No. 2:08-cv-00275-MCE-DAD, 2008 U.S. Dist. LEXIS 72659, 2008 WL 3863489, at * 2-3 (E.D. Cal. Aug. 19, 2008); *Smith v. Brinker Intern, Inc.*, No. C 10-0213 VRW, 2010 U.S. Dist. LEXIS

54110, 2010 WL 1838726, at * 2-6 (N.D. Cal. May 5, 2010).

60. Pursuant to Labor Code § 2699.3 (a), Plaintiff Jones provided written notice to the LWDA and Defendants of the specific provisions of the Labor Codes he contends were violated, and the theories supporting his contentions on December 2, 2021. While on February 27, 2022, Plaintiffs Shaw and Uribe gave written notice by certified mail to Defendants, and to the LWDA of their claims for violations of Labor Code § 2802 as well as IWC Wage Order No. 5-2001, and theories supporting these claims as alleged herein. On the other hand, on October 18, 2022, Plaintiff LeDoux gave written notice to the California Labor and Workforce Development Agency by online submission through their website and by certified mail to Defendants of Labor Code violations as prescribed by California Labor Code section 2699.3. She also submitted a supplemental letter to the LWDA by online submission on December 21, 2022. As of the date of this Complaint, the LWDA has not responded to Plaintiffs' PAGA letters. Accordingly, Plaintiffs have fulfilled all administrative prerequisites to the filing and pursuit of their PAGA claims for themselves and all other current and former Aggrieved Employees of Defendants.

61. As a result of the acts alleged above, Plaintiffs seek penalties under the PAGA for Defendants' violations of Labor Code § 2802.

JURY DEMAND

62. Plaintiffs hereby demand trial by jury of their and the Class's claims against Defendants.

PRAYER FOR RELIEF

Wherefore, Plaintiffs, on behalf of themselves and the members of the Class, pray for judgment against Defendants as follows:

1. An Order that this action may proceed and be maintained as a class action;

2. Compensatory and statutory damages, reimbursements, penalties, and restitution, as appropriate and available under each cause of action, in an amount to be proven at trial based on, inter alia, the unpaid balance of compensation Defendants owe;

3. Reasonable attorneys' fees pursuant to California Labor Code section and 2802(c);

4. Costs of this suit;

5. Pre- and post-judgment interest; and

6. Such other and further relief as the Court deems just and proper.

Dated: January 27, 2025

Respectfully,

POTTER HANDY, LLP

James M. Treglio

By: James M. Treglio
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Dated: January 27, 2025

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Dated: January 27, 2025

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