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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

REKHA SEHGAL,

Plaintiff,

vs.

E.V.A. HEALTH LLC; CHADI ABDUL
NOUR; and DOES 1 to 25, inclusive,

Defendants.

CASE NO.: **22STCV30252**

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 6) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 7) FAILURE TO GIVE REST BREAKS;**
- 8) FAILURE TO GIVE MEAL BREAKS**
- 9) PRIVATE ATTORNEYS GENERAL ACT ("PAGA");**
- 10) FAILURE TO REIMBURSE FOR BUSINESS EXPENSES;**
- 11) FAILURE TO PROVIDE PERSONNEL RECORDS;**
- 12) FAILURE TO PROVIDE PAY RECORDS;**
- 13) VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200.**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, REKHA SEHGAL (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in t Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants E.V.A. HEALTH LLC; CHADI ABDUL NOUR; and DOES 1 to 25, inclusive, do business in the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action.

Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant E.V.A. HEALTH LLC is and was a California limited liability company, doing business in Los Angeles County, California, and which employed Plaintiff.

4. Plaintiff is informed and believes that Defendant CHADI ABDUL NOUR is a resident of the County of Los Angeles and is an individual that was acting on behalf of and was the owner/managing agent of E.V.A. HEALTH LLC. Plaintiff is including Defendant CHADI ABDUL NOUR in this Complaint pursuant to California Labor Code section 558.1 as he was and is involved in the day-to-day operations of the business and personally controlled the wages, hours, and/or working conditions of Plaintiff and other similarly situated aggrieved employees, including hourly, non-exempt workers. E.V.A. HEALTH LLC; CHADI ABDUL NOUR; and DOES 1 to 25 are collectively referred to as “Defendant(s)” or “EVA HEALTH”.

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or

1 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
2 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
3 defendants, numbers 1 to 25, reside in the State of California and are in some manner
4 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
5 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
6 and capacities of these fictitiously named defendants.

7
8 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
9 that information and belief, alleges that at all times herein mentioned, each of the remaining
10 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
11 under the authority of their agency, employment, or representative capacity, with the consent
12 of his/her codefendants.

13 14 **GENERAL ALLEGATIONS**

15 7. Plaintiff started working for EVA HEALTH during the latter part of 2021 with her
16 employment ending on or around January 2022. M. Sehgal was compensated at \$18 per hour
17 while working as a delivery driver for EVA HEALTH dba CITRUS VALLEY PHARMACY.
18 Plaintiff estimates that EVA HEALTH had at least 20 delivery drivers at the time of her
19 employment. It is Plaintiff's position that Plaintiff has been misclassified as an independent
20 contractor throughout her entire employment tenure at EVA HEALTH.

21 8. EVA HEALTH has committed numerous labor code violations against Plaintiff and
22 other similarly situated aggrieved employees.

23 9. EVA HEALTH violated Labor Code section 226.8. Pursuant to Labor Code section
24 226.8(a)(1), it is unlawful for any person or employer to willfully misclassify an individual as
25 an independent contractor. "Willful misclassification means avoiding employee status for an
26 individual by voluntarily and knowingly misclassifying that individual as an independent
27 contractor." Cal. Lab. Code Section 226.8(i)(4). If a person or employer has willfully
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1 misclassified an individual as an independent contractor, the person or employer shall be subject
2 to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen
3 thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted
4 by law. Cal. Lab. Code Section 226.8(b). If the person or employer has engaged in or is engaging
5 in a pattern or practice of willfully misclassifying individuals as independent contractors, the
6 person or employer shall be subject to a civil penalty of not less than ten thousand dollars
7 (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in
8 addition to any other penalties or fines permitted by law. Cal. Lab. Code Section 226.8(c).

9 10. In a very important decision, Dynamex Operations v. Superior Court (2018) 4 Cal. 5th
10 903, the Supreme Court developed the “ABC TEST” to determine whether an independent
11 contractor is an employee. Under the ABC TEST, a worker will be deemed to have been
12 “suffered or permitted to work,” and thus, an employee for wage order purposes, unless the
13 putative employer proves:

14 (A) that the worker is free from the control and direction of the hiring entity in connection with
15 the performance of the work, both under the contract for the performance of the work and in fact;

16 (B) that the worker performs work that is outside the usual course of the hiring entity’s business;
17 and

18 (C) that the worker is customarily engaged in an independently established trade, occupation, or
19 business of the same nature as the work performed.

20 Note that each of these requirements need to be met in order for the presumption that a worker
21 is an employee to be rebutted, and for a court to recognize that a worker has been properly
22 classified as an independent contractor.

23 11. Here, it is unequivocally clear that EVA HEALTH would not be able to get past the
24 second part of the test since Plaintiff and others, who were employed as drivers, were
25 unequivocally doing work related to EVA HEALTH’s core business of delivering medications
26 to patients. As such, EVA HEALTH willfully misclassified Plaintiff and other aggrieved
27 employees as independent contractors. Moreover, there was plenty of control by EVA HEALTH
28 as it related to Plaintiff’s and other aggrieved employees’ schedules and working conditions in

1 terms of scheduling and work duties.

2 12. EVA HEALTH has committed the below labor code violations against Plaintiff and
3 other hourly, non-exempt employees, including those who were misclassified as 1099
4 employees. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),
5 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas
6 Security Services USA, Inc., an onsite security provider. After about a year of employment,
7 Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff
8 specifically alleged violations to the Labor Code requiring immediate payment of wages upon
9 termination of employment and weekly payment of wages to temporary employees. The trial
10 court determined Huff was not a temporary employee, and therefore, lacked standing to bring
11 the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court
12 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
13 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
14 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the
15 PAGA representative to sue for violations that the representative has personally suffered. The
16 PAGA statute states that an “aggrieved employee” is able to file suit on behalf of themselves
17 and others. The statute also states that an “aggrieved employee” is “any person who was
18 employed by the alleged violator and against whom one or more of the alleged violations was
19 committed.” Because at least one of the violations that Huff had alleged had affected him
20 personally, the Court of Appeal denied Securitas’ motion.

21 13. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
22 other employees, it allows for suits broader than the specific violations the named employee
23 experienced. Therefore, even if the employee did not personally experience the Labor Code
24 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff’s
25 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
26 hourly employees, including hourly non-exempt employees.

27 14. EVA HEALTH did not provide Plaintiff and other similarly situated aggrieved
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1 employees with the minimum wages to which they were entitled for all work performed and did
2 not compensate her and others for all hours worked pursuant to California Labor Code sections
3 1194, 1197 and 1197.1. This is so because Plaintiff and others consistently worked “off the
4 clock” and were not compensated for this time, including several occasions wherein Plaintiff and
5 others were not clocked in to the “OnTime” mobile application and the owner/management were
6 unequivocally aware of the latter, but failed to compensate Plaintiff and others for their hours
7 worked. Furthermore, Plaintiff would work on Saturdays without being paid for her time worked.
8 Moreover, the company had a policy of rounding down hours to the detriment of employees who
9 would not be paid for all hours worked. Consequently, Plaintiff was not being paid for all hours
10 worked and was not being paid the minimum wage for all hours worked.

11 15. Due to the above , including the “off the clock” work, EVA HEALTH also violated Labor
12 Code §510 because it failed to pay Plaintiff and other similarly situated aggrieved employees
13 overtime, even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours
14 per week throughout their employment. This is so because EVA HEALTH did not factor in the
15 “off the clock” hours, including Saturday hours, into Plaintiff’s timesheets for purposes of
16 payment. Moreover, EVA HEALTH misclassified Plaintiff and others as independent
17 contractors when they should have been classified as hourly, non-exempt employees who would
18 be entitled to overtime compensation. In fact, one look at Plaintiff’s clocked hours on the
19 “OnTime” application shows numerous hours of overtime, including hours of 10 hours, 3
20 minutes; 12 hours, 11 minutes, 10 hours, 45 minutes, etc. Despite the latter, Plaintiff and others
21 were not paid any overtime whatsoever in contravention of California law.

22 16. EVA HEALTH violated Labor Code §§ 512 and 226.7 along with the applicable
23 Industrial Welfare Commission Wage Order (no. 4 or 7) because it failed to provide Plaintiff and
24 other similarly situated aggrieved employees the requisite 30-minute, uninterrupted meal periods
25 for every five (5) hours of work throughout their employment, and Plaintiff did not validly waive
26 said meal periods. EVA HEALTH did not completely relieve Plaintiffs of all duties during said
27 meal periods. EVA HEALTH did not pay to Plaintiff one additional hour of pay at Plaintiff’s
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1 regular rate of compensation for each workday that one or more statutory meal periods was not
2 provided. Due to the misclassification and due to company policy, it was not part of the company
3 culture for employees such as Plaintiff and others to take any breaks at all, much less timely,
4 uninterrupted meal breaks before the 5th hour worked. It was the normal practice and custom of
5 EVA HEALTH not to authorize, permit, and enforce statutory meal periods, especially due to
6 the fact that Plaintiff and others were misclassified as independent contractors, who are not
7 necessarily entitled to meal breaks as a matter of law and who would be on the road delivering
8 medication at all times. Moreover, even if Plaintiff was able to get a lunch, she would have to
9 eat while driving and working because there was no other way for her to receive a meal period.
10 As such, the environment and culture at EVA HEALTH, along with the misclassification of
11 employees as independent contractors was not conducive to receiving statutory meal breaks
12 under California law.

13 17. Similarly, EVA HEALTH violated Labor Code § 226.7 along with the applicable
14 Industrial Welfare Commission Wage Order (no. 4 or 7) because it failed to provide Plaintiff and
15 other similarly situated aggrieved employees 10-minute rest periods for every four hours of
16 work, or majority portion thereof, throughout their employment. EVA HEALTH did not
17 completely relieve Plaintiff of all duty during said rest periods. EVA HEALTH did not pay to
18 Plaintiff one additional hour of pay at Plaintiff's regular rate of compensation for each workday
19 that one or more statutory rest periods was not provided. Like the situation involving meal breaks
20 and due to issues surrounding misclassification of workers as independent contractors, it was not
21 company policy and not part of the company culture for employees such as Plaintiff and others
22 to take rest breaks. As such, the culture at EVA HEALTH did not lend itself to the employees
23 receiving statutory breaks wherein they were relieved of all work duties. It was the normal
24 practice and custom of EVA HEALTH not to authorize, permit, and enforce statutory rest
25 periods. As such, the environment and culture at EVA HEALTH was not conducive to receiving
26 statutory rest breaks under California law, especially due to the workload and driving/delivery
27 obligations.
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1 18. Furthermore, during the relevant time period, and due to the violations as alleged above,
2 EVA HEALTH failed to pay Plaintiff and other similarly situated aggrieved employees all wages
3 due to them within any time period specified by California Labor Code section 204. EVA
4 HEALTH was also in violation of California Labor Code section 226(a) by failing to include
5 pertinent information on the wage statements, including but not limited to, all hours worked, all
6 hourly rates in effect, overtime hours worked, gross wages earned, premium pay for missed meal
7 and rest breaks, all deductions, net wages earned, gross wages earned, all deductions, the correct
8 name and address of the employing entity, the start and end of the pay period, and reimbursement
9 for business expenses, among others. In fact, due to Plaintiff and others being misclassified as
10 independent contractors, EVA HEALTH did not provide Plaintiff and other aggrieved employee
11 with any paystubs at all. As such, EVA HEALTH did not provide Plaintiff and other similarly
12 situated aggrieved employees with complete, accurate itemized wage statements during the
13 PAGA period.

14 19. EVA HEALTH violated Labor Code § 203 because it willfully failed to pay Plaintiff and
15 other similarly situated aggrieved employees their earned and due wages upon separation of
16 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
17 These earned but unpaid wages include compensation for all hours worked, overtime
18 compensation, premium pay for missed meal and rest breaks, and business expense
19 reimbursement, among others.

20 20. During the relevant time period, EVA HEALTH also failed to keep accurate and
21 complete payroll records showing the hours worked by Plaintiff and other similarly situated
22 aggrieved employees (including when meal breaks were taken) as well as the correct wages paid
23 to Plaintiff and other aggrieved employees pursuant to California Labor Code sections 1174(d).

24 21. Moreover, Plaintiff and other aggrieved employees incurred necessary, business-related
25 expenses and costs that were not reimbursed by EVA HEALTH. These costs include, but are not
26 limited to, use of personal cell phones for work purposes, including using the application on their
27 phone to clock and out (“OnTime” application). Moreover, Plaintiff utilized her own personal
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1 vehicle to make deliveries for EVA HEALTH, and although promised reimbursement 60 cents
2 per mile, she and others were not reimbursed for their mileage in contravention of California
3 law. Accordingly, EVA HEALTH was in violation of California Labor Code sections 2800 and
4 2802.

5 22. Moreover, EVA HEALTH failed to provide sick pay pursuant to Labor Code section
6 246 and also failed to provide Worker's Compensation coverage for Plaintiff and other aggrieved
7 employees in violation of Labor Code Section 3700.5.

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

10 **(California Industrial Welfare Commission Order 4-2001/9-2001, California Code of**
11 **Regulations Title 8 Section 11040/11090, and California Labor Code Section 1198)**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 23. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 22, inclusive, of this Complaint as though fully set forth herein.

15 24. At all times relevant herein, Defendants were required to compensate its employees for
16 all hours worked upon reporting for work at the appointed time stated by the employer
17 pursuant to Industrial Welfare Commission Order 4-2001/9-2001, California Code of
18 Regulations, Title 8, Section 11040/11090.

19 25. For the three (3) years preceding filing of this action, Defendants failed to compensate
20 Plaintiff for all hours worked.

21 26. Under the aforementioned wage order and regulations, Plaintiff is to recover
22 compensation for all hours worked but not paid by Defendants for the three (3) years
23 preceding the filing of this Complaint.

24 27. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
25 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
26 this Court.

1 28. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
2 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
3 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
4 reasonable attorney's fees and costs of suit.

5 29. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
6 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
7 amount known to Plaintiff once she has obtained all of her payroll records from
8 Defendants.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PAY MINIMUM WAGES**

11 **(California Labor Code Sections 1194, 1194.2, 1197)**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 30. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 29, inclusive, of this Complaint as though fully set forth herein.

15 31. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
16 to suffer or permit a California employee to work without paying wages at the minimum wage
17 rate for all hours worked as required by the applicable Industrial Welfare Commission
18 (hereinafter "IWC") Wage Order No. 4-2001/9-2001, codified at California Code of
19 Regulations, Title 8, Section 11040/11090, subdivision 4.

20 32. Pursuant to IWC Wage Order no. 4-2001/9-2001, subdivision 2(K)/(H), at all relevant
21 times, "hours worked" included "the time during which an employee is subject to the control of
22 an employer, and includes all the time the employee is suffered or permitted to work, whether
23 or not required to do so..."

24 33. During her employment, Plaintiff was regularly required as a matter of uniform
25 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
26 was paid less than the minimum wage rate by Defendants for hours worked in violation of
27 California Labor Code Section 1197 and the applicable California Industrial Wage
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Commission wage order(s).

34. Plaintiff was, at all relevant times, under the control of Defendants and suffered or permitted to work by Defendants. Defendants' acts or omissions in failing to adequately compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants to believe that their acts or omissions were not contrary to California law.

35. For all hours worked by Plaintiff for which she was paid less than the minimum wage rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194, Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

36. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

THIRD CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(California Industrial Welfare Commission Order 4-2001/9-2001, California Code of Regulations Title 8 Section 11040/11090; California Labor Code Section 510)

(Plaintiff against all named defendants and all DOE defendants)

37. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 36, inclusive, of this Complaint as though fully set forth herein.

38. Pursuant to Industrial Welfare Commission Order No. 4-2001/9-2001, Cal. Code of Regs., Title 8, Section 11040/10090, for the period of Plaintiff's employment, Defendants were required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

1 39. Plaintiff was a non-exempt employee entitled to the protections of the California
2 Industrial Welfare Commission Order No. 4-2001/9-2001, California Code of Regulations,
3 Title 8, Section 11040/11090.

4 40. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a
5 single workday or forty (40) hours in a single workweek on numerous occasions.

6 41. Plaintiff was entitled to the above overtime premiums.

7 42. Defendants did not pay Plaintiff premium wages of at least one and one-half times
8 Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay
9 Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past
10 twelve (12) in a day.

11 43. Defendants did not pay Plaintiff premium wages of at least one and one-half times
12 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

13 44. Plaintiff worked at least one pay period in which she was not properly paid overtime
14 within the three (3) years prior to the initiation of this lawsuit.

15 45. Defendants know or should know the actual dates of overtime worked, the amount of
16 overtime worked, and the amount of unpaid overtime due.

17 46. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
18 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
19 Court.

20 47. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
21 Regulations, Title 8, Sections 11040/11090, Plaintiff is entitled to recover damages for the
22 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
23 reasonable attorney's fees and costs of suit.

24 48. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
25 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
26 trial.

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1 **FOURTH CAUSE OF ACTION**

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

3 **(California Labor Code Section 226)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 49. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 48, inclusive, of this Complaint as though fully set forth herein.
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8 50. Pursuant to California Labor Code Section 226, every employer must furnish each
9 employee an itemized statement of wages and deductions at the time of payment of wages.

10 51. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
11 accurately reflected all information required by Labor Code Section 226, including but not
12 limited to, gross wages earned, including overtime, minimum wages, and premium pay for
13 missed meal and rest breaks, net wages earned, total hours worked by the employee, and all
14 deductions. Therefore, Defendants failed to maintain and provide accurate itemized wage
15 statements to Plaintiff in accordance with California Labor Code Section 226(a).

16 52. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
17 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
18 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
19 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
20 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
21 the 3-year period immediately preceding the date this lawsuit was filed.

22 53. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
23 sustained damages, including loss of earnings, in an amount to be established at trial. As a
24 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
25 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
26 and attorney's fees pursuant to statute.

27 54. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28 along with any allowable interest, penalties, attorney's fees, and costs according to proof at

1 trial.

2 **FIFTH CAUSE OF ACTION**

3 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

4 **(California Labor Code Sections 201, 203)**

5 **(Plaintiff against all named defendants and all DOE defendants)**

6 55. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 54, inclusive, of this Complaint as though fully set forth herein.

8 56. Pursuant to California Labor Code Section 201(a), an employer who discharges an
9 employee must immediately pay for all compensation due and owing.

10 57. Pursuant to California Labor Code Section 202, when an employee resigns, the
11 employer must pay all compensation due and owing within 72 hours of resignation, or on the
12 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

13 58. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
14 without abatement or reduction, any wages of an employee whose employment ends, the wages
15 of the employee shall continue as a penalty from the due date at the same rate until paid or until
16 an action is commenced; however, the wages shall not continue for more than 30 days for
17 failure to pay an employee owed wages.

18 59. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
19 continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

20 60. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
21 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
22 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
23 preceding the filing of this lawsuit.

24 61. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
25 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
26 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

27 62. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
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1 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
2 trial.

3 **SIXTH CAUSE OF ACTION**

4 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

5 (California Labor Code Section 204)

6 (Plaintiff against all named defendants and all DOE defendants)

7 63. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 62, inclusive, of this Complaint as though fully set forth herein.

9 64. California Labor Code Section 204 establishes the fundamental right of all employees
10 in the State of California to be paid wages in a timely fashion for their work.

11 65. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
12 full amount of all owed wages when due as required by California Labor Code Section 204.

13 66. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
14 informed, believes, and thereon alleges, that all times relevant during the liability period,
15 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
16 including overtime hours, the minimum wage, and premium pay for missed meal and rest
17 breaks.

18 67. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
19 amount, subject to proof, to the extent she was not paid all wages each pay period. The precise
20 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
21 from Defendants' records or indirectly based on information from Defendants' records.

22 68. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
23 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
24 trial.

25 **SEVENTH CAUSE OF ACTION**

26 **FAILURE TO GIVE REST BREAKS**

(Plaintiff against all named defendants and all DOE defendants)

69. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 68, inclusive, of this Complaint as though fully set forth herein.

70. Plaintiff brings this cause of action under the following laws, for the following reasons:

- a. Title 8 of the California Code of Regulations Sections 11040/11090(12)(A), which provides that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
- b. Title 8 of the California Code of Regulations Sections 11040/11090(12)(B), which provides that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at employee's regular rate of compensation for each workday that the rest period is not provided;
- c. Title 8 of the California Code of Regulations sections 11040/11090(20)(A), which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at employee's regular rate of compensation for each work day that the rest

period is not provided.

71. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute rest break after every four (4) hours of work or major fraction thereof, as required by California law.

72. Under this cause of action, Plaintiff prays for wages due to her under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

73. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees as well as interest under Labor Code section 218.6.

74. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

EIGHTH CAUSE OF ACTION

FAILURE TO GIVE MEAL BREAKS

(Plaintiff against all named defendants and all DOE defendants)

75. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 74, inclusive, of this Complaint as though fully set forth herein.

76. Plaintiff brings this cause of action under the following laws, for the following reasons:

- a. California Labor Code section 512(a), which requires that employees be given a 30-minute uninterrupted meal break after five (5) hours of work, and a second uninterrupted meal break after ten (10) hours of work;
- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an

1 employee a meal period in accordance with an applicable order of the Industrial
2 Welfare Commission, the employer shall pay the employee one (1) additional hour
3 of pay at the employee's regular rate of compensation for each workday that the
4 meal period is not provided;

5 c. California Industrial Welfare Commission Order No. 4/9 section 11(B), as codified
6 under Title 8 of the California Code of Regulations Section 11040/11090, which
7 states that if an employer fails to provide an employee a meal period in accordance
8 with the applicable provisions of the Wage Order, the employer shall pay the
9 employee one (1) hour of pay at the employee's regular rate of compensation for
10 each workday that the meal period is not provided;

11 d. California Industrial Welfare Commission Wage Order No. 4/9 Section 7(A)(3), as
12 codified under Title 8 of the California Code of Regulations Section 11040/11090,
13 which requires an employer to maintain records documenting its employees' meal
14 periods;

15 e. California Industrial Welfare Commission wage order No. 4/9 Section 20(A), as
16 codified under California Code of Regulations Section 11040/11090, which
17 penalizes the employer \$50.00 for each initial violation, per employee, of any
18 provision of the Wage Order, and \$100.00 for each additional violation thereafter
19 per employee; and

20 f. California Labor Code section 1171 and 1173, which have given the California
21 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4
22 and 9) as enforceable law.

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26 77. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
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1 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
2 to take a second relieved meal break after ten (10) hours of work, as required by California
3 law. California Labor Code section 512(a) and California Industrial Welfare Commission
4 Order No. 4/9, as codified under California Code of Regulations Sections 11040/11090 et. seq.
5 requires that employees receive uninterrupted meal periods every five (5) hours of consecutive
6 work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of
7 all work duty. California Labor Code section 226.7 provides that employers may not require
8 their employees to work through their meal periods. California Labor Code section 226.7 and
9 California Code of Regulations section 11040/11090 requires that if the employer fails to
10 provide the employee with an uninterrupted meal period, the employer must pay the employee
11 one (1) hour of pay for each work day that the meal period is not given.
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13 78. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
14 regulations, and wage orders alleged in this cause of action along with any allowable interest,
15 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
16 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
17

18 79. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
19 fees as well as interest under Labor Code section 218.6.
20

21 80. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
22 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
23 trial.
24

25 **NINTH CAUSE OF ACTION**

26 **PRIVATE ATTORNEYS GENERAL ACT**

27 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
28 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 226.8, 233, 246, 510, 512, 558, 1174,**
1174.5, 1194, 1197, 1198, 2802, 3700.5, and IWC Wage Order no. 4/9)

(Against all Defendants and all DOE Defendants)

81. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 80, inclusive, of this Complaint as though fully set forth herein.

2 82. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
3 Defendants of the specific violations of the California Labor Code that Defendants
4 and DOE defendants have violated and continue to violate.

5 83. Pursuant to California Labor code section 2699.3, no response was received from the
6 LWDA within 65 days of the postmark date of the above-alleged letter.

7 84. Plaintiff therefore has exhausted all administrative remedies required of her under
8 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
9 cause of action and pursue penalties in a representative action for Defendants' violations of the
10 Labor Code.

11 85. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that
12 provides for a civil penalty to be assessed and collected by the LWDA or any of its
13 departments, divisions, commissions, boards, agencies, or employees for violation of the code
14 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
15 on behalf of himself or herself and other current or former employees pursuant to the
16 procedures specified in California Labor Code section 2699.3.

17 86. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
18 violator and had one or more of the alleged violations committed against her, and therefore is
19 properly suited to represent the interests of other current and former hourly, non-exempt
20 employees who worked for EVA HEALTH in the State of California during the relevant
21 PAGA period.

22 87. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
23 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
24 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

25 88. Plaintiff therefore has exhausted all administrative remedies required of her under
26 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
27 cause of action and pursue penalties in a representative action for Defendants' violations of the
28

1 Labor Code.

2 89. California Labor Code section 2699 et seq. imposes penalties upon culpable
3 Defendants for violating the Labor Code.

4 90. California Labor Code section 558 establishes a civil penalty as follows: Any
5 employer or other person action on behalf of an employer who violates, or causes to be
6 violated, a section of this chapter or any provision regulating hours and days of work in any
7 order of the Industrial Welfare Commission (including the "Hours and Days of Work" section
8 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
9 dollars (\$50) for each underpaid employee for each pay period for which the employee was
10 underpaid... (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
11 employee for each pay period for which the employee was underpaid...

12 91. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
13 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
14 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
15 employees in this specific cause of action under the Private Attorneys General Act.

16 92. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
17 the following:

18 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
19 226.3, 226.7, 226.8, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198,
20 2802, 3700.5 via 2698 and 2699 and any other Labor Codes and Industrial Welfare
21 Commission Wage Order (Wage Order No. 4/9 and others) violated based on the facts
22 alleged in this Complaint.

23 93. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
24 costs, and civil penalties, on behalf of Plaintiff and other current and former aggrieved
25 employees as alleged herein in an amount to be shown according to proof at trial and within the
26 jurisdictional limits of this Court.

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TENTH CAUSE OF ACTION

FAILURE TO REIMBURSE FOR BUSINESS EXPENSES

(Plaintiff against all Defendants and DOE Defendants, and each of them)

94. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 93, inclusive, of this Complaint as thought fully set forth herein.

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

96. Beginning at least 3 years prior to the filing of this complaint, in order to discharge their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course of completing her job duties, which were not reimbursed by Defendant. These expenses include, but are not limited to, use of personal cell phones for work purposes, including using the application on their phone to clock and out (“OnTime” application). Moreover, Plaintiff utilized her own personal vehicle to make deliveries for EVA HEALTH, and although promised reimbursement 60 cents per mile, she and others were not reimbursed for their mileage in contravention of California law.

97. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest and attorney's fees and costs, under Labor Code section 2802.

ELEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE PERSONNEL RECORDS

(Plaintiff against all named defendants and all DOE defendants)

98. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 97, inclusive, of this Complaint as though fully set forth herein.

99. Labor Code section 1198.5 dictates “every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the

1 employer maintains relating to the employee's performance or to any grievance concerning the
2 employee."

3 100. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the employer
4 shall make the contents of those personnel records available for inspection to the current or
5 former employee, or his or her representative, at reasonable intervals and at reasonable
6 times..." On information and belief, Defendants intentionally failed to provide Plaintiff with
7 personnel records when requested by Plaintiff via letter on May 31, 2022, as required by law.
8 Plaintiff requested her personnel records in accordance with California Labor Code section
9 1198.5(k) on May 31, 2022, via U.S. certified mail, return receipt requested. .
10

11 101. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her
12 records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
13 suffered and continues to suffer substantial losses related to Defendants' failure to provide
14 personnel records.

15 102. Plaintiff seeks all available remedies for Defendants' violations including, but not
16 limited penalties, and costs to the extent permitted by law and according to proof at trial.
17 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants
18 in the amount of \$750.00, along with costs and attorney's fees.

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20 **TWELFTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE PAY RECORDS**

22 **(Plaintiff against all named defendants and all DOE defendants)**

23 103. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 102, inclusive, of this Complaint as though fully set forth herein.

25 104. Labor Code section 226 sub-section (b) dictates "an employer...shall afford current
26 and former employees the right to inspect or copy records pertaining to their employment,
27 upon reasonable request to the employer..."
28

105. Moreover, pursuant to sub-section (c) of Labor Code section 226, “an employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.” On information and belief, Defendants intentionally failed to provide Plaintiff with pay records when requested by Plaintiff via certified letter, return receipt requested, on May 31, 2022, and as required by law. Plaintiff requested her pay records in accordance with California Labor Code section 226 on May 31, 2022, via certified mail. Defendant failed to provide Plaintiff with an opportunity to inspect or copy her pay records within 21 days.

106. As a direct result of Defendants’ violations alleged herein, Plaintiff has suffered and continues to suffer substantial losses related to Defendants’ failure to provide pay records. Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the amount of \$750.00, along with costs and attorney’s fees.

107. Plaintiff seeks all available remedies for Defendants’ violations including, but not limited penalties, and costs to the extent permitted by law and according to proof at trial.

THIRTEENTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(California Business and Professions Code Section 17200)

(Plaintiff against Defendant E.V.A. HEALTH LLC and all DOE defendants)

108. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 107, inclusive, of this Complaint as though fully set forth herein.

109. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants constitutes unfair and unlawful business practices under California Business and Professions Code Section 17200, et seq.

110. Defendant’s violations of California labor laws and the Labor Code constitutes a

1 business practice because it was done repeatedly over a significant period of time in a
2 systematic manner that was detrimental to Plaintiff.

3 111. For the four years preceding the filing of this action, Plaintiff has suffered damages
4 and request damages and/or restitution of all monies and profits to be disgorged from
5 Defendant E.V.A. HEALTH LLC in an amount according to proof at time of trial, but in
6 excess of the jurisdiction of this Court.

7 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
8 follows:

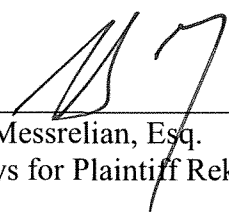
- 9 1. For compensatory damages including lost past and future wages, regular wages,
10 overtime, and all other sums of money, including employment benefits, together
11 with interest on said amounts, and any other economic injury to Plaintiff, including for
12 payment of regular hours, wages for all hours worked, prevailing wage, and overtime
13 wages, according to proof;
- 14 2. For damages for wages and overtime not paid to Plaintiff in an amount subject to
15 proof at trial;
- 16 3. For special and consequential damages to the extent allowed by law;
- 17 4. For restitution and disgorgement for all unfair business practices by E.V.A. HEALTH
18 LLC against Plaintiff in an amount according to proof;
- 19 5. For an order enjoining Defendant E.V.A. HEALTH LLC from further unfair
20 and unlawful business practices in violation of Business and Professions Code section
21 17200, et seq.;
- 22 6. For damages and penalties against Defendants under Labor Code section
23 226 for Plaintiff in an amount subject to proof at trial;
- 24 7. For damages and penalties pursuant to Labor Code section 203 against Defendants in
25 an amount subject to proof at trial;
- 26 8. For maximum civil penalties available under the Labor Code and applicable Wage
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Order against Defendants as described more particularly in the Complaint and representative PAGA notice;

9. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;
10. For the imposition of civil penalties and/or statutory penalties;
11. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., and other provisions of the Labor Code;
12. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
13. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
14. For all interest as allowed by law;
15. Costs and expenses of suit incurred herein;
16. For such other and further relief as the Court deems just and proper.

DATED: September 15, 2022

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Rekha Sehgal

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DATED: September 15, 2022

By _____

Attorneys for Plaintiff Rekha Sehgal