

CASE ATTACHMENT COVER PAGE	(ENDORSED) ELECTRONICALLY FILED BY SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino on Sep 8, 2022 CLERK OF THE SUPERIOR COURT <i>Deputy Clerk: Mary E Williamson</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 West Third Street MAILING ADDRESS: CITY AND ZIP CODE: San Bernardino, CA 92415 BRANCH NAME: San Bernardino Justice Center WEBSITE: http://www.sb-court.org	
ATTACHMENT NAME: Declaration: Plaintiffs' First Amended Class Action Complaint	
CASE NAME: Keira Williams vs. National Mentor Healthcare, LLC et al.	CASE NUMBER: CIVSB2207868
Please log on to www.TurboCourt.com regularly for updates	

Please staple this to your original attachment

David P. Myers (SBN 206137)
dmyers@myerslawgroup.com
Jason Hatcher (SBN 285481)
jhatcher@myerslawgroup.com
Cassandra A. Castro (SBN 334238)
ccastro@myerslawgroup.com
THE MYERS LAW GROUP, A.P.C.
9327 Fairway View Place, Suite 100
Rancho Cucamonga, CA 91730
Telephone: (909) 919-2027
Facsimile: (888) 375-2102

Attorneys for Plaintiff Keira Williams and all
others similarly situated.

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

KEIRA WILLIAMS, on behalf of herself and
all others similarly situated

PLAINTIFF,

v.

NATIONAL MENTOR HEALTHCARE,
LLC, a Delaware Limited Liability
Company; MENTOR MANAGEMENT,
INC., a Delaware Corporation; LOYD'S
LIBERTY HOMES, INC., a California
Corporation; REM CALIFORNIA, LLC, a
Delaware Limited Liability Company;
NATIONAL MENTOR HOLDINGS INC.,
operating as "SEVITA", a Delaware
Corporation; and DOES 1 through 100,
inclusive

DEFENDANTS.

Case No.: CIVSB2207868

FIRST AMENDED CLASS ACTION
COMPLAINT

- 1. Unpaid Wages Due to Illegal Rounding**
- 2. Failure to Pay All Overtime and Double Time Wages**
- 3. Failure to Provide Rest Periods**
- 4. Failure to Provide Accurate Wage Statements**
- 5. Failure to Pay All Wages Due at Separation**
- 6. Unfair Competition**
- 7. Private Attorneys General Act**

DEMAND FOR JURY

1
2
3
4
5
6
7
8
9
10
11
12

I. INTRODUCTION

This is an action brought by Plaintiff Keira Williams (“Plaintiff”), on behalf of herself and all others similarly situated, against Defendants National Mentor Healthcare, LLC, d/b/a Creative Home Programs and/or California Mentor, a Delaware Limited Liability Company; Mentor Management, Inc., a Delaware Corporation; Loyd’s Liberty Homes, a California Corporation; REM California, LLC, a Delaware Limited Liability Company; National Mentor Holdings Inc. (operating as Sevita), a Delaware Corporation; and other as of yet unnamed DOE Defendants 1-100 (hereinafter collectively “Defendants”) alleging, among other things violations of the California Labor Code and Business and Professions Code. Plaintiff seeks damages, attorneys’ fees and costs of suit. Plaintiff is informed and believes, and on that basis alleges, as follows:

II. GENERAL ALLEGATIONS

13 1. This is a civil class action brought on behalf of Plaintiff and all other individuals
14 who worked for Defendants in California as hourly, non-exempt employees of Defendants who
15 provided direct care, nursing, and rehabilitation services for Defendants at any time from April
16 18, 2018, and continuing until class certification (“Class Period”), who Defendants failed to pay
17 all earned wages due to unlawful rounding, failed to pay all overtime and double time at the
18 correct regular rate of pay, failed to provide rest periods, failed to pay all wages due at separation,
19 failure to provide accurate wage statements, and for violating the California Unfair Competition
20 Law.

21 2. Plaintiff seeks, among other things, all wages, restitutionary disgorgement, and
22 statutory penalties. Plaintiff seeks to represent the following Class:

23 All current and former California hourly non-exempt employees of Defendants for
24 the period of April 18, 2018 through the date of class certification who provided
25 direct care, nursing, and rehabilitation services for Defendants. (“the Class”).

26 3. This civil action seeks recovery of unpaid wages, waiting time penalties, and
27 statutory penalties for Defendants’ violations of California Labor Code arises from wage and
28 hour violations for, among other things, Labor Code (“Labor Code”) §§200, *et seq.*, 203, 218,

1 218.5, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1198 and the applicable Wage Order(s) issued
2 by the California Industrial Welfare Commission (hereinafter, the “IWC Wage Order(s)”). The
3 Plaintiff for herself, and on behalf of the general public, and all others similarly situated, brings
4 an action for monetary damages for failure to pay wages, declaratory relief and restitution for
5 Defendants’ violations of California Business and Professions Code (“B&PC”) §17200, *et seq.*,
6 including full restitution of all compensation retained by Defendants, as a result of its unlawful,
7 fraudulent, and unfair business practices. Further, Plaintiff seeks injunctive relief under B&PC
8 §17200, *et seq.*

9 4. The term “Plaintiff” refers to Keira Williams, who is the named Plaintiff Class
10 Representative.

11 5. Plaintiff seeks all available relief, including full restitution and/or disgorgement
12 of all revenues, earnings, profits, compensation and benefits retained by Defendants, in addition
13 to injunctive relief, as a result of Defendants unlawful and unfair business practices. The acts
14 complained of herein occurred, occur and will occur, at least in part, within the time period from
15 April 18, 2018, up to and through the date class certification for this matter is ordered
16 (hereinafter, the “Relevant Time Period”).

17 III. JURISDICTION AND VENUE

18 6. Jurisdiction is proper in this Court because it is a civil action where the amount
19 in controversy, exclusive of interests and costs, exceeds the jurisdictional minimum of the Court.
20 The acts and omissions complained of in this action took place in the State of California, and all
21 Defendants have subjected themselves to the State of California.

22 7. The California Superior Court has jurisdiction in this matter due to Defendants’
23 violations of California Labor Code §§200, *et seq.*, 203, 218, 218.5, 226, 226.7, 510, 512, 1194,
24 1194.2, 1197, 1198.; B&PC §17200, *et seq.*; the applicable IWC Wage Order(s) and related
25 common law principles.

26 8. The San Bernardino Superior Court is the proper venue for this action pursuant
27 to CCP §395(a) and §395.5 as, at all relevant times, Defendants conducted business and engaged
28 in acts and omissions which are subject matter of this Complaint in the County of San

Bernardino. Defendants maintain a business location Rancho Cucamonga, California, and Plaintiff and the other class members transacted Defendants' business within the County of San Bernardino and throughout the State of California.

IV. PARTIES

9. Plaintiff Keira Williams (hereinafter "Plaintiff") is now and/or at all times mentioned in this Complaint was a resident of the State of California and the County of San Bernardino. Plaintiff worked for Defendants as a non-exempt hourly employee providing residential in-home care services in the state of California. Plaintiff worked for Defendants as a Direct Support Professional.

10. Plaintiff seeks for herself, and the entirety of the class, seek all unpaid minimum wages, overtime wages, and double time wages owed due to Defendants' unlawful rounding practice, pursuant to Labor Code §§510, 1194, 1194.2, 1197, 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order.

11. Plaintiff seeks for herself, and the entirety of the class, seek all unpaid minimum wages, overtime wages, and double time wages owed due to Defendants' policy and/or practice of not paying such wages at the correct regular rate of pay, pursuant to Labor Code §§510, 1194, 1194.2, 1197, 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order.

12. Plaintiff seeks for herself, and the entirety of the class, all unpaid rest period premium pay for each day Defendants failed to provide a compliant rest period, pursuant to Labor Code §§512, 226.7 and the applicable Industrial Welfare Commission ("IWC") Wage Order.

13. Plaintiff seeks for herself, and the entirety of the class who no longer works for Defendants, all unpaid wages and waiting time penalties, pursuant to Labor Code §203.

14. Plaintiff seeks for herself, and the entirety of the class, for violations of Labor Code §226(a) in providing accurate and compliant wage statements, the greater of actual damages or penalties from Defendants pursuant to Labor Code §226(e).

15. Defendant NATIONAL MENTOR HEALTHCARE, LLC ("NMH") is now and/or at all times mentioned in this Complaint a Delaware limited liability company, licensed

1 to do business and actually doing business in the State of California.

2 16. Defendant NMH is and has been an “employer” of Plaintiff and the class under
3 the meaning of the California Labor Code, common law, and the applicable IWC Wage Orders
4 at all relevant times.

5 17. Defendant MENTOR MANAGEMENT, INC. (“MMI”) is now and/or at all times
6 mentioned in this Complaint a Delaware corporation, licensed to do business and actually doing
7 business in the State of California.

8 18. Defendant MMI is and has been an “employer” of Plaintiff and the class under
9 the meaning of the California Labor Code, common law, and the applicable IWC Wage Orders
10 at all relevant times.

11 19. Defendant LOYD’S LIBERTY HOMES, INC. (“LLH”) is now and/or at all times
12 mentioned in this Complaint a California corporation, licensed to do business and actually doing
13 business in the State of California.

14 20. Defendant LLH is and has been an “employer” of Plaintiff and the class under
15 the meaning of the California Labor Code, common law, and the applicable IWC Wage Orders
16 at all relevant times.

17 21. Defendant REM CALIFORNIA, LLC (“RC”) is now and/or at all times
18 mentioned in this Complaint a Delaware limited liability company, licensed to do business and
19 actually doing business in the State of California.

20 22. Defendant RC is and has been an “employer” of Plaintiff and the class under the
21 meaning of the California Labor Code, common law, and the applicable IWC Wage Orders at
22 all relevant times.

23 23. Defendant NATIONAL MENTOR HOLDINGS, INC. (“Sevita”) is now and/or
24 at all times mentioned in this Complaint a Delaware corporation, licensed to do business and
25 actually doing business in the State of California.

26 24. Defendant Sevita is and has been an “employer” of Plaintiff and the class under
27 the meaning of the California Labor Code, common law, and the applicable IWC Wage Orders
28 at all relevant times.

1 25. Plaintiff does not know the true names and capacities of Defendants sued herein
2 as “DOES 1-100, inclusive,” and therefore sues these Defendants by such fictitious names.
3 Defendants, including each fictitiously named DOE Defendant, owned, controlled, or managed
4 the business for which Plaintiff worked and/or who directly or indirectly exercised operational
5 control over the wages, hours, and working conditions of Plaintiff and the Class members.
6 Defendants, including DOES 1-100, held ownership, officer, director and/or executive positions
7 with the remaining Defendants, and acted on behalf of the remaining Defendants, which included
8 decision-making responsibility for, and establishment of, illegal wage and hour practices, payroll
9 practices, and policies for Defendants which have damaged Plaintiff and the Class members.
10 Therefore, Defendants and DOES 1-100, are “employers” as a matter of law and personally liable
11 on the causes of action alleged herein. Plaintiff will seek leave of the court to amend this
12 complaint to allege such names and capacities as soon as they are ascertained.

13 26. Plaintiff is informed and believe and thereon allege that all Defendants, including
14 the fictitious DOE Defendants, were at all relevant times acting as actual agents, conspirators,
15 ostensible agents, partners and/or joint ventures of all other Defendants. The actions of
16 Defendants, their officers, managers, supervisors, agents, and other employees of Defendants
17 against Plaintiff and all others similarly situated were ratified by Defendants.

18 27. Plaintiff is informed and believes, and thereon alleges, that each and all of the
19 acts and omissions alleged herein were performed by, and/or are attributable to, all Defendants,
20 each acting as agents and/or employees, and/or under the direction and control of each of the
21 other Defendants, and that said acts and failures to act were within the course and scope of said
22 agency, employment and/or direction and control. Plaintiff is informed and believes, and thereon
23 alleges, that at all times material hereto Defendants were and are the agents of each other.

24 28. Plaintiff further alleges that all respective Defendants complained of herein are
25 in some manner vicariously, statutorily or otherwise liable for the acts and/or omissions of the
26 other Defendants likewise complained of herein, jointly and severally, whether by virtue of a
27 statutory, officer, director, agency, managing agency, employment, joint employer, indirect
28 employer, co-conspirator, aider or abettor, partnership, alter ego, association and/or joint venture

1 relationship, affiliation or otherwise, each acting within the course and scope of such
2 relationship(s) with actual and/or apparent authority to do so, directing, controlling, ratifying or
3 otherwise furthering the acts and/or omissions herein complained of.

4 29. At all relevant times alleged herein Plaintiff and the Class were employed by
5 Defendants in State of California.

6 30. Defendants personally profited by keeping wages that were owed to Plaintiff and
7 the Class under California's wage and hour laws, and Defendants obtained an unfair competitive
8 advantage over law-abiding businesses by not paying Plaintiff and the Class according to the
9 legal minimum standards.

10 31. All allegations in this complaint, except as to the facts relating to Plaintiff that are
11 based upon their knowledge, are based upon information and belief, and are likely to have
12 evidentiary support after a reasonable opportunity for further investigation and/or discovery.
13 Whenever allegations in this complaint are contrary or inconsistent, such allegations are made
14 in the alternative.

15 **V. COMMON FACTUAL AND CLASS ALLEGATIONS**

16 32. Plaintiff brings this lawsuit on behalf of herself and the proposed Class, which is
17 made up of all California hourly non-exempt employees of Defendants for the period of April
18 18, 2018 through the date of class certification who provided direct care, nursing, and
19 rehabilitation services for Defendants. Plaintiff and the Class members seek, without limitation,
20 damages, unpaid wages, restitution, injunctive relief, declaratory relief, penalties, liquidated
21 damages, interest, costs, and attorneys' fees to remedy Defendants' violations of wage and hour
22 laws and unfair business practices in providing residential in-home care services.

23 33. Throughout the Class Period, Plaintiff and all class members were and are
24 employees of Defendants, entitled to all of the protections afforded to employees under the Labor
25 Code and applicable IWC Wage Orders.

26 34. Defendants' primary business is providing residential and community-based
27 services for adults and children with intellectual and developmental disabilities throughout the
28 state of California.

1 35. Throughout the Class Period, Plaintiff and the Class worked as hourly non-
2 exempt employees for Defendants.

3 36. Defendants' primary business is the provision of providing residential and
4 community-based services for adults and children with intellectual and developmental
5 disabilities. This work is performed in part by Plaintiff and the Class members.

6 37. Throughout the period of April 18, 2018 through the date of class certification
7 ("Class Period"), Plaintiff and all Class members were and are employees of Defendants, entitled
8 to all of the protections afforded to employees under the Labor Code and applicable federal law.

9 38. During the relevant time period, Plaintiff and the Class members worked in
10 excess of eight (8) hours in a workday and/or forty (40) hours during at least one (1) workweek.

11 39. During the relevant time period, Defendants had a policy, procedure, and/or
12 practice of not paying Plaintiff and the Class members for all overtime and/or double time
13 worked, or all hours worked over eight (8) hours in a workday and/or forty (40) hours in a
14 workweek and/or over twelve (12) hours in a workday as applicable.

15 40. During the relevant time period, Defendants' policy, procedure, and/or practice
16 of not paying Plaintiff and the Class for all overtime worked, or all hours worked over eight (8)
17 hours in a workday and/or forty (40) hours in a workweek and/or over twelve (12) hours in a
18 workday as applicable violated the California Labor Code.

19 41. Plaintiff and the Class were suffered and/or permitted to and worked without
20 receiving all earned overtime and/or double time pay for all overtime and/or double time hours
21 worked. Despite knowing that Plaintiff and the Class were working over eight (8) hours in a
22 workday and/or forty (40) hours in a workweek, and/or over twelve (12) hours in a workday,
23 Defendants refused to pay the full amount of all overtime and/or double time wages owed for all
24 overtime and/or double time hours worked.

25 42. Defendants conduct, as alleged herein, was willful and has caused Plaintiff and
26 the Class members damages including, but not limited to, loss of wages and compensation.

27 43. During the relevant time period, Defendants failed to pay Plaintiff and Class
28 members the full amount of overtime and double time wages based on their correct regular rate

1 of pay.

2 44. During the relevant time period, Defendants failed to include all non-
3 discretionary bonus payments, including but not limited to: “Direct Care Bonus”, in the regular
4 rate of pay calculation for overtime and double time wages.

5 45. Throughout the Class Period, Defendants failed to authorize and provide paid rest
6 periods compliant with the provisions of the California Labor Code and applicable Wage Order.
7 Plaintiff and Class members were assigned to and required to work shifts lasting over four (4)
8 hours and were not provided nor allowed to take a non-duty free paid ten-minute uninterrupted
9 rest break during each four (4) hour work period, or major fraction thereof, at the direction of
10 Defendants and/or with Defendants knowledge and acquiescence.

11 46. Throughout the Class Period, Defendants failed and continue to fail to pay for
12 rest period violations at the correct regular rate of pay.

13 47. Defendants failed to pay Plaintiff and the Class all earned wages timely upon
14 termination. This includes, but is not limited to, unpaid overtime and/or double time wages
15 and/or rest period premiums at the regular rate of pay.

16 48. The wage statements provided by Defendants failed to provide accurate
17 information as to the total hours worked as well as the corresponding hourly rate for all hours
18 worked, the net wages earned, the gross wages earned per pay period, and the accurate name and
19 address of the employer.

20 49. The underpayment of wages, Labor Code violations, and Wage Order violations
21 upon Plaintiff and the Class are a consequence of Defendants’ unlawful policies and practices
22 which were centrally devised, implemented, communicated, and applied to Plaintiff and the
23 Class.

24 50. Because of Defendants’ unlawful conduct, Plaintiff and the Class have been and
25 continue to be systematically deprived of their earned wages to which they are entitled by law
26 and deprived of other benefits of the Labor Code and applicable IWC Wage Orders, to the
27 detriment of herself and the public at large.

28 51. Plaintiff is a member of and seeks to be the representative for the Class of

1 similarly situated employees who all have been exposed to, have suffered, and/or were permitted
2 to work under, Defendants' unlawful employment practices as alleged herein.

3 52. The non-payment of wages and Labor Code violations upon Plaintiff and the
4 Class are a consequence of Defendants' unlawful policies and practices which were centrally
5 devised, implemented, communicated, and applied to Plaintiff and the Class. Defendants
6 conduct as alleged herein was willful.

7 53. Because of Defendants' unlawful conduct, Plaintiff and the Class have been and
8 continue to be systematically deprived of their earned wages to which they are entitled by law
9 and deprived of other benefits of the Labor Code, to the detriment of themselves and the class at
10 large.

11 **CLASS DEFINITION AND CLASS ALLEGATIONS**

12 54. Plaintiff brings this action on her own behalf and on behalf of all others similarly
13 situated, pursuant to California Code of Civil Procedure §382, and as a member of the proposed
14 Class defined as follows:

15 All current and former California hourly non-exempt employees of Defendants
16 for the period of April 18, 2018 through the date of class certification who
provided direct care, nursing, and rehabilitation services for Defendants.

17 **Sub-Class 1**

18 All current and former California hourly non-exempt employees of Defendants
19 for the period of April 18, 2018 through the date of class certification who
20 provided direct care, nursing, and rehabilitation services for Defendants and
were subject to Defendants' time shaving/rounding policies and/or practices.
21 ("Rounding" Sub-Class).

22 **Sub-Class 2**

23 All current and former California hourly non-exempt employees of Defendants
24 for the period of April 18, 2018 through the date of class certification who
25 provided direct care, nursing, and rehabilitation services for Defendants and
worked at least one shift lasting longer than 8 hours in a workday and/or over
26 40 hours in a workweek and/or over twelve (12) hours in a workday and
received remuneration in addition to the base hourly rate of pay. ("Regular
Rate" Sub-Class).

27 ///

28 ///

1 **Sub-Class 3**

2 All current and former California hourly non-exempt employees of Defendants
3 for the period of April 18, 2018 through the date of class certification who
4 provided direct care, nursing, and rehabilitation services for Defendants and
 worked at least one shift of 3.5 hours or more. (“Rest Period” Sub-Class).

5 **Sub-Class 4**

6 All current and former California hourly non-exempt employees of Defendants
7 for the period of April 18, 2019 through the date of class certification who
8 provided direct care, nursing, and rehabilitation services for Defendants and
 who are members of Sub-Classes 1 or 2 or 3 and were provided a wage
 statement. (“Wage Statement” Sub-Class).

9 **Sub-Class 5**

10 All current and former California hourly non-exempt employees of Defendants
11 for the period of April 18, 2019 through the date of class certification who
12 provided direct care, nursing, and rehabilitation services for Defendants and
 who are members of Sub-Classes 1 or 2 or 3. (“Waiting Time Penalties” Class).

13 55. Further, this action is brought for the benefit of the public, who are entitled to
14 restitution of those funds improperly withheld by Defendants.

15 56. Plaintiff reserves the right to amend or otherwise alter the class definition
16 presented to the Court at the appropriate time, or to alter, propose or eliminate sub-classes, in
17 response to facts learned through discovery, legal arguments advanced by Defendants or
18 otherwise.

19 57. This action has been brought and may be properly maintained as a class action
20 pursuant to the provisions of the Code of Civil Procedure §382 and other applicable law.

21 58. **Numerosity:** Plaintiff is informed and believes and on that basis alleges that the
22 proposed Classes consist of over 50 people who are currently and formerly employed by
23 Defendants in California as hourly non-exempt employees during the relevant time period.
24 Members of the Class are so numerous that their individual joinder is impracticable. It is possible
25 to ascertain the number of former and current employees who are members of the proposed class,
26 but they are so numerous that joinder is impracticable. The proposed Class includes future
27 employees (persons who are hired by defendant within the class period, but who are not now
28 class members as current or former employees) whose joinder is currently impossible. The

1 precise number of Class members and their addresses can be determined by Defendants' business
2 records and will become known to Plaintiff through discovery. Class members may be notified
3 of the pendency of this action by mail, e-mail, the internet, or published and posted notice.

4 59. **Typicality:** Plaintiff's claims are typical of the claims of members of the
5 proposed classes. Defendants employed Plaintiff during the statutory period, and Plaintiff has
6 been subjected to Defendants' unlawful employment practices, as alleged in this Complaint.

7 60. **Adequacy of Class Representative:** Plaintiff will fairly and adequately protect
8 the interests of the classes. Plaintiff's interests do not conflict with Class members' interests, and
9 Plaintiff has retained competent and experienced counsel. The interests of Class members will
10 be fairly and adequately protected by Plaintiff and her counsel.

11 61. **Common Questions of Law and Fact:** Common questions of law and fact exist
12 as to all Class members and predominate over any questions affecting solely individual members
13 of the proposed Class:

- 14 a. Whether Defendants violated the applicable Labor Code provisions including
15 §§510, 1194, 1194.2 by failing to pay Plaintiff and the Class for all hours worked
16 due to its rounding policy and practice;
- 17 b. Whether Defendants improperly retained, appropriated, or deprived Plaintiff and
18 the Class members of the use of monies or sums to which they were legally
19 entitled;
- 20 c. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff
21 and the members of the Class the full amount of overtime and/or double time
22 wages, based on the regular rate of pay, for each hour in excess of eight (8) per
23 day, or forty (40) per week, and/or over twelve (12) hours in a workday, in
24 violation of the applicable Labor Code provisions including §§510 and 1194;
- 25 d. Whether Defendants engaged in unfair business practices;
- 26 e. Whether Defendants were participants in the alleged unlawful conduct;
- 27 f. Whether Defendants engaged in a pattern or practice of failing to provide
28 Plaintiff and the members of the Class legally compliant rest periods in violation

of the applicable Wage Order and Labor Code §§226.7, 512 by failing to provide legally compliant rest periods or premium payment at the correct regular rate of pay in lieu thereof to Plaintiff and Class members;

g. Whether Defendants engaged in unfair practice and violated California Business and Professions Code §17200 by failing to compensate Plaintiff and the members of the Class their full amount of overtime wages;

h. Whether Defendants violated Labor Code §203 by failing to pay all wages due upon separation;

i. Whether Defendants failed to provide accurate wage statements to Plaintiff and the Members of the Class; and

j. The nature and extent of class-wide injury and measure of damages for the injury.

62. **Superiority and Substantial Benefit:** A class action is the superior method for the fair and efficient adjudication of this controversy. Defendants implemented illegal schemes that are generally applicable to the members of the proposed class and sub-classes. Damages suffered by each Class member may be relatively small given the burden and expense of individual prosecution of the complex and expensive litigation necessitated by Defendants' conduct. Further, it would be virtually impossible for the Class members to redress the wrongs done to them on an individual basis. Even if Class members could afford such individual litigation, the court system could not. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court.

63. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. Plaintiff is informed and believes, and on that basis alleges, that the amount of money due each Class member as economic damages is ascertainable from Defendants' records or may readily be determined by other means.

64. The Classes should also be certified because:

a) The prosecution of separate actions by individual Class members would

1 create a risk of inconsistent or varying adjudications with respect to individual
2 Class members, which would establish incompatible standards of conduct for
3 Defendants;

4 b) The prosecution of separate actions by individual Class members creates
5 the risk of adjudication with respect to them, which would, as a practical matter,
6 be dispositive of the interests of the other Class members not parties to the
7 adjudications, or would substantially impair or impede their ability to protect their
8 interests; and

9 c) Defendants have acted or refused to act on grounds generally applicable
10 to the Class, and/or general public, thereby making appropriate final and
11 injunctive relief with respect to the Classes as a whole, appropriate.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PAY ALL WAGES DUE TO ILLEGAL ROUNDING**

14 **In Violation of Labor Code §§510, 1194, 1194.2 & Wage Order.**

15 65. Plaintiff realleges and incorporates by reference Paragraphs 1 through 64 above
16 as though fully set forth herein.

17 66. Labor Code §510 mandates: “Eight hours of labor constitutes a day's work. Any
18 work in excess of eight hours in one workday and any work in excess of 40 hours in any one
19 workweek and the first eight hours worked on the seventh day of work in any one workweek
20 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for
21 an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no
22 less than twice the regular rate of pay for an employee. In addition, any work in excess of eight
23 hours on any seventh day of a workweek shall be compensated at the rate of no less than twice
24 the regular rate of pay of an employee. Nothing in this section requires an employer to combine
25 more than one rate of overtime compensation in order to calculate the amount to be paid to an
26 employee for any hour of overtime work.” The California overtime requirement and wage
27 requirement are non-waivable rights pursuant to LC §219.

28 67. Plaintiff and Class members were entitled to receive not less than minimum wage

1 for all hours worked.

2 68. Labor Code §1194(a) states: “Notwithstanding any agreement to work for a lesser
3 wage, any employee receiving less than the legal minimum wage or the legal overtime
4 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
5 of the full amount of this minimum wage or overtime compensation, including interest thereon,
6 reasonable attorney’s fees, and costs of suit.”

7 69. Labor Code §1194.2 provides: “In any action under Section 98, 1193.6, 1194, or
8 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed
9 by an order of the commission or by statute, an employee shall be entitled to recover liquidated
10 damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

11 70. Further, pursuant to Labor Code §1197, payment of less than the minimum wage
12 fixed by the Labor Commission is unlawful.

13 71. Pursuant to the Labor Code and applicable Wage Order, Defendants are required
14 to pay the members of the Class for all hours worked, meaning the time during which an
15 employee is subject to the control of an employer, including all the time the employee is suffered
16 or permitted to work, whether or not required to do so.

17 72. Plaintiff is informed, believes, and thereon alleges that Defendants’ rounding
18 policy and practice resulted in compensable hours worked by Plaintiff and the Class members
19 which were unpaid. Defendants have an unlawful rounding policy that disproportionately
20 impacts hourly employees which results in lost wages for hourly employees for all hours worked.

21 73. Because Defendants required the members of the Class to remain under
22 Defendants’ control without paying therefore, this resulted in the members of the Class earning
23 less than the legal minimum wage and/or overtime and/or double time for all hours worked.

24 74. During the relevant statutory time period, Defendants systematically, routinely,
25 and willfully failed to pay Plaintiff and Class members regular, minimum wages, overtime and
26 double time wages due to its illegal rounding policy and practice.

27 75. Defendants’ rounding policy is designed in such a way that it deprives Plaintiff
28 and the Class members of all wages for all time worked. As a result of the Defendants’ unfair

1 rounding system Plaintiff and all class members have been systematically underpaid during the
2 relevant time period. Plaintiff is informed and believes and thereon alleges that she and the Class
3 were not paid for all time worked.

4 76. Defendants' pattern, practice and uniform administration of the corporate policy
5 regarding illegal employee compensation as described herein is unlawful and, pursuant to Labor
6 Code §§ 218, 218.5, 510, 1194, 1194.2, Plaintiff and the members of the Class are entitled to
7 recover in a civil action the unpaid balance of the full amount of wages owing, calculated at the
8 appropriate rate and liquidated damages for failure to pay the minimum wage.

9 77. As a direct result, Plaintiff and the Class members have suffered, and continue to
10 suffer, substantial damages in an amount to be proven at trial, and are entitled to all appropriate
11 legal remedies provided by the California Labor Code and IWC Wage Orders, including unpaid
12 wages, liquidated damages, interest, attorneys' fees and costs of suit.

13 78. Pursuant to Labor Code §§ 218.6, 1194, and 3287, the members of the Class seek
14 recovery of pre-judgment interest on all amounts of unpaid wages recovered herein.

15 79. Plaintiff, and the class, are entitled to and seek attorneys' fees and costs, and
16 interest pursuant to LC §§ 218.5 and 1194 in an amount to be determined at trial.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY ALL OVERTIME AND DOUBLE TIME WAGES**

19 **In Violation of Labor Code §§510, 1194, 1194.2 & Wage Order.**

20 80. Plaintiff realleges and incorporates by reference Paragraphs 1 through 64 above
21 as though fully set forth herein.

22 81. Labor Code §510 mandates: "Eight hours of labor constitutes a day's work. Any
23 work in excess of eight hours in one workday and any work in excess of 40 hours in any one
24 workweek and the first eight hours worked on the seventh day of work in any one workweek
25 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for
26 an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no
27 less than twice the regular rate of pay for an employee. In addition, any work in excess of eight
28 hours on any seventh day of a workweek shall be compensated at the rate of no less than twice

1 the regular rate of pay of an employee. Nothing in this section requires an employer to combine
2 more than one rate of overtime compensation in order to calculate the amount to be paid to an
3 employee for any hour of overtime work.” The California overtime requirement and wage
4 requirement are non-waivable rights pursuant to LC §219.

5 82. The Wage Orders mandates that employers pay one and one-half times the
6 employees’ regular rate of pay for employees who work more than eight hours in a day or forty
7 hours in a week and two times their regular rate of pay for any work in excess of twelve hours
8 in one day.

9 83. Labor Code §1194(a) states: “Notwithstanding any agreement to work for a lesser
10 wage, any employee receiving less than the legal minimum wage or the legal overtime
11 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
12 of the full amount of this minimum wage or overtime compensation, including interest thereon,
13 reasonable attorney’s fees, and costs of suit.”

14 84. Pursuant to Labor Code §§218 and 1194(a), Plaintiff may bring a civil action for
15 overtime and/or double time wages directly against the employer without first filing a claim with
16 the Division of Labor Standards Enforcement (“DLSE”) and may recover such wages, together
17 with interest thereon, penalties, attorneys’ fees and costs. Further, pursuant to Labor Code §1198,
18 it is unlawful to employ person for longer than the hours set by the IWC or under conditions
19 prohibited by the applicable IWC Wage Orders. Wage Order 15 and 5, as amended, applies to
20 Plaintiff.

21 85. However, Defendants have failed and refused to pay Plaintiff and the class
22 members overtime and/or double time compensation for all overtime and double time hours
23 worked in excess of eight (8) hours per day and forty (40) hours per week, or twelve (12) hours
24 per day, as required by LC §§510, 1194 and the applicable Wage Orders. Plaintiff is informed
25 and believes and based thereon alleges that the obligations and responsibilities of the class
26 employees are irrelevant because Plaintiff and all other similarly situated employees were
27 subjected to Defendants’ unlawful pay plans and its failure to pay overtime and/or double time
28 based on the regular rate of pay for all overtime and/or double time hours worked by Plaintiff

1 and the class members.

2 86. Defendants, and each of them, consistently administered a corporate policy which
3 required Plaintiff and the Class members to work overtime and/or double time without proper
4 premium overtime and/or double time pay at the correct regular rate of pay. Accordingly,
5 Plaintiff and the Class members were and are entitled to overtime and/or double time
6 compensation, under California law, at the appropriate regular rate of pay. Defendants have
7 failed to properly include items of remuneration when determining Plaintiff's and the Class
8 Members' regular rate, this includes but is not limited to the failure to include any "Direct Care
9 Bonus" provided to Plaintiff and the Class members.

10 87. Plaintiff and the class members have been deprived of rightfully earned overtime
11 and/or double time compensation as a direct and proximate result of Defendants' common
12 policies, practices, and refusal to pay the full amount of compensation earned for all overtime
13 and/or double time hours worked.

14 88. Plaintiff, and the class, are entitled to and seek the full amount of all earned unpaid
15 overtime and/or double time pay based on the correct regular rate of pay, attorneys' fees and
16 costs, and interest pursuant to LC §1194 in an amount to be determined at trial.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO PROVIDE REST PERIODS**

19 **Violation of Labor Code, §§226.7, & Wage Order.**

20 89. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 64 as
21 though fully set forth herein.

22 90. Labor Code §226.7(b) provides that "An employer shall not require an employee
23 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
24 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
25 Safety and Health Standards Board, or the Division of Occupational Safety and Health."

26 91. Labor Code §516 provides that the Industrial Welfare Commission "may adopt
27 or amend working condition orders with respect to break periods, meal periods, and days of rest
28 for any workers in California consistent with the health and welfare of those workers."

1 92. The Wage Orders provide that every employer shall authorize and permit all
2 employees to take rest periods, which insofar as practicable shall be in the middle of each work
3 period. The authorized rest period time shall be based on the total hours worked daily at the rate
4 of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest
5 period need not be authorized for employees whose total daily work time is less than three and
6 one-half (3 ½) hours. Authorized rest period time shall be counted, as hours worked, for which
7 there shall be no deduction from wages.

8 93. Labor Code §226.7(b) and Section 12 of the applicable Wage Order require an
9 employer to pay one additional hour of compensation, at the regular rate of pay, per day for each
10 rest period the employer failed to provide pursuant to the Labor Code and/or applicable Wage
11 Order.

12 94. Plaintiff and the Class members worked over four (4) hours per shift and/or over
13 six (6) hours per shift.

14 95. Plaintiff and the Class members were entitled to a non-captive, duty-free, paid
15 rest period of not less than ten (10) minutes for every four hours worked or major fraction thereof,
16 or premium pay remedy of one hours pay at the regular rate of pay for each day in lieu of the
17 same.

18 96. During the relevant time period, Defendants failed to provide legally compliant
19 non-duty free ten (10) minute paid rest periods to Plaintiff and the Class members and/or
20 Defendants failed to provide the requisite premium pay remedy for non-compliant and/or missed
21 rest periods.

22 97. As such, as a matter of Defendants' established company policy, Defendants
23 failed to authorize and permit all required paid rest periods established by Labor Code §§226.7
24 and 516 and Section 12 of the applicable Wage Order.

25 98. As a result of the unlawful acts of Defendants, Plaintiff and the Class members
26 have been deprived of legally compliant paid rest breaks and are entitled to recover damages
27 under Labor Code §226.7(b) and §12 of the applicable Wage Order in the amount of one
28 additional hour of compensation at their regular rate of pay for each day a paid rest break was

1 not provided.

2 99. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class
3 Members seek recover of pre-judgment interest on all amounts recovered herein.

4 **FOURTH CAUSE OF ACTION**

5 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

6 **Violation of Labor Code §226**

7 100. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 64 as
8 though fully set forth herein.

9 101. California Labor Code §226 provides:

10 (a) Every employer shall, semimonthly or at the time of each payment of wages,
11 furnish each of his or her employees, either as a detachable part of the check, draft,
12 or voucher paying the employee's wages, or separately when wages are paid by
13 personal check or cash, an accurate itemized statement in writing showing (1) gross
14 wages earned, (2) total hours worked by the employee, except for any employee
15 whose compensation is solely based on a salary and who is exempt from payment
16 of overtime under subdivision (a) of Section 515 or any applicable order of the
17 Industrial Welfare Commission, (3) the number of piece-rate units earned and any
18 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
19 provided that all deductions made on written orders of the employee may be
20 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 (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...

21 102. Labor Code §226(e) provides that an employee is entitled to recover the greater
22 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation of §226
23 occurs and one hundred dollars (\$100) for each subsequent pay period not to exceed an aggregate
24 penalty of four thousand dollars (\$4,000), as well as an award of costs and reasonable attorneys'
25 fees, for all pay periods in which the employer knowingly and intentionally failed to provide
26 timely and accurate itemized statements to the employees.

27 103. At all material times, Defendants knowingly and intentionally failed to provide
28 its non-exempt employees such as Plaintiff, and all others similarly situated, with wage

1 statements reflecting the actual total hours worked and actual hours worked to the corresponding
2 rates of pay, gross wages earned, net wages earned, the applicable hourly rates at the
3 corresponding hours worked, rest period premium pay, and/or the name and address of the
4 employer.

5 104. Plaintiff and the Class members suffered injury as a result of Defendants'
6 knowing and intentional failure to provide accurate itemized wage statements as Plaintiff and
7 the Class members were owed but not paid minimum wage and overtime compensation for all
8 hours worked, and premium payments for rest periods which were not reflected on the wage
9 statements. Plaintiff and the class suffered injury as a reasonable person could not promptly and
10 easily determine from the wage statements alone the accurate hours worked (total and hourly),
11 amount of gross wages, the net wages earned for the pay period, the applicable hourly rates at
12 the corresponding hours worked, rest period premium payment amounts, or the name of the
13 employing entities and their addresses.

14 105. Plaintiff and the Class members suffered injury as a reasonable person could not
15 promptly and easily determine from the wage statements alone the accurate amount of gross
16 wages, applicable hourly rates at the corresponding hours worked, the net wages earned for the
17 pay period and/or the number of rest period premium payments on the wage statements.

18 106. Plaintiff and the Class members are entitled to damages of statutory penalties
19 pursuant to Labor Code §226(e) for these violations, in an amount to be determined at trial.

20 107. Plaintiff and the Class members are entitled to and seek costs and reasonable
21 attorneys' fees pursuant to Labor Code §226(e).

22 108. Plaintiff further seeks injunctive relief and reasonable attorneys' fees and costs
23 pursuant to Labor Code §226(h).

24 **FIFTH CAUSE OF ACTION**

25 **FAILURE TO PAY ALL WAGES DUE AT SEPARATION**

26 **Violation of Labor Code §§201, 203**

27 109. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 64 as
28 though fully set forth herein.

1 110. Plaintiff and the Class members whose employment ended with Defendants
2 during the relevant time period were entitled to be promptly paid all earned and unpaid wages at
3 the time of termination, as required pursuant to Labor Code §§201 and 202, *et seq.* Defendants
4 refused and/or intentionally failed to promptly compensate Plaintiff and the other Class members
5 all earned minimum wages, overtime wages, overtime wages at the correct regular rate of pay,
6 and/or rest period premium pay at the time of separation. Based on this Plaintiff and the Class
7 members seek and are entitled to damages in the form of statutory waiting time penalties pursuant
8 to LC §203.

9 111. During the relevant time period, Plaintiff and all other similarly situated
10 employees were employees of Defendants covered by Labor Code §203 whose employment
11 ended with Defendants and were not paid all earned wages based on Defendants' rounding policy
12 and practice and failure to pay rest period premiums.

13 112. Accordingly, pursuant to Labor Code §203, Plaintiff and the Class members are
14 entitled to waiting time penalties at an amount to be proven at trial.

15 **SIXTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **In Violation of Business and Professions Code §§17200 *et seq.***

18 (Against all Defendants on Behalf of Plaintiff and the Class)

19 113. Plaintiff and the class re-allege and incorporate by reference and re-allege each
20 and every one of the allegations contained in the preceding and foregoing paragraphs of this
21 Complaint as if fully set forth herein.

22 114. Beginning on an exact date unknown to Plaintiff but believed to have occurred at
23 least since four (4) years before the filing of this action, Defendants have engaged in a pattern
24 and practice of acts of unfair competition in violation of B&PC §17200, including the practices
25 alleged herein.

26 115. Defendants, and each of them, are "persons" as defined by Business and
27 Professions Code §17201.

28 116. Plaintiff seeks to enforce important rights affecting the public interest. Plaintiff

1 sues on her own behalf and on behalf of the current, former, and future employees of the
2 Defendants that were denied double time wages, overtime pay, regular wages and minimum
3 wages, required to work shifts without legally compliant rest periods and as parties harmed by
4 Defendants unfair business practices.

5 117. Plaintiff and the Class have suffered injuries-in-fact and have lost money as a
6 result of the Defendants' unfair competition alleged herein.

7 118. Defendants have previously or continue to engage in unlawful, unfair, and/or
8 fraudulent business practices, as alleged in this Complaint, in violation of California's B&PC
9 §17200 *et seq.* by:

- 10 a. Failing and refusing to pay the class, including Plaintiff, minimum
11 wages for all hours worked in violation of Labor Code §§510, 1194,
12 1194.2, &1197 and applicable Wage Order;
- 13 b. Failing and refusing to pay the class, including Plaintiff, earned overtime
14 and double time wages in violation of Labor Code §§510 and 1194 and
15 applicable Wage Order; and
- 16 c. Failing and refusing to provide the class, including Plaintiff, with rest
17 breaks or premium payments in lieu thereof in violation of Labor Code
18 §§226.7, 512 and applicable Wage Order;

19 119. All of these allegations constitute unfair business practices and/or unlawful
20 business practices in violation of California B&PC §17200, *et seq.*

21 120. Defendants have avoided payment of minimum wages, overtime wages, double
22 time wages and other benefits as required by the California Labor Code, the California Code of
23 Regulations and applicable IWC Wage Orders. As a result of Defendants' unfair business
24 practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff,
25 and others similarly situated, and the members of the public. Defendants should be made to
26 disgorge their ill-gotten gains and to restore them to the Class, including Plaintiff.

27 121. Plaintiff and the putative class seek full restitution of said monies, as necessary
28 and according to proof, to restore any and all monies withheld and/or acquired by Defendants by

1 means of the unfair, unlawful, and fraudulent business practices complained of herein. Plaintiff
2 seeks, on behalf of all current and former employees of Defendants, restitution of monies
3 retained by Defendants. Plaintiff further seeks, on behalf of herself and the putative class, the
4 appointment of a receiver, as necessary, to establish the total restitutionary relief from
5 Defendants. The restitution includes all wages withheld by Defendants as a result of the unfair,
6 unlawful, and/or fraudulent business practices; including interest thereon. Absent a statutory
7 provision specifically governing the type of claim at issue, the prejudgment interest rate is 10
8 percent. The acts complained of herein occurred, at least in part, within the last four (4) years
9 preceding the filing of this action.

10 122. Plaintiffs is informed and believes and thereon alleges that at all times herein
11 mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices
12 prohibited by California B&PC §17200, thereby depriving their employees and the putative
13 class, the minimum working condition, standards and conditions due to them under the
14 California labor laws and Industrial Welfare Commission wage orders as specifically described
15 herein. Plaintiff further seeks an order requiring Defendants to identify by full name, telephone
16 number, and last known address for all California non-exempt employees who worked or still
17 work for Defendants from four (4) years preceding the filing of the original Complaint through
18 the date of class certification. Plaintiff further seeks an order requiring Defendants to timely pay
19 restitution to all current and former employees, including back wages, and interest.

20 123. By and through its unfair, unlawful, and/or fraudulent business practices and acts
21 described herein, Defendants have obtained valuable services from Plaintiff and all persons
22 similarly situated and has deprived Plaintiff and all persons similarly situated of valuable rights
23 and benefits guaranteed by law, all to their detriment.

24 124. Plaintiff, and all persons similarly situated, and all persons in interest, are entitled
25 to and do seek such relief as may be necessary to restore to them the money and property which
26 Defendants have acquired, or of which Plaintiff and Class members have been deprived by mean
27 of the herein described unfair, unlawful, and/or fraudulent business practices.

28 125. Plaintiff, and all persons similarly situated, and all persons in interest, are further

1 entitled to and do seek a declaration that the above described business practices are unfair,
2 unlawful, and/or fraudulent, and declaratory relief of Defendants engaging in any of the herein
3 described unfair, unlawful, and/or fraudulent business practices.

4 126. Plaintiff and the Class request attorney's fees and costs pursuant to Code of Civil
5 Procedure §1021.5 since this action is brought to vindicate important rights of a large class and
6 the public.

7 **SIXTH CAUSE OF ACTION**
8 **PRIVATE ATTORNEYS GENERAL ACT**
9 **Violation of Labor Code §§2698, *et seq.***
10 **(Against all Defendants)**

11 127. Plaintiff on behalf of herself and on behalf of all other aggrieved employees
12 herein re-alleges and incorporates each and every one of the allegations contained in the
13 preceding paragraphs as if fully set forth herein.

14 128. Labor Code §§2698-2699, the Labor Code Private Attorney General Act of 2004,
15 provides for a civil penalty to be assessed and collected by the Labor and Workforce
16 Development Agency (LWDA), or any of its departments, divisions, commissions, boards,
17 agencies or employees for a violation of the Labor Code, may be recovered through a civil action
18 by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other
19 current or former employees.

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

24 130. Plaintiff and Defendants' non-exempt hourly employees who provided direct
25 care, nursing, and rehabilitation services for Defendants are "aggrieved employees" as defined
26 by Labor Code §2699, in that they are all current or former employees of Defendants, and one
27 or more of the alleged violations was committed against them.

28 131. Plaintiff gave written notice electronically to the LWDA, and by certified mail to

1 Defendants of the specific provisions of this code alleged to have been violated, including the
2 facts and theories to support the alleged violations as required by Labor Code §2699.3. More
3 than 65 days has lapsed since notice to the LWDA and the LWDA has not responded to
4 Plaintiff's notice. Accordingly, Plaintiff may commence a civil action to recover civil penalties
5 for herself and other current and former employees under Labor Code §2699 pursuant to
6 §2699.3.

7 132. Plaintiff asserts all of the claims in this Complaint against Defendants,
8 individually and on behalf of the aggrieved employee class in her capacity as a private attorney
9 general and seeks all applicable civil penalties available under the Labor Code for these alleged
10 violations.

11 133. Pursuant to Labor Code §2699, Plaintiff, individually and on behalf of the
12 aggrieved employee class, request and seek to recover from the Defendants; unpaid wages due
13 to illegal rounding, overtime and double time wages at the regular rate of pay, rest period
14 premiums, waiting time penalties, wage statement violations and penalties according to proof.
15 Plaintiff is further entitled to attorneys' fees and costs pursuant to Labor Code §2699(g)(1), as
16 well as all civil penalties, including, but not limited to:

- 17 1) Penalties under Code of Regulations, Title 8 §11090 in the amount of \$50
18 for each aggrieved employee per pay period for the initial violation, and
19 \$200 for each aggrieved employee per pay period for each subsequent
20 violation;
- 21 2) Penalties under Labor Code §256, in addition to and entirely independent
22 and apart from other penalties provided in the Labor Code, including
23 Labor Code §203, for any aggrieved employee who was discharged or
24 quit, and was not paid all earned wages at termination in accordance with
25 Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil
26 penalty of one day of pay for each day that the aggrieved employee was
27 paid late, until payment was/is made, up to a maximum of thirty (30) days;
- 28 3) Penalties under Labor Code §558, in addition to and entirely independent

1 and apart from other penalties provided under the Labor Code, in the
2 amount of \$50 for each underpaid aggrieved employee for each pay period
3 the aggrieved employee was underpaid in addition to an amount sufficient
4 to recover underpaid wages, and \$100 for each subsequent violation for
5 each underpaid employee for each pay period for which the employee was
6 underpaid in addition to an amount sufficient to recover underpaid wages,
7 with all wages recovered pursuant to Labor Code §558 provided to the
8 affected employees;

9 4) Penalties under Labor Code §226.3, in addition to and entirely
10 independent and apart from other penalties provided in the Labor Code,
11 in the amount of \$250 for each aggrieved employee per pay period for
12 each violation, and \$1,000 for each aggrieved employee per pay period
13 for each subsequent violation;

14 5) Penalties under Labor Code §1197.1, in addition to and entirely
15 independent and apart from other penalties provided in the Labor Code,
16 as follows:

17 i. For any initial violation that is intentionally committed, \$100 for
18 each underpaid employee for each pay period for which the
19 employee is underpaid;

20 ii. For each subsequent violation for the same specific offense, \$200
21 for each underpaid employee for each pay period for which the
22 employee is underpaid regardless of whether the initial violation
23 is intentionally committed; and

24 iii. Any and all wages, liquidated damages, and any applicable
25 penalties imposed pursuant to Section 203, recovered pursuant to
26 Labor Code §1197.1 to be paid to the affected employee;

27 6) Penalties under Labor Code §2699(f), in addition to and entirely
28 independent and apart from other penalties provided in the Labor Code

1 and for Labor Code violations without a specific civil penalty, in the
2 amount of \$100 for each aggrieved employee per pay period for each
3 violation, and \$200 for each aggrieved employee per pay period for each
4 subsequent violation;

5 134. Any and all additional civil penalties and sums as provided by the Labor Code
6 and/or other statutes.

7 135. Plaintiff seeks and is entitled to have 75% of all penalties obtained be allocated
8 to the LWDA and 25% to aggrieved employees.

9 136. Further, Plaintiff is entitled to seek and recover reasonable attorney's fees and
10 costs pursuant to Labor Code §§2699(g)(1).

11 **III. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff, the Class members, and the Aggrieved Employees pray for judgment
13 as follows:

- 14 1. An order that the action be certified as a class action;
- 15 2. An order that Plaintiff be appointed class representative;
- 16 3. An order that counsel for Plaintiff be appointed class counsel;
- 17 4. An order requiring Defendants to identify, by name, address and telephone number
18 all current and former employees of Defendants, that are covered by the Class
19 Definition, for the period of April 18, 2018 through the date of class certification;
- 20 5. For all unpaid wages due to Plaintiff and each Class member in amounts to be proven
21 at trial;
- 22 6. For all unpaid overtime and double time wages due Plaintiff and each Class member
23 pursuant to Labor Code §1194 and the Wage Order;
- 24 7. For the full amount of unpaid minimum wages and liquidated damages due Plaintiff
25 and each Class member pursuant to Labor Code §§ 1194 and 1194.2 and Wage Order;
- 26 8. For restitution of all unpaid wages due Plaintiff and each Class member;
- 27 9. For all applicable statutory penalties, in amounts to be proven at trial;
- 28 10. For all applicable civil penalties, in amounts to be proven at trial;

11. For an award of waiting time penalties pursuant to section 203 of the California Labor Code, in amounts to be proven at trial;
12. For an award of statutory penalties pursuant to section 226(e) of the California Labor Code, in amounts to be proven at trial;
13. For general damages including compensatory damages according to proof;
14. For pre-judgment interest as allowed by Labor Code §§218.6 and 1194(a) as well as Cal. Civil Code §3287 and to the extent permitted by law, the California Constitution, and/or deemed equitable by the Court;
15. For all applicable interest on damages, wages, expenses, and penalties due;
16. For injunctive relief to prevent further violations of the California Labor Code;
17. For declaratory relief that Defendants engaged in unfair practices;
18. For declaratory relief that Defendants violated Labor Code §§201-203, 226, 226.7, 510, 512, 1194, 1194.2, 1197;
19. For restitution of all moneys due to Plaintiff and Class members, and disgorged profits from the unlawful and/or unfair business practices of Defendants, pursuant to California Business & Professions Code §17200;
20. For costs of suit, expenses and attorneys' fees pursuant to Labor Code §§218.5, 226(f), 1194(a), 2699(g)(1), and Code of Civil Procedure §1021.5;
21. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant rest break was not provided, impeded, discouraged, and/or dissuaded pursuant to Labor Code §226.7 and the Wage Order;
22. On behalf of Plaintiff and all other aggrieved employees and the LWDA, for all civil penalties authorized by LC §2699, including but not limited to:
 - a) For civil penalties per LC §226.3 in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;
 - b) For civil penalties per LC §256 in the amount of one day of pay, at the same rate, for each day that an aggrieved employee was paid late, at the

time of termination, until payment was/is made, up to a maximum of thirty (30) days;

c) For civil penalties pursuant to LC §558 as follows:

i. For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

ii. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

d) For civil penalties per Code of Regulations, Title 8 §11090 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

e) For civil penalties per Labor Code §1197.1, in the amount of:

i. \$100 for each underpaid employee for each initial pay period for which the employee was intentionally underpaid;

ii. \$200 for each underpaid employee for each subsequent pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed; and

iii. Any and all wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to Labor Code §1197.1 to be paid to the affected employee;

f) For civil penalties under LC §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each

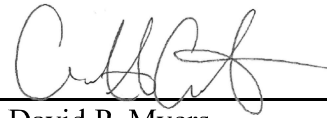
violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, and;

23. For all such other and further relief that the Court may deem just and proper.

Dated: September 8, 2022

THE MYERS LAW GROUP, A.P.C.

By: _____



David P. Myers

Jason Hatcher

Cassandra A. Castro

Attorneys for Plaintiff Keira Williams and all others similarly situated.