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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

TYLER COOMBS, individually, and on
behalf of other members of the general public
similarly situated, and on behalf of aggrieved
employees pursuant to the Private Attorneys
General Act ("PAGA");

Plaintiff,

v.

IMAGING HEALTHCARE SPECIALISTS,
LLC, a California limited liability company;
and DOES 1 through 100, inclusive;

Defendants.

Case No.: 37-2020-00043781-CU-OE-CTL

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES,
RESTITUTION, AND CIVIL
PENALTIES:**

- (1) Violation of California Labor Code §§, 510, 1198 and 1199 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194 and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of California Labor Code § 246 (Paid Sick Leave);
- (9) Violation of California Labor Code §§ 551/552 (Day of Rest);
- (10) Violation of California Labor Code § 204 (Timely Payment of Wages)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
08/02/2022 at 04:38:00 PM
Clerk of the Superior Court
By Emily Schilawski, Deputy Clerk

(11) Violation of California Labor Code §
2698 *et seq.* (Private Attorneys
General Act of 2004); and
(12) Violation of California Business &
Professions Code §§ 17200, *et seq.*
DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff TYLER COOMBS (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated, and on behalf of aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”), and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, including the County of San Diego. The majority of the acts and omissions alleged herein relating to Plaintiff took place in the State of California. Defendants employed Plaintiff within the State of California, County of San Diego.

PARTIES

5. Plaintiff TYLER COOMBS is an individual residing in the State of California,

County of San Diego.

6. Defendant IMAGING HEALTHCARE SPECIALISTS, LLC, at all times herein mentioned, was and is, upon information and belief, a California limited liability company, and at all times herein mentioned, was and is, an employer whose employees are engaged throughout the State of California, including the County of San Diego.

7. At all relevant times, Defendants IMAGING HEALTHCARE SPECIALISTS, LLC, was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants IMAGING HEALTHCARE SPECIALISTS, LLC, and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization, and consent of each defendant designated herein.

9. The true names and capacities, whether corporate, associate, individual or otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiff, who sues said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the Defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

10. Defendants IMAGING HEALTHCARE SPECIALISTS, LLC, and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

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11. Plaintiff further alleges that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members so as to make each of said Defendants employers and employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

12. Plaintiff brings this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

13. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees of Defendants within the State of California at any time during the period from June 6, 2016¹ to final judgment.

14. Plaintiff reserves the right to establish subclasses as appropriate.

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

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiff's claims are typical of all other class members' claims as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.

¹ Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Accordingly, Plaintiff's claims were tolled during that time period.

1 c. Adequacy: Plaintiff will fairly and adequately protect the interests of
2 each class member, with whom he has a well-defined community of
3 interest and typicality of claims, as demonstrated herein. Plaintiff has no
4 interest that is antagonistic to the other class members. Plaintiff's
5 attorneys, the proposed class counsel, are versed in the rules governing
6 class action discovery, certification, and settlement. Plaintiff has
7 incurred, and during the pendency of this action will continue to incur,
8 costs and attorneys' fees, that have been, are, and will be necessarily
9 expended for the prosecution of this action for the substantial benefit of
10 each class member.

11 d. Superiority: A class action is superior to other available methods for the
12 fair and efficient adjudication of this litigation because individual joinder
13 of all class members is impractical.

14 e. Public Policy Considerations: Certification of this lawsuit as a class
15 action will advance public policy objectives. Employers of this great
16 state violate employment and labor laws every day. Current employees
17 are often afraid to assert their rights out of fear of direct or indirect
18 retaliation. However, class actions provide the class members who are
19 not named in the complaint anonymity that allows for the vindication of
20 their rights.

21 16. There are common questions of law and fact as to the class members that
22 predominate over questions affecting only individual members. The following common
23 questions of law or fact, among others, exist as to the members of the class:

24 a. Whether Defendants' failure to pay wages, without abatement or
25 reduction, in accordance with the California Labor Code, was willful;

26 b. Whether Defendants failed to pay their hourly-paid or non-exempt
27 employees within the State of California for all hours worked, including
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1 but not limited to at the appropriate, applicable, and/or legally required
2 rate(s) of pay;

3 c. Whether Defendants modified employee timecards to “reduce” the
4 amount of wages due to employees, resulting in an underpayment of
5 and/or failure to pay wages;

6 d. Whether Defendants modified employee timecards to make it appear as
7 though employees took California complaint meal period and/or rest
8 breaks even though they did not, resulting in underpayment of and/or
9 failure to pay meal period and/or rest break premiums.

10 e. Whether Defendants failed to provide hourly-paid or non-exempt
11 employees within the State of California meal periods and rest breaks in
12 violation of California law;

13 f. Whether Defendants required Plaintiff and the other class members to
14 work over eight (8) hours per day and/or over forty (40) hours per week,
15 and/or seven (7) consecutive workdays and failed to pay the legally
16 required overtime and/or doubletime compensation to Plaintiff and the
17 other class members;

18 g. Whether Defendants properly calculated the regular rate for Plaintiff and
19 the other class members who worked overtime and/or doubletime and/or
20 earned and/or were entitled to incentive pay, bonuses, and/or shift
21 differentials;

22 h. Whether Defendants deprived Plaintiff and the other class members of
23 meal and/or rest periods or required Plaintiff and the other class
24 members to work during meal and/or rest periods without compensation;

25 i. Whether Defendants failed to pay minimum wages to Plaintiff and the
26 other class members for all hours worked;

27 j. Whether Defendants failed to pay all wages due to Plaintiff and the other
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class members within the required time upon their discharge, resignation, or otherwise;

k. Whether Defendants failed to timely pay all wages due to Plaintiff and the other class members during their employment;

l. Whether Defendants complied with wage reporting and/or issuance of accurate, itemized wage statements as required by the California Labor Code, including, inter alia, section 226;

m. Whether Defendants failed to reimburse class members for necessary business-related expenses and costs;

n. Whether Defendants failed to properly calculate and pay paid sick leave, including but not limited as to supplemental paid sick leave, to Plaintiff and other class members in accordance with California and/or local/municipal law, such as at the employee's regular rate of pay for the workweek within which paid sick leave was taken;

o. Where Defendants failed to properly calculate and pay meal period and/or rest break premiums to Plaintiff and the other class members in accordance with California law, such as at the employee's regular rate of pay for the workweek;

p. Whether Defendants forced or caused Plaintiff and other class members to work for seven (7) consecutive days without one (1) day of rest;

q. Whether those employees Defendants forced or caused to work seven (7) consecutive days did not average at least one (1) day's rest for every seven (7) days during each calendar month;

r. Whether Defendants failed to maintain employee payroll records or otherwise as required by California law;

s. Whether Defendants' conduct was willful or reckless;

t. Whether Defendants engaged in unfair business practices in violation of

California Business & Professions Code section 17200, *et seq.*;

u. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and

v. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

17. During the relevant time period set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California.

18. Defendants, jointly and severally, employed Plaintiff as an hourly-paid employee from 2016 to 2019 in the State of California, County of San Diego.

19. Defendants had the authority to hire and terminate Plaintiff and the other class members; to set work rules and conditions governing Plaintiff's and other class members' employment; and to supervise their daily employment activities.

20. Defendants exercised sufficient authority over the terms and conditions of Plaintiff and other class members' employment for them to be joint employers of Plaintiff and the other class members.

21. Defendants directly hired and paid wages and benefits to Plaintiff and the other class members.

22. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

23. Plaintiff and the other class members worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

24. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees within the State of California. This scheme involved, inter alia, failing to pay them for all hours worked, failing to properly calculate overtime/doubletime pay, meal period/rest break premiums, and paid sick leave pursuant to California and/or local/municipal

1 law, forcing or causing employees to work seven (7) consecutive days without a day of rest,
2 provide meal periods, and provide rest breaks in violation of California law among other wage
3 and hour violations.

4 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 knew or should have known that Plaintiff and the other class members were entitled to receive
6 certain wages for overtime/doubletime compensation at a certain rate and that Plaintiff and the
7 other class members were not receiving wages for overtime/doubletime compensation at the
8 appropriate rate as required by law. Defendants also knew or should have known Plaintiff and
9 the other class members were entitled to receive paid sick leave and/or meal period premiums
10 at a certain rate, such as the regular rate of pay in the workweek during which aid sick leave
11 used/premiums accrued, but did not.

12 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 failed to provide Plaintiff and the other class members the required rest and meal periods
14 during the relevant time period as required under the Industrial Welfare Commission Wage
15 Orders and thus they are entitled to any and all applicable penalties.

16 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 knew or should have known that Plaintiff and the other class members were entitled to receive
18 all timely and complete meal periods or payment of one additional hour of pay at Plaintiff's
19 and the other class members' regular rate of pay when a meal period was missed, late,
20 interrupted, or did not last at least thirty minutes, and that Plaintiff and the other class members
21 did not receive all timely and proper meal periods or payment of one additional hour of pay at
22 their regular rate of pay when a meal period was missed, taken late, interrupted, lasted for less
23 than the statutory thirty minute minimum, and/or when they were not relieved of all duties
24 during their meal periods.

25 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knew or should have known that Plaintiff and other class members were entitled to receive all
27 timely rest periods without interruption or payment of one additional hour of pay at Plaintiff
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and the other class members' regular rate of pay when a rest period was missed, taken late, interrupted, or did not last at least ten minutes, and that Plaintiff and the other class members did not receive all rest periods or payment of one additional hour of pay at their regular rate of pay when a rest period was missed.

29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive at least minimum wages for compensation and that Plaintiff and the other class members were not receiving at least minimum wages for all hours worked.

30. Plaintiff is informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiff and other class members were entitled to paid sick leave (including but not limited to supplemental paid sick leave) pursuant to California and/or local/municipal law and that Defendants failed to properly calculate and pay that paid sick leave to Plaintiff and other class members pursuant to the methods outlined in the California Labor Code, such as at their applicable regular rate of pay for a workweek.

31. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiff was entitled to one (1) day's rest and that Defendants forced or caused Plaintiffs and other class members to work seven (7) consecutive days without receiving a day's rest and/or did not provide an average of one (1) day of rest for every seven (7) days in each calendar month.

32. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive the wages owed to them upon discharge or resignation, including overtime, doubletime, and minimum wages and meal and rest period premiums, and that Plaintiff and the other class members did not, in fact, receive such wages owed to them at the time of their discharge or resignation. Defendants also knew or should have known Plaintiff and the other class members were entitled to receive wages in a timely manner during employment pursuant to California law but did not do so.

1 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and the other class members were entitled to receive
3 complete and accurate wage statements in accordance with California law, but, in fact, Plaintiff
4 and the other class members did not receive complete and accurate wage statements from
5 Defendants. The deficiencies included, inter alia, the failure to include the total number of
6 hours worked by Plaintiff and the other class members, and failing to factor or include
7 incentive bonuses and shift differentials into their regular rates of pay for their
8 overtime/doubletime rates, meal period/rest break premiums, paid sick leave rate(s), as well as
9 other monies to be paid out or owed at same, resulting in rate or amounts set forth in wage
10 statements being incorrect.

11 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knew or should have known that Plaintiff and the other class members were entitled to
13 reimbursement for necessary business-related expenses.

14 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that Defendants had to keep complete and accurate payroll records
16 for Plaintiff and the other class members in accordance with California law, but, in fact, did not
17 keep complete and accurate payroll records for Plaintiff and the other class members.

18 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 knew or should have known that they had a duty to compensate Plaintiff and the other class
20 members pursuant to California law, and that Defendants had the financial ability to pay such
21 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
22 represented to Plaintiff and the other class members that they were properly denied wages, all
23 in order to increase Defendants' profits.

24 37. During the relevant time period set forth herein, Defendants failed to pay
25 overtime/doubletime wages to Plaintiff and the other class members for all hours worked.
26 Plaintiff and other class members were required to work more than eight (8) hours per day
27 and/or forty (40) hours per week, and/or seven (7) consecutive workdays without overtime
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and/or doubletime compensation and/or without that compensation being paid at the appropriate rate(s).

38. During the relevant time period set forth herein, Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to Plaintiff and the other class members.

39. During the relevant time period set forth herein, Defendants failed to pay Plaintiff and the other class members at least minimum wages for all hours worked.

40. During the relevant time period set forth herein, Defendants failed to properly calculate and pay paid sick leave to Plaintiffs and other class members using the methods outlined in the California Labor Code, including but not limited to at their regular rate of pay for the workweek in which the paid sick leave was taken. Defendants also failed to do so as to supplemental paid sick leave provided or required by state, local, and/or municipal law in relation to COVID-19 or otherwise.

41. During the relevant time period set forth herein, Defendants forced or caused Plaintiffs and employees to work seven (7) days without receiving one (1) day's rest in seven and/or did not provide an average of one (1) day's rest for every seven (7) days in each calendar month.

42. During the relevant time period set forth herein, Defendants failed to pay Plaintiff and the other class members the wages owed to them upon discharge or resignation.

43. During the relevant time period set forth herein, Defendants failed to provide complete or accurate wage statements to Plaintiff and the other class members.

44. During the relevant time period set forth herein, Defendants failed to keep complete or accurate payroll records for Plaintiff and the other class members.

45. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to reimburse Plaintiffs and the other class members for necessary business-related expenses and costs, including but not limited to those related to personal cell phones and/or data plans of employees and automobile-related expenses

46. During the relevant time period set forth herein, Defendants failed to properly compensate Plaintiff and the other class members pursuant to California law in order to increase Defendants' profits.

47. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him [or her] under this article.”

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510, 1198 and 1199)

(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)

48. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 47, and each and every part thereof with the same force and effect as though fully set forth herein.

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

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

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

52. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours

1 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
2 of work, and overtime compensation at twice the regular hourly rate for hours worked in
3 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
4 of work.

5 53. During the relevant time period set forth herein, Plaintiff and the other class
6 members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a
7 week, and/or seven (7) consecutive workdays.

8 54. During the relevant time period set forth herein, Defendants caused and/or
9 intentionally and willfully failed to pay overtime wages owed to Plaintiff and the other class
10 members.

11 55. Defendants' failure to pay Plaintiff and the other class members the unpaid
12 balance of overtime and/or doubletime compensation as required by California laws, violates
13 the provisions of California Labor Code sections, 510, , 1198, and 1199 and is therefore
14 unlawful.

15 56. Pursuant to California Labor Code sections 558 and 1194, Plaintiff and the other
16 class members are entitled to recover unpaid overtime compensation, as well as interest, costs,
17 and attorneys' fees.

18 **SECOND CAUSE OF ACTION**

19 **(Violation of California Labor Code §§ 226.7 and 512(a))**

20 **(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)**

21 57. Plaintiff incorporates by reference the allegations contained in paragraphs 1
22 through 56, and each and every part thereof with the same force and effect as though fully set
23 forth herein.

24 58. During the relevant time period set forth herein, the IWC Order and California
25 Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class
26 members' employment by Defendants.

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

60. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

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

62. During the relevant time period set forth herein, Plaintiff and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

63. During the relevant time period set forth herein, Plaintiff and the other class members who were scheduled to work for a period of time no longer than twelve (12) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than ten (10) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

64. During the relevant time period set forth herein, Plaintiff and the other class members who were scheduled to work for a period of time in excess of six (6) hours were

required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

65. During the relevant time period set forth herein, Plaintiff and the other class members who were scheduled to work for a period of time in excess of twelve (12) hours were required to work for periods longer than ten (10) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

66. During the relevant time period set forth herein, Defendants intentionally and willfully required Plaintiff and the other class members to work during meal periods and failed to compensate Plaintiff and the other class members the full meal period premium for work performed during meal periods.

67. During the relevant time period set forth herein, Defendants failed to pay Plaintiff and the other class members the full meal period premium due pursuant to California Labor Code section 226.7.

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

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

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)

70. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 69, and each and every part thereof with the same force and effect as though fully set forth herein.

71. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other

1 class members' employment by Defendants.

2 72. During the relevant time period set forth herein, California Labor Code section
3 226.7 provides that no employer shall require an employee to work during any rest period
4 mandated by an applicable order of the California IWC.

5 73. During the relevant time period set forth herein, the applicable IWC Wage
6 Order provides that "[e]very employer shall authorize and permit all employees to take rest
7 periods, which insofar as practicable shall be in the middle of each work period" and that the
8 "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes
9 net rest time per four (4) hours or major fraction thereof" unless the total daily work time is
10 less than three and one-half (3 ½) hours.

11 74. During the relevant time period set forth herein, Defendants required Plaintiff
12 and the other class members to work four (4) or more hours without authorizing or permitting a
13 ten (10) minute rest period per each four (4) hour period worked.

14 75. During the relevant time period set forth herein, Defendants willfully required
15 Plaintiff and the other class members to work during rest periods and failed to pay Plaintiff and
16 the other class members the full rest period premium for work performed during rest periods.

17 76. During the relevant time period set forth herein, Defendants failed to pay
18 Plaintiff and the other class members the full rest period premium due pursuant to California
19 Labor Code section 226.7.

20 77. Defendants' conduct violates applicable IWC Wage Orders and California
21 Labor Code section 226.7.

22 78. Pursuant to the applicable IWC Wage Orders and California Labor Code section
23 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
24 additional hour of pay at the employees' regular hourly rate of compensation for each workday
25 that the rest period was not provided.

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1 **FOURTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 1194 and 1197)**

3 **(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)**

4 79. Plaintiff incorporates by reference the allegations contained in paragraphs 1
5 through 78-and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 80. During the relevant time period set forth herein, California Labor Code sections
8 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of a
9 lesser wage than the minimum so fixed, is unlawful.

10 81. During the relevant time period set forth herein, Defendants failed to pay
11 minimum wages to Plaintiff and the other class members as required, pursuant to California
12 Labor Code sections 1194 and 1197.

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

18 83. Pursuant to California Labor Code section 1197.1, Plaintiffs and the other class
19 members are entitled to recover a penalty of \$100 for the initial failure to timely pay each
20 employee minimum wages, and \$250 for each subsequent failure to pay each employee
21 minimum wages.

22 84. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class
23 members are entitled to recover liquidated damages in an amount equal to the wages
24 unlawfully unpaid and interest thereon.

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1 **FIFTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 201 and 202)**

3 **(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)**

4 85. Plaintiff incorporates by reference the allegations contained in paragraphs 1
5 through 84, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 86. During the relevant time period set forth herein, California Labor Code sections
8 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid
9 at the time of discharge are due and payable immediately, and if an employee quits his or her
10 employment, his or her wages shall become due and payable not later than seventy-two (72)
11 hours thereafter, unless the employee has given seventy-two (72) hours notice of his or her
12 intention to quit, in which case the employee is entitled to his or her wages at the time of
13 quitting.

14 87. During the relevant time period set forth herein, Defendants intentionally and
15 willfully failed to pay Plaintiff and the other class members who are no longer employed by
16 Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving
17 Defendants' employ and/or immediately upon termination/discharge and/or on the date of their
18 termination/discharge and/or last day of work in accordance with Labor Code Sec. 201, 202,
19 and otherwise. Such wages Defendants failed to pay their employees as such include but are
20 not limited to unpaid wages, minimum wages, overtime wages, and meal period and/or rest
21 break premiums.

22 88. Defendants' failure to pay Plaintiff and the other class members who are no
23 longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours
24 of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and
25 202.

26 89. California Labor Code section 203 provides that if an employer willfully fails to
27 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee
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1 shall continue as a penalty from the due date thereof at the same rate until paid or until an
2 action is commenced; but the wages shall not continue for more than thirty (30) days.

3 90. Plaintiff and the other class members are entitled to recover from Defendants the
4 statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum as
5 provided by Labor Code section 203 (i.e., waiting time penalties).

6 **SIXTH CAUSE OF ACTION**

7 **(Violation of California Labor Code § 226(a))**

8 **(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)**

9 91. Plaintiff incorporates by reference the allegations contained in paragraphs 1
10 through 90, and each and every part thereof with the same force and effect as though fully set
11 forth herein.

12 92. During the relevant time period set forth herein, California Labor Code section
13 226(a) provides that every employer shall furnish each of his or her employees an accurate
14 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
15 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
16 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
17 written orders of the employee may be aggregated and shown as one item, (5) net wages
18 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
19 employee and his or her social security number, (8) the name and address of the legal entity
20 that is the employer, and (9) all applicable hourly rates in effect during the pay period and the
21 corresponding number of hours worked at each hourly rate by the employee. The deductions
22 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
23 showing the month, day, and year, and a copy of the statement or a record of the deductions
24 shall be kept on file by the employer for at least three years at the place of employment or at a
25 central location within the State of California.

26 93. Defendants have intentionally and willfully failed to provide Plaintiff and the
27 other class members with complete and accurate wage statements. The deficiencies include
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1 but are not limited to: the failure to include the total number of hours worked by Plaintiff and
2 other class members, failing to include proper overtime, doubletime, paid sick leave, and meal
3 period/rest break premium rates and/or amounts due to not factoring or including incentives,
4 bonuses, and shift differentials into their regular rates of pay.

5 94. As a result of Defendants' violation of California Labor Code section 226(a),
6 Plaintiff and the other class members have suffered injury and damage to their statutorily
7 protected rights.

8 95. More specifically, Plaintiff and the other class members have been injured by
9 Defendants' intentional and willful violation of California Labor Code section 226(a) because
10 they were denied both their legal right to receive, and their protected interest in receiving,
11 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

12 96. Plaintiff and the other class members are entitled to recover from Defendants the
13 greater of their actual damages caused by Defendants' failure to comply with California Labor
14 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
15 employee.

16 97. Plaintiff and the other class members are also entitled to injunctive relief to
17 ensure compliance with this section, pursuant to California Labor Code section 226(g).

18 **SEVENTH CAUSE OF ACTION**

19 **(Violation of California Labor Code §§ 2800 and 2802)**

20 **(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)**

21 98. Plaintiff incorporates by reference the allegations contained in paragraphs 1
22 through 97, and each and every part thereof with the same force and effect as though fully set
23 forth herein.

24 99. Pursuant to California Labor Code sections 2800 and 2802, an employer must
25 reimburse its employee for all necessary expenditures incurred by the employee in direct
26 consequence of the discharge of his or her job duties or in direct consequence of his or her
27 obedience to the directions of the employer.

100. Defendants have intentionally and willfully failed to reimburse Plaintiff and the other class members for all necessary business-related expenses and costs. Plaintiff and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code §§ 246)

(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)

101. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 100, and each and every part thereof with the same force and effect as though fully set forth herein.

102. California Labor Code section 246 entitles certain employees to paid sick days and/or paid sick leave (as does certain local and/or municipal law). California Labor section 246(k)(1) states that paid sick leave may be calculated: (1) “in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek”; (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment”; or (3) “in the same manner as the employer calculates wages for other forms of paid leave time.”

103. During the relevant time period set forth herein, Defendants failed to properly calculate and pay paid sick leave to Plaintiff and other class members using the methods outlined in California Labor Code section 246(k)(1), including but not limited to at their regular rate of pay for the workweek in which the paid sick leave was taken.

104. Defendants also failed to provide sufficient written notice of the amount of paid sick leave available to those certain employees that were entitled to it in violation of California Labor Code section 246(h) and/or did not provide an accurate reporting to those employees of

1 the amount of paid sick leave available and/or did not provide an accurate reporting to those
2 employees of the paid sick leave taken and/or the applicable rate(s) at which those employees
3 took such paid sick leave.

4 105. Defendants' immediately-above identified failures violate the provisions of
5 California Labor Code section 246 and are therefore unlawful. Defendants also committed the
6 same and/or similar violations as to supplemental paid sick leave laws, rules, and/or
7 regulations (in relation to COVID-19 and otherwise) in effect during the relevant period.

8 106. Plaintiff and other class members are entitled to recover unpaid paid sick leave
9 (including but not limited to any amounts due to Defendants' failure to pay paid sick leave at
10 the appropriate regular rate of pay) and/or penalties for Defendants' failure to provide
11 sufficient and/or accurate written notice of the amount of paid sick leave available and/or rate
12 at which any paid sick leave was taken as well as penalties, interest, costs, and/or attorneys'
13 fees to the extent applicable.

14 **NINTH CAUSE OF ACTION**

15 **(Violation of California Labor Code §§ 551/552)**

16 **(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)**

17 107. Plaintiff incorporates by reference the allegations contained in Paragraphs 1
18 through 106, and each and every part thereof with the same force and effect as though fully set
19 forth herein.

20 108. California Labor Code section 551 states, "Every person employed in any
21 occupation of labor is entitled to one day's rest therefrom in seven." California Labor Code
22 section 552 states, "No employer of labor shall cause his employees to work more than six days
23 in seven."

24 109. During the relevant time period set forth herein, Defendants caused and/or
25 intentionally and willfully scheduled Plaintiff and other class members to work seven (7)
26 consecutive days without providing them with one (1) day's rest. Alternatively, Defendants did
27 not provide employees who worked seven (7) consecutive days with an average of one (1) day's
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rest for every seven (7) days within each calendar month.

110. Defendants' immediately-above identified failures violate the provisions of California Labor Code sections 551 and 552 and are therefore unlawful.

111. Plaintiff and other class members are entitled to the relief called for by the California Labor Code as well as penalties, interest, costs, and/or attorneys' fees to the extent applicable.

TENTH CAUSE OF ACTION

(Violation of California Labor Code §§ 204)

(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)

112. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 111, and each and every part thereof with the same force and effect as though fully set forth herein.

113. Per California Labor Code section 204, "[a]ll wages . . . earned by any person are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Also, "[t]he requirements of [section 204] shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

114. During the relevant time period set forth herein, Defendants did not pay all wages due and owed to non-exempt employees in a timely manner and/or in accordance with the provisions of Section 204.

115. Defendants immediately-above identified failures violate the provisions of California Labor Code section 204.

116. Plaintiff and other class members are entitled to the relief called for by California Labor Code Section 98 and 210 as well as penalties, interest, costs, and/or attorneys' fees to the extent applicable.

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1 **ELEVENTH CAUSE OF ACTION**

2 **(Violation of Labor Code Section 2698, *et seq.* (“PAGA”))**

3 **(Against IMAGING HEALTHCARE SPECIALISTS, LLC, and DOES 1 through 100)**

4 117. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
5 through 116, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 118. PAGA expressly establishes that any provision of the California Labor Code
8 which provides for a civil penalty to be assessed and collected by the California Labor and
9 Workforce Development Agency (“LWDA”), or any of its departments, divisions,
10 commissions, boards, agencies or employees for a violation of the California Labor Code, may
11 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
12 herself, and other current or former employees.

13 119. On April 15, 2022, Plaintiff provided written notice to the LWDA and
14 Defendants of the specific provisions of the Labor Code he contends were violated, and the
15 theories supporting his contentions. Attached hereto as **Exhibit 1** and incorporated by
16 reference is a copy of the written notice to the LWDA. Plaintiff believes that on or about June
17 20, 2022, the sixty-five (65) day notice period expired, and the LWDA did not take any action
18 to investigate or prosecute this matter. Therefore, Plaintiff has exhausted his administrative
19 remedies.

20 120. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
21 employees” as defined by California Labor Code § 2699(c) in that they are all current or
22 former employees of Defendants who worked for Defendants at any time during the period
23 from April 15, 2021 to the present, and one or more of the alleged violations was committed
24 against them.

25 **Failure to Pay Minimum, Overtime, and Doubletime Wages, Including but Not Limited**
26 **to at Appropriate Rate**

27 121. At all times relevant herein, Defendants were required to compensate their non-
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1 exempt employees minimum wages for all hours worked and overtime/doubletime wages at the
2 appropriate/lawful rate (i.e., based off of accurately calculated regular rate of pay) for all hours
3 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
4 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

5 122. As a policy and practice, Defendants failed to compensate Plaintiffs and the
6 other aggrieved current and former employees for all hours worked and/or at appropriate rate
7 of pay, resulting in a failure to pay all minimum wages, overtime, and doubletime wages,
8 where applicable.

9 **Failure to Provide Meal Periods and Rest Breaks and/or Pay Meal Period and**
10 **Rest Break Premiums at Appropriate Regular Rate of Pay**

11 123. In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants
12 were required to authorize and permit their non-exempt employees to take a 10-minute rest
13 break for every four (4) hours worked or major fraction thereof and were further required to
14 provide their non-exempt employees with a 30-minute meal period for every five (5) hours
15 worked. If Defendants did not do so, they were required to provide non-exempt employees
16 with one hour of premium pay at their regular rate of pay for the missed meal period(s) and/or
17 rest break(s).

18 124. As a policy and practice, Defendants failed to provide Plaintiffs and the other
19 aggrieved current and former employees with legally mandated meal periods and rest breaks
20 and failed to pay proper compensation/premium pay at the applicable and lawful rate for this
21 failure.

22 **Failure to Timely Pay Wages During Employment**

23 125. At all times relevant herein, Defendants were required to pay their employees
24 within a specified time period during their employment pursuant to the mandate of Labor Code
25 § 204.

26 126. As a policy and practice, Defendants failed to pay Plaintiffs and the other
27 aggrieved current and former employees all wages due and owing them within the required
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1 time period.

2 **Failure to Timely Pay Wages Upon Termination**

3 127. At all times relevant herein, Defendants were required to pay their employees all
4 wages owed in a timely fashion at the end of employment pursuant to California Labor Code
5 §§ 201 to 204.

6 128. As a result of Defendants' Labor Code violations alleged above, Defendants
7 failed to pay Plaintiffs and the other aggrieved former employees their final wages pursuant to
8 Labor Code §§ 201 to 202 and accordingly owe waiting time penalties pursuant to Labor Code
9 § 203.

10 **Failure to Keep and Provide Complete and Accurate Wage Statements**

11 129. At all times relevant herein, Defendants were required to keep *accurate* records
12 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174
13 as well as issue/provide employees accurate itemized wage statements pursuant to Labor Code
14 § 226.

15 130. As a result of Defendants' various Labor Code violations, Defendants failed to
16 keep accurate records regarding Plaintiffs and the other aggrieved current and former
17 employees as well as issue accurate itemized wage statements to Plaintiff and the other
18 aggrieved current and former employees as required by Labor Code § 226. For example,
19 Defendants failed in their affirmative obligation(s) to keep accurate records regarding and
20 issue accurate itemized wage statements reflecting Plaintiffs and the other aggrieved current
21 and former employees' gross wages earned, total hours worked, amount of paid sick leave
22 available and/or taken and paid at the appropriate rate(s), amount of meal period and rest break
23 premiums due and owed and/or paid at the appropriate and/or legally-required rate, all
24 deductions, net wages earned, and all applicable hourly rates and the number of hours worked
25 at each hourly rate.

26 **Failure to Reimburse Business Expenses**

27 131. At all times relevant herein, Defendants were required to reimburse their
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employees for any and all necessary expenditures or losses incurred by the employees in direct consequences of the discharge or their duties pursuant to the mandate of Labor Code §§ 2800 and 2802.

132. As a policy and practice, Defendants failed to pay Plaintiffs and the other aggrieved current and former employees all business expenses incurred and owing them within the required time period.

Failure to Pay Paid Sick Leave and Provide Notice of Amount Available

133. At all times relevant herein, Defendants were required to provide certain non-exempt employees with paid sick leave pursuant to California and/or local/municipal law. Defendants were also required to pay out paid sick leave at a certain rate when used by employees. California Labor Code § 246(k)(1) allows an employer to calculate paid sick leave for non-exempt employees (for payment purposes) using two (2) methods. Per § 246(l), Defendants may pay sick leave either in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek or by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. Lab. Code § 246(l)(1)-(2).

134. As a policy and practice, Defendants failed to properly calculate and pay paid sick leave to Plaintiffs and other aggrieved current and former employees pursuant to the methods outlined in Labor Code section 246(k)(1). Defendants also failed to provide written notice of paid sick leave available to employees pursuant to Labor Code section 246(h).

Failure to Provide Day of Rest

135. At all times relevant herein, California (1) required Defendants to provide employees one (1) day's rest in seven (7), (2) barred Defendants from causing employees to work seven (7) consecutive days, and/or (3) required Defendants to provide employees an average of one (1) day's rest for every seven (7) days in each calendar month.

136. As a policy and practice, Defendants failed to take the actions and/or engaged in

actions contrary to California law as set forth above as to Plaintiff and other aggrieved current and former employees, resulting in violation of California Labor Code sections 551 and 552.

Other Wage and Hour Violations Discussed Herein

137. Defendants also engaged in the wage and hour violations set forth and/or asserted in this complaint that may not have been explicitly set forth or listed immediately above, such as violation of Labor Code sections 558, 1174, 1197.1, and 1199. As such, Plaintiff also asserts Defendants failed to take the actions and/or engaged in actions contrary to California law as to all other wage and hour laws discussed and/or set forth in this complaint but that are not specifically identified in this portion of the complaint/cause of action.

Penalties

138. Pursuant to California Labor Code § 2699, Plaintiff, individually, and on behalf of other current and former aggrieved employees, requests and are entitled to recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs, including but not limited to:

139. Penalties under California Labor Code § 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

140. Penalties under California Code of Regulations Title 8 § 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

141. Penalties under California Labor Code § 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

142. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

143. An amount sufficient to recover unpaid wages under Labor Code § 1197.1;

144. Any and all additional penalties as provided by the Labor Code and/or other statutes; and

145. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

TWELFTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, *et seq.*)

(Against IMAGING HEALTHCARE SPECIALISTS, LLC and DOES 1 through 100)

146. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 145, and each and every part thereof with the same force and effect as though fully set forth herein.

147. Defendants' conduct, as alleged herein, has been, and continues to be unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

148. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, *et seq.*

149. A violation of California Business & Professions Code section 17200, *et seq.* may be predicated on the violation of any state or federal law. In this instant case, Defendants' policy and practice of requiring Plaintiff and the other class members work overtime hours without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policy and practice of requiring Plaintiff and the other class members, to work through their meal and rest periods without paying them proper

1 compensation violate California Labor Code sections 226.7 and 512(a). Moreover, Defendants'
2 policy and practice of failing to timely pay wages to Plaintiff and the other class members
3 violate California Labor Code sections 201 and 202. Defendants also violated California Labor
4 Code sections 204, 226(a), 246, 551/552, 1194, 1197, 2800 and 2802 as well as all other wage
5 and hour laws, regulations, and/or requirements set forth, identified, and/or listed in this
6 complaint.

7 150. As a result of the herein described violations of California law, Defendants
8 unlawfully gained an unfair advantage over other businesses.

9 151. Plaintiff and the other class members have been personally injured by
10 Defendants' unlawful business acts and practices as alleged herein, including but not
11 necessarily limited to the loss of money and/or property.

12 152. Pursuant to California Business & Professions Code section 17200, *et seq.*,
13 Plaintiff and the other class members are entitled to restitution of the wages withheld and
14 retained by Defendants during a period that commences four years prior to the filing of this
15 Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section
16 1021.5 and other applicable laws; and an award of costs.

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff, individually, and on behalf of other members of the general public similarly
19 situated, and on behalf of aggrieved employees pursuant to PAGA requests a trial by jury.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general
22 public similarly situated, and on behalf of aggrieved employees pursuant to PAGA, prays for
23 relief and judgment against Defendants, jointly and severally, as follows:

24 **Class Certification**

- 25 1. That this action be certified as a class action;
26 2. That Plaintiff be appointed as representative of the Class;
27 3. That counsel for Plaintiff be appointed as Class Counsel; and
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1 4. That Defendants provide to Class Counsel immediately the names and most
2 current contact information (address, e-mail and telephone numbers) of all class members.

3 **As to the First Cause of Action**

4 5. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code sections, 510, 1198, and 1199 and applicable IWC Wage Orders by willfully
6 failing to pay all overtime and/or doubletime wages due to Plaintiff and the other class
7 members;

8 6. For general unpaid wages at overtime wage rates and such general and special
9 damages as may be appropriate;

10 7. For pre-judgment interest on any unpaid overtime compensation commencing
11 from the date such amounts were due;

12 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Labor Code section 1194; and

14 9. For such other and further relief as the court may deem just and proper.

15 **As to the Second Cause of Action**

16 10. That the Court declare, adjudge and decree that Defendants violated California
17 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
18 provide all meal periods (including second meal periods) to Plaintiff and the other class
19 members;

20 11. That the Court make an award to Plaintiff and the other class members of one
21 (1) hour of pay at each employee's regular rate of compensation for each workday that a meal
22 period was not provided;

23 12. For all actual, consequential, and incidental losses and damages, according to
24 proof;

25 13. For premium wages pursuant to California Labor Code section 226.7(b);

26 14. For pre-judgment interest on any unpaid wages from the date such amounts
27 were due;

1 15. For reasonable attorneys' fees and costs of suit incurred herein; and

2 16. For such other and further relief as the court may deem just and proper.

3 **As to the Third Cause of Action**

4 17. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
6 rest periods to Plaintiff and the other class members;

7 18. That the Court make an award to Plaintiff and the other class members of one
8 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
9 period was not provided;

10 19. For all actual, consequential, and incidental losses and damages, according to
11 proof;

12 20. For premium wages pursuant to California Labor Code section 226.7(b);

13 21. For pre-judgment interest on any unpaid wages from the date such amounts
14 were due; and

15 22. For such other and further relief as the court may deem just and proper.

16 **As to the Fourth Cause of Action**

17 23. That the Court declare, adjudge and decree that Defendants violated California
18 Labor Code sections 1194 and 1197 by willfully failing to pay minimum wages to Plaintiff and
19 the other class members;

20 24. For general unpaid wages and such general and special damages as may be
21 appropriate;

22 25. For pre-judgment interest on any unpaid compensation from the date such
23 amounts were due;

24 26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
25 California Labor Code section 1194(a);

26 27. For liquidated damages pursuant to California Labor Code section 1194.2; and

27 28. For such other and further relief as the court may deem just and proper.

1 **As to the Fifth Cause of Action**

2 29. That the Court declare, adjudge and decree that Defendants violated California
3 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
4 time of termination and/or cessation of the employment of Plaintiff and other class members no
5 longer employed by Defendants and/or within seventy-two (72) hours of their leaving
6 Defendants' employ, if and as applicable;

7 30. For all actual, consequential, and incidental losses and damages, according to
8 proof;

9 31. For statutory wage penalties pursuant to California Labor Code section 203 for
10 the other class members who have left Defendants' employ;

11 32. For pre-judgment interest on any unpaid compensation from the date such
12 amounts were due; and

13 33. For such other and further relief as the court may deem just and proper.

14 **As to the Sixth Cause of Action**

15 34. That the Court declare, adjudge and decree that Defendants violated the record
16 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
17 as to Plaintiff and the other class members, and willfully failed to provide accurate itemized
18 wage statements thereto;

19 35. For actual, consequential and incidental losses and damages, according to proof;

20 36. For statutory penalties pursuant to California Labor Code section 226(e);

21 37. For injunctive relief to ensure compliance with this section, pursuant to
22 California Labor Code section 226(g); and

23 38. For such other and further relief as the court may deem just and proper.

24 **As to the Seventh Cause of Action**

25 39. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other
27 class members for all necessary business-related expenses as required by California Labor
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Code sections 2800 and 2802;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For the imposition of civil penalties and/or statutory penalties;

42. For punitive damages and/or exemplary damages according to proof at trial;

43. For reasonable attorneys' fees and costs of suit incurred herein; and

44. For such other and further relief as the court may deem just and proper.

As to the Eighth Cause of Action

45. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 246 by failing to pay paid sick leave according to California and/or local/municipal law, failing to pay paid sick leave at the appropriate rate as required by law, and/or failing to provide sufficient notice of the amount of paid sick leave available and/or rate(s) at which it was paid as required by law. That the Court also declare, adjudge and decree Defendants also violated supplemental paid sick leave laws, rules, and/or regulations in effect during the relevant period (in relation to COVID-19 or otherwise) in the same or similar manner;

46. For paid sick days and/or supplemental paid sick days being unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three (3), or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty, pursuant to California Labor Code section 248.5(b);

47. For all penalties and/or actual, consequential, and incidental losses and damages, according to proof;

48. For pre-judgment interest on any unpaid paid sick leave pay from the date such amounts were due;

49. For reasonable attorneys' fees and costs of suit incurred herein; and

50. For such other and further relief as the court may deem just and proper.

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1 **As to the Ninth Cause of Action**

2 51. That the Court declare, adjudge and decree that Defendants violated California
3 Labor Code section 551/552 by causing employees to work seven (7) consecutive days without
4 providing one (1) day's rest and/or failing to provide an average of one (1) day's rest for every
5 seven (7) days for each calendar month.

6 52. For working seven (7) consecutive days without one (1) day's rest, fifty dollars
7 (\$50) for any initial violation and one hundred dollars (\$100) for each subsequent violation for
8 each underpaid employee for each pay period the employee was underpaid in addition to an
9 amount sufficient to recover underpaid wages, pursuant to California Labor Code section
10 558(a);

11 53. For all penalties and/or actual, consequential, and incidental losses and
12 damages, according to proof;

13 54. For pre-judgment interest on any unpaid monies from the date such amounts
14 were due;

15 55. For reasonable attorneys' fees and costs of suit incurred herein; and

16 56. For such other and further relief as the court may deem just and proper.

17 **As to the Tenth Cause of Action**

18 57. That the Court declare, adjudge and decree that Defendants violated California
19 Labor Code section 204 by failing to timely pay all wages due to employees during their
20 employment, which is a violation of law.

21 58. For all statutory (or otherwise) penalties and/or actual, consequential, and
22 incidental losses, and damages, according to proof;

23 59. For pre-judgment interest on any unpaid monies from the date such amounts
24 were due;

25 60. For reasonable attorneys' fees and costs of suit incurred herein; and

26 61. For such other and further relief as the court may deem just and proper.

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63. For all civil penalties pursuant to statute as set forth in Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 246, 510, 512, 551/552, 558, 1174, 1194, 1197, 1197.1, 1198, 2800, and 2802, as well as any other wage and hour laws, rules, and/or regulations set forth, pursued, identified, and/or contained in this amended complaint.

As to the Twelfth Cause of Action

66. For restitution of unpaid wages to Plaintiff and the other class members and all pre-judgment interest from the day such amounts were due and payable;

67. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by

1 Defendants as a result of violation of California Business and Professions Code sections
2 17200, *et seq.*;

3 68. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
4 California Code of Civil Procedure section 1021.5;

5 69. For injunctive relief to ensure compliance with this section, pursuant to
6 California Business and Professions Code sections 17200, *et seq.*; and

7 70. For such other and further relief as the court may deem just and proper.

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9 Dated: August 2, 2022

JUSTICE LAW CORPORATION

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11 By:  _____

Douglas Han
Shunt Tatavos-Gharajeh
Chancellor Nobles
Attorneys for Plaintiff

EXHIBIT 1

April 15, 2022

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: Imaging Healthcare Specialists, LLC

Dear Representative:

We have been retained to represent Tyler Coombs against Imaging Healthcare Specialists, LLC (hereinafter referred to as "IHS").

Mr. Coombs is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Coombs may seek penalties for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Imaging Healthcare Specialists, LLC is a California limited liability company located at 150 West Washington Street, San Diego, California 92103.

IHS employed Mr. Coombs as an hourly-paid non-exempt Help Desk Administrator during the relevant time period in the State of California. IHS directly controlled the wages, hours and/or working conditions of Mr. Coombs and other aggrieved employees' employment, including direction, retention, scheduling, supervision, and termination.

The "aggrieved employees" that Mr. Coombs may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through a staffing agency) of IHS within the State of California.

IHS failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to pay sick leave at the appropriate rate, failed to provide employees with a day of rest after working six consecutive days, failed to issue compliant wage statements, and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Coombs has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at IHS, regardless of their classification, job title, location, or whether they were hired directly or through a staffing agency.

IHS has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double-time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. Coombs and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. IHS failed to compensate Mr. Coombs and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, finishing assisting patients, taking phone calls, cleaning up their work areas, donning and doffing uniforms, pre-shift preparatory work (such as checking and responding to emails, assigning duties for the day, and being debriefed on their daily tasks), time spent on-call, and during meal breaks. IHS also failed to include non-discretionary bonuses and incentives in Mr. Coombs and other aggrieved employees' regular rate of pay for purposes of overtime compensation. Therefore, Mr. Coombs and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(l) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. During the relevant time period, IHS failed to pay Mr. Coombs and other aggrieved employees with paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, IHS routinely required Mr. Coombs and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with IHS's policies and expectations. IHS failed to provide coverage to Mr. Coombs and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Additionally, IHS forced Mr. Coombs and other aggrieved employees to work through meal and rest breaks in order to meet the demands of a high volume of patients, exacerbated by chronic understaffing and IHS' high expectations, such that aggrieved employees frequently had no one available to cover their meal or rest breaks and forcing them to skip, cut short, and/or take their breaks late. Lastly, IHS also failed to authorize and permit Mr. Coombs and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, IHS failed to compensate Mr. Coombs and other aggrieved employees all the premium wages they were owed, including failing to pay premium wages at Mr. Coombs and other aggrieved employees' regular rate of pay.

California Labor Code section 551 states "[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven." Section 552 further states "[n]o employer of labor shall cause his employees to work more than six days in seven." IHS required aggrieved employees to work seven days in a row or more without one day's rest.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, IHS failed to pay Mr. Coombs and other aggrieved employees all wages, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, IHS failed to pay Mr. Coombs and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, IHS did not provide Mr. Coombs and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from IHS were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Coombs and other aggrieved employees, (2) total hours worked by Mr. Coombs and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Coombs and other aggrieved employees (4) all deductions for Mr. Coombs and other aggrieved employees, (5) net wages earned by Mr. Coombs and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Coombs and other aggrieved employees are paid, (7) the name of the aggrieved 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 Mr. Coombs and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) 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. (2) 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. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Coombs and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, IHS failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid to Mr. Coombs and other aggrieved employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, IHS did not provide Mr. Coombs and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift, finishing assisting patients, taking phone calls, cleaning up their work areas, donning and doffing uniforms, pre-shift preparatory work (such as checking and responding to emails, assigning duties for the day, and being debriefed on their daily tasks), time spent on-call, and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, Mr. Coombs and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by IHS, including for purchasing scrubs required as part of their uniform, office supplies such as binders, pens, tape and sticky notes necessary to complete clerical tasks, and using their personal cellular phones to communicate with supervisors and coworkers.

We believe that Mr. Coombs and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

LWDA
April 15, 2022
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The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. Coombs will seek these penalties on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of IHS within one year of the date of this letter, as allowed by law.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a stylized flourish at the end.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

Bradley S Ellis
c/o Imaging Healthcare Specialists, LLC
10140 Campus Point Drive
CPA 415
San Diego, California 92121
Agent for Service of Process for Imaging Healthcare Specialists, LLC

CC: (Email Only)

Justin M. Michitsch
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Lindsey David
ldavid@grsm.com
Counsel for Imaging Healthcare Specialists, LLC

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