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SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF KERN

LISSETTE ANAYA and KARINA OLIVAREZ, as representatives of the State of California and the Labor and Workforce Development Agency, and on behalf of aggrieved employees

Plaintiffs,

v.

KERN VASCULAR CENTER FOR ANGIOGRAPHY AND INTERVENTIONS; and DOES 1 through 50, inclusive,

Defendants.

Case No.: BCV-22-102352

**REPRESENTATIVE ACTION COMPLAINT
FOR CIVIL PENALTIES AND FINES**

1. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Meal Periods
3. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of Labor Code §§ 201, 202, 203 (Failure to Pay Wages Due at Separation of Employment); and
5. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Keep Accurate Payroll Records and Provide Accurate Itemized Wage Statements;

1 Plaintiffs LISSETTE ANAYA AND KARINA OLIVAREZ (“Plaintiffs”), as individuals
2 and on behalf of all similarly situated employees, complains and allege on information and belief
3 as follows:

4 **INTRODUCTION**

5 1. This is an action brought on behalf of Plaintiff and all similarly Aggrieved
6 Employees who were subjected to one or more of the violations alleged herein (“Aggrieved
7 Employees”) by Defendant KERN VASCULAR CENTER FOR ANGIOGRAPHY AND
8 INTERVENTIONS, and DOES 1 through 50, inclusive (collectively, “Defendants”), in the State
9 of California during the Relevant Time Period. The term “Relevant Time Period” or “Time
10 Period” is defined as one (1) year plus sixty-five (65) days prior to the filing of the complaint.
11 Plaintiff reserves the right to amend this complaint to reflect a different “Time Period” as further
12 discovery is conducted.

13 2. Plaintiffs, as representatives of the State of California and the Labor and
14 Workforce Development Agency, and on behalf of aggrieved employees, seek relief against
15 Defendants, for Defendants’ practices of violating the applicable Industrial Welfare Commission
16 (“IWC”) Wage Orders, Code of Regulations, and Labor Codes, including: (1) failure to pay all
17 wages (including minimum, regular, and overtime); (2) failure to provide meal and rest periods
18 or provide compensation in lieu thereof; (3) failure to provide accurate itemized wage statements;
19 and (4) failure to pay all wages due upon separation of employment. These violations concern
20 current and past employees of Defendants.

21 3. At all relevant times herein, Defendants have consistently maintained and enforced
22 against Plaintiffs and Aggrieved Employees the unlawful practices and policies set forth herein.

- 23 a. Willfully refusing to pay all hours worked, including both regular and overtime
24 wages;
- 25 b. Willfully refusing to permit meal periods or providing compensation in lieu
26 thereof;
- 27 c. Willfully refusing to permit rest periods or providing compensation in lieu
28 thereof;

- 1 d. Willfully refusing to furnish accurate itemized wage statements upon payment
2 of wages; and
3 e. Willfully refusing to pay all wages earned and owed at separation of
4 employment.

5 **JURISDICTION AND VENUE**

6 4. Venue is proper in this judicial district and the County of Kern, pursuant to the
7 Code of Civil Procedure sections 395 and 395.5, because the acts that give rise to the causes of
8 action alleged herein occurred in this county.

9 5. This Court has personal jurisdiction over Defendants, because Defendants have
10 their main place of business in, and conduct business in the State of California, and a substantial
11 portion of the acts, omissions, events, and transactions constituting the causes of action alleged
12 herein occurred within the State of California, and more specifically, in the county of Kern. (Code
13 Civ. Proc., § 410.10.)

14 6. The California Superior Court has jurisdiction over this matter because the
15 individual claims are under the seventy-five-thousand-dollar (\$75,000.00) individual
16 jurisdictional threshold and the five-million-dollar (\$5,000,000.00) aggregate jurisdictional
17 threshold for federal court; and upon information and belief, Plaintiffs and Defendants are citizens
18 of, residents of, and/or domiciled in the State of California. Further, there is no federal question
19 at issue as the issues herein are based solely on California statutes and law, including the Labor
20 Code, IWC Wage Orders, Code of Civil Procedure, Rules of Court, and the Business &
21 Professions Code. Thus, the above-entitled court maintains appropriate jurisdiction over this
22 matter.

23 **THE PARTIES**

24 **Plaintiffs**

25 7. Plaintiff Anaya was employed by Defendants as a non-exempt employee from in
26 or around May 2021 through on or around March 11, 2022 at Defendants' place of business in
27 Bakersfield, California. Plaintiff Olivarez was employed by Defendants as a non-exempt
28 employee from in or around October 2019 through on or around March 11, 2022 at Defendants'

1 place of business in Bakersfield, California. At all relevant times herein, Plaintiffs were employed
2 by Defendant in a paid hourly non-exempt position. At all relevant times herein, Plaintiffs were
3 entitled to compensation for all hours worked, including minimum, regular, and overtime wages,
4 meal and rest period premiums from Defendant. Plaintiffs were employed by Defendant within
5 the four (4) years prior to the commencement of this action.

6 8. Each of the Aggrieved Employees consists of identifiable, current, and/or former
7 similarly situated persons who were employed by Defendant as non-exempt employees in
8 California during the Relevant Time Period.

9 **Defendants**

10 9. Plaintiffs are informed and believe, and based thereon allege, that Defendant
11 KERN VASCULAR CENTER FOR ANGIOGRAPHY AND INTERVENTIONS is a California
12 medical group that provides vascular imaging services, angiograms and interventions, and
13 vascular treatments, and was Plaintiffs' employer. On information and belief, and based thereon,
14 Plaintiffs allege that Defendant is conducting business in good standing in California, and at all
15 times herein mentioned has regularly conducted business throughout the State of California.

16 10. Plaintiffs are ignorant of the true names, capacities, relationships and extent of
17 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,
18 inclusive, but on information and belief, allege that said Defendants are legally responsible for
19 the violations alleged herein. Plaintiffs will amend this complaint to allege the true names and
20 capacities of the DOE Defendants when that information is ascertained.

21 11. Plaintiffs are informed and believe, and based thereon allege, that each Defendant
22 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
23 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each Defendant
24 are legally attributable to the other Defendants. Furthermore, Defendants operate as a joint
25 venture and/or single business enterprise, integrated enterprise, and/or are agents of one another,
26 are alter egos, joint employers, and conspire with one another to increase profits by engaging in
27 the conduct described in this complaint.

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1 12. Plaintiffs are informed and believe, and based thereon allege, that each Defendant
2 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
3 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
4 below was acting, at least in part, within the course and scope of that authority as such agent,
5 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
6 the permission and consent of the co-Defendants. Plaintiffs also allege the acts of each Defendant
7 are legally attributable to the other Defendants.

8 **PAGA ADMINISTRATIVE PREREQUISITE**

9 13. By this complaint, Plaintiffs bring this case as a representative action seeking
10 penalties for the State of California in a representative capacity, as provided by PAGA, labor
11 Code section 2698 et seq., to the extent permitted by law, as an aggrieved employee who was
12 employed by Defendant and subject to alleged violations set forth in Labor Code section 2699.5.
13 Plaintiffs and other Aggrieved Employees are current and former employees of Defendant starting
14 from three hundred sixty-five (365) days from the submission of the written notice to the LWDA
15 and Defendant to the resolution of this matter. Plaintiffs specifically alleged the following in their
16 notice to the Labor and Workforce Development Agency (“LWDA”) and the employer: violations
17 of Labor Code sections 226, 226.7, 510, 512, 558, 1171, and 1194.

18 14. Under Labor Code section 2699.3 subdivision(a), a Plaintiff may bring a cause of
19 action under PAGA only after giving notice to the LWDA and the employer of the Labor Code
20 section alleged to have been violated, and after sixty-five (65) days have passed without notice.
21 Prior to filing this complaint, on June 24, 2022, Plaintiffs gave written notice by certified
22 electronic mail to the LWDA and to Defendants of the specified provisions alleged to have been
23 violated, including the facts and theories to support the alleged violation as required by Labor
24 Code section 2699.3. A true and correct copy of Plaintiffs’ original letter sent to the LWDA on
25 June 24, 2022, is attached hereto as “Exhibit A.”

26 15. More than sixty-five (65) days have passed since Plaintiffs submitted their June
27 24, 2022 notice to the LWDA and Defendants of the specific alleged Labor Code violations and
28 the LWDA have not provided notice to Plaintiff of its intent to investigate such alleged violations.

1 Plaintiff further has received no notice of Defendants' intent to cure any of the alleged violations.
2 Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action with regard
3 to her June 24, 2022 PAGA notice.

4 **FACTUAL ALLEGATIONS**

5 16. Plaintiffs and Aggrieved Employees are, and all times relevant herein, have been
6 non-exempt employees within the meaning of the Labor Code, and the implementing rules of the
7 IWC Wage Orders.

8 17. Plaintiffs are informed and believe, and based thereon allege, that Defendants
9 continue to employ non-exempt employees within California.

10 18. Plaintiffs are informed and believe, and based thereon allege, that Defendants'
11 policies and practices described herein are common across each of Defendants' locations within
12 the State of California.

13 19. Plaintiffs are informed and believe, and based thereon allege, that at all times
14 herein mentioned, Defendants were advised by skilled lawyers, employees and other
15 professionals who were knowledgeable about California's wage and hour laws, employment and
16 personnel practices, and the requirements of California law.

17 20. Plaintiffs are informed and believe, and based thereon allege, that Defendants
18 knew or should have known that Plaintiffs and Aggrieved Employees were entitled to receive
19 wages for all hours worked, including minimum, regular, and overtime wages, and that they were
20 not receiving all wages earned for work that was required to be performed. In violation of the
21 Labor Code and IWC Wage Orders, Defendants failed to pay Plaintiffs and Aggrieved
22 Employees' earned wages by failing to pay for all hours worked and failing to pay the proper
23 overtime and double time rates of pay, among other things. Plaintiffs and Aggrieved Employees
24 were frequently required to work through meal periods. Defendants failed or refused to provide
25 premium compensation to Plaintiffs and Aggrieved Employees for all late meal periods, short
26 meal periods, and all missing meal periods. Additionally, Plaintiffs and Aggrieved Employees
27 were paid an incentive payment per pay period for opting out of Defendants' health insurance
28 plan, yet Defendants failed to include this incentive payment in their regular rate of pay when

1 calculating their overtime and double-time rate. Further, Defendants failed to record and/or pay
2 Plaintiffs and Aggrieved Employees for all hours worked in excess of eight (8) hours and/or
3 twelve (12) hours per workday and failed to pay said hours at the proper overtime and double
4 time rates.

5
6 21. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 knew or should have known that Plaintiffs and Aggrieved Employees were entitled to receive all
8 required meal periods or payment of one (1) additional hour of pay at Plaintiffs and Aggrieved
9 Employees' regular rate of pay when they did not receive a timely, uninterrupted off-duty meal
10 period. In violation of the Labor Code and IWC Wage Orders, Defendants had a pattern, practice,
11 and policy of not providing compliant meal periods. Plaintiffs and Aggrieved Employees were
12 regularly unable to take a duty-free meal period or had their meal periods interrupted as a result
13 of understaffing and a busy workload. In addition to having their meal periods interrupted,
14 Plaintiffs and Aggrieved Employees were required to return to work before the end of their thirty
15 (30) minute meal periods and continue working when the medical center was busy. As a result of
16 Defendants' understaffing and daily work requirements and demands, Plaintiffs and Aggrieved
17 Employees did not receive all meal periods or payment of one (1) additional hour of pay at
18 Plaintiffs and Aggrieved Employees' regular rate of pay when they did not receive a timely,
19 uninterrupted thirty (30) minute off-duty meal period.

20 22. Plaintiffs are informed and believe, and based thereon allege, that Defendants
21 knew or should have known that Plaintiffs and Aggrieved Employees were entitled to receive all
22 paid rest periods or payment of one (1) additional hour of pay at Plaintiffs and Aggrieved
23 Employees' regular rate of pay when a rest period was missed, interrupted, or shortened. In
24 violation of the Labor Code and IWC Wage Orders, Defendants had a pattern, practice, and policy
25 of not providing paid rest periods. As a result of Defendants' understaffing and daily work
26 requirements and demands, Plaintiffs and Aggrieved Employees did not receive all paid rest
27 periods or payment of one (1) additional hour of pay at Plaintiffs and Aggrieved Employees'
28 regular rate of pay when a paid rest period was missed, truncated, or interrupted.

1 23. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have known that Plaintiffs and Aggrieved Employees were entitled to receive
3 itemized wage statements that accurately showed their actual hours worked, total hours worked,
4 number of hours worked at each hourly rate, gross and net wages earned, and premium wages
5 earned per pay period in accordance with California law. In violation of the Labor Code, Plaintiffs
6 and Aggrieved Employees were not provided with accurate itemized wage statements.

7 24. Plaintiffs are informed and believe, and based thereon allege, that Defendants
8 knew or should have known that Plaintiffs and certain Aggrieved Employees were entitled to
9 timely payment of wages due upon separation of employment. In violation of the Labor Code,
10 Plaintiffs and certain Aggrieved Employees did not receive payment of all wages due, within
11 permissible time periods, upon separation of employment.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PAY ALL WAGES**

14 **(By Plaintiffs against All Defendants)**

15 25. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as
16 if fully alleged.

17 26. Any employee receiving less than the legal minimum wage or legal overtime
18 compensation is entitled to recover in a civil action the amount of unpaid wages, attorneys' fees
19 and costs of suit. (Lab. Code, § 1194, subd. (a).)

20 27. Labor Code section 1182.12 provides for employers who employed 26 or more
21 people from January 18, 2018 to December 31, 2018, the minimum wage rate in California was
22 eleven dollars (\$11.00) per hour. From January 1, 2019 to December 31, 2019, the minimum
23 wage rate in California is twelve dollars (\$12.00) per hour. From January 1, 2020 to December
24 31, 2020, the minimum wage rate in California is thirteen dollars (\$13.00) per hour. From January
25 1, 2021 to December 31, 2021, the minimum wage rate in California is fourteen dollars (\$14.00)
26 per hour. From January 1, 2022, the minimum wage rate in California, and specifically, in Kern
27 County, is fifteen dollars (\$15.00) per hour. Plaintiffs are informed and believe Defendants
28 employed more than twenty-six (26) employees.

1 28. Notwithstanding any other provision of the Labor Code, hourly minimum wage
2 rates are set for all industries according to statute. (Lab. Code, § 1182.12.) Employers must pay
3 employees no less than minimum wage for each hour worked. (Lab. Code, § 1194.)

4 29. In any action to recover payment of wages less than the minimum wage an
5 employee shall be entitled to recover liquidated damages in an amount equal to the wages
6 unlawfully unpaid and interest thereon. (Lab. Code, § 1194.2.)

7 30. Any work in excess of eight (8) hours in any workday and any work in excess of
8 forty (40) hours in a workweek, shall be compensated at a rate of no less than one and one-half
9 times the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a).) Any work in excess
10 of twelve (12) hours in a workday shall be compensated at the rate of twice the regular rate of pay
11 for an employee. (Lab. Code, § 510, subd. (a).)

12 31. All wages earned in employment are due and payable twice during each calendar
13 month on dates designated in advance by the employer. (Lab. Code, § 204.)

14 32. In case of a dispute over wages, the employer shall pay, without condition and
15 promptly under the Labor Code all wages conceded due, leaving to the employee all remedies
16 he/she is otherwise entitled to as to any balance claimed. (Lab. Code, § 206.)

17 33. At all relevant times herein, Plaintiffs and Aggrieved Employees were and are paid
18 as non-exempt employees. Defendants failed to compensate Plaintiffs and Aggrieved Employees
19 at the legally mandated wage rates for all hours worked in violation of California law.
20 Specifically, Plaintiffs and Aggrieved Employees were routinely required to work through their
21 meal breaks. Defendant failed or refused to provide premium compensation to Plaintiffs and
22 Aggrieved Employees for all late meal periods and all missing meal periods. Due to this failure,
23 Defendants did not factor in all meal premiums that Plaintiffs and Aggrieved Employees were
24 owed when calculating overtime pay. In addition, Defendant compensated Plaintiffs and
25 Aggrieved Employees an incentive payment pay period for opting out of Defendants' health
26 insurance plan, yet Defendants failed to include this incentive payment in their regular rate of pay
27 when calculating their overtime and double-time rate.

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1 of all of their work responsibilities while on their legally mandated meal break. Further, Employer
2 ordered that Plaintiffs and Aggrieved Employees continue to work despite being clocked-out for
3 their meal period. As a result of Employer's policy and practices, Plaintiffs and Aggrieved
4 Employees did not receive timely uninterrupted meal periods and were not compensated with
5 premium wages for non-compliant meal periods.

6 39. At all times relevant hereto, Plaintiffs and Aggrieved Employees have worked
7 shifts of more than five (5) hours in a workday.

8 40. Pursuant to Labor Code section 226.7, Plaintiffs and Aggrieved Employees are
9 entitled to damages in the amount equal to one (1) hour of wages at their regular rate of pay for
10 each missed meal break, in an amount to be proven at trial.

11 41. At varying times relevant hereto, Plaintiffs and Aggrieved Employees have
12 worked shifts more than ten (10) hours in a workday and were regularly denied a legally compliant
13 second meal period.

14 13. Plaintiffs and Aggrieved Employees seek civil penalties pursuant to Labor Code
15 sections 2698-2699, attorneys' fees and costs. is informed and believes

16 **THIRD CAUSE OF ACTION**

17 **FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

18 **(Lab. Code, § 226.7)**

19 **(By Plaintiffs against All Defendants)**

20 42. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as
21 if fully alleged.

22 43. Labor Code section 226.7 and the applicable Wage Order provide that employers
23 authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time
24 per four (4) work hours, or major fraction thereof.

25 44. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
26 provide and employee rest periods in accordance with this section, the employer shall pay the
27 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
28 that the rest period is not provided. Plaintiffs and Aggrieved Employees consistently worked over

four (4) hours per shift with no rest breaks, or otherwise had their rest breaks interrupted or shortened due to Defendants' uniform policies and practices.

45. Defendants failed to reasonably make available rest breaks to Plaintiffs and Aggrieved Employees throughout the Relevant Time Period due to their understaffing, workload, and demands. Routinely, Plaintiffs and Aggrieved Employees were required to work for six (6) hours before being permitted to take a rest period. When they worked six (6) to eight (8) hours in a workday, Plaintiffs and Aggrieved Employees often only received one rest period instead of the two required by law. Further, when Plaintiffs and Aggrieved Employees worked more than ten (10) hours in a workday, they never received the requisite third rest period. Plaintiffs and Aggrieved Employees seek civil penalties pursuant to Labor Code sections 2698-2699, attorneys' fees and costs. is informed and believes

FOURTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE AT SEPARATION OF EMPLOYMENT

(Lab. Code, §§ 201, 202, 203)

(By Plaintiffs against All Defendants)

46. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as if fully alleged herein.

47. Plaintiffs are informed and believe, and thereon allege, that as part of Defendants' ongoing unfair business practices, Defendant failed to pay all employees all wages earned during their employment at the time of their separation in violation of Labor Code sections 201 and 202.

48. Labor Code section 201 provides that an employer is required to pay an employee whose employment is terminated by the employer all wages earned and unpaid immediately upon termination.

49. Labor Code section 202 requires an employer pay to an employee who quits her or her employment, all wages earned and unpaid no later than seventy-two (72) hours thereafter.

50. Labor Code section 203 provides that an employer who fails to pay all wages earned and due an employee who is discharged or who quits within the timeframe set forth in sections 201 and 202, the wages of the employee shall continue as a penalty from the due date at

1 the same rate of pay until paid, but not more than thirty (30) days. In other words, the employer
2 owes the employee her or her daily rate of pay at their regular rate of pay for each day the full
3 amount of unpaid wages is not paid, for a penalty of up to thirty (30) days' wages.

4 77. Plaintiffs and Aggrieved Employees seek civil penalties pursuant to Labor Code
5 sections 2698-2699, attorneys' fees and costs. is informed and believes

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO ISSUE ITEMIZED WAGE STATEMENTS AND MAINTAIN RECORDS**

8 **(Lab. Code, §§ 226, 226.3, 1174, 1174.5)**

9 **(By Plaintiffs against All Defendants)**

10 78. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as
11 if fully alleged herein.

12 79. Labor Code sections 226, 226.3, 1174, and 1174.5, and applicable IWC Wage
13 Orders provide that employers must keep records and provide employees with itemized wage
14 statements showing all hours worked and each applicable rate of pay in effect during the pay
15 period with the corresponding number of hours worked at each hourly rate.

16 80. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
17 location in California or at the plant or establishment at which the employee is employed, payroll
18 records showing the hours worked daily, and the wages paid to each employee. Labor Code
19 section 226, subdivision (a), requires an employer to provide employees—either as a detachable
20 part of the check, draft, or voucher paying the employee's wages, or separately when wages are
21 paid by personal check or cash—an accurate itemized wage statement in writing, including
22 specified information, including, but not limited to: "(1) gross wages earned; (2) total hours
23 worked . . . (5) net wages earned... and (9) all applicable hourly rates in effect during the pay
24 period and the corresponding number of hours worked at each hourly rate by the employee."

25 81. Labor Code section 226, subdivision (e), provides that if an employer knowingly
26 and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned,
27 the total hours worked by the employee and the applicable hourly overtime rates, causing the
28 employee injury, then the employee is entitled to recover the greater of all actual damages or fifty

1 dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for each subsequent
2 violation, up to four thousand dollars (\$4,000.00). Plaintiffs are informed and believe that
3 Defendant willfully failed to make or keep accurate records for Plaintiffs and Aggrieved
4 Employees.

5 82. The IWC Wage Orders require that every employer shall keep accurate
6 information with respect to each employee, including, but not limited to, time records showing
7 the total daily hours worked by each employee, the total hours worked in each payroll period, and
8 applicable rates of pay. Plaintiffs are informed and believe that Defendants willfully and
9 intentionally failed to make and/or keep records which accurately reflect the hours worked by
10 Plaintiffs and Aggrieved Employees. Specifically, Plaintiffs believe that Defendants' records fail
11 to include, *inter alia*: (1) actual hours worked; (2) total hours worked; (3) number of hours worked
12 at each hourly rate; (4) gross wages earned; (5) net wages earned; (6) premium wages earned per
13 pay period; and (7) the entity's legal name and address.

14 83. An employee is deemed to suffer injury if the employer fails to provide an accurate
15 wage statement containing all of the required information set forth in Labor Code section 226,
16 subdivision (a). (Lab. Code, § 226, subd. (e)(2).) In addition, the omission of time worked, proper
17 rates of pay, records of missed meal and rest breaks, and/or premium pay make it difficult for
18 employees to determine whether they were paid all wages due without complicated calculations
19 and/or reconstruction of records required to be maintained by the employer.

20 84. For each employee suffering an injury as a result of Defendants' knowing and
21 intentional failure to provide an accurate, itemized wage statement, the employee is entitled to
22 recover the greater of actual damages or fifty dollars (\$50.00) for the initial pay period in which
23 a violation occurs, and one hundred dollars (\$100.00) per employee for each violation in a
24 subsequent pay period.

25 85. Plaintiffs are informed and believe, and based thereon allege, that Defendants'
26 failure to keep accurate payroll records, as described above, violated Labor Code section 1174,
27 subdivision (d), and section 226, subdivision (a), and the applicable Wage Order. Plaintiffs
28 intends on seeking penalties under Labor Code section 2699, subdivision (f)(2), Plaintiffs and the

1 Aggrieved Employees are entitled to penalties of one hundred dollars (\$100.00) for the initial
2 violation, and two hundred dollars (\$200.00) for each subsequent violation, for every pay period
3 during which these records and information were not kept by Defendants.

4 86. Plaintiffs are informed and believe, and based thereon allege, that Defendants'
5 failure to keep and maintain accurate records and information and provide to Plaintiffs and
6 Aggrieved Employees accurate itemized wage statements, as described above, was knowing and
7 intentional. Accordingly, Plaintiff and Aggrieved Employees seek civil penalties pursuant to
8 Labor Code sections 2698-2699, attorneys' fees and costs

9
10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Plaintiffs pray for judgment as follows:

- 12 1. For penalties pursuant to Labor Code sections 2698-2699;
13 2. For attorneys' fees pursuant to Labor Code sections 2698-2699;
14 3. For costs pursuant to Labor Code sections 2698-2699; and
15 4. For all such other and further relief as the Court may deem just and proper.
16
17

18 Dated: September 7, 2022

MAHONEY LAW GROUP, APC

19 By:

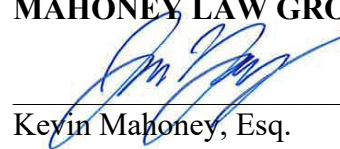
20 
21 Kevin Mahoney, Esq.
22 John Young, Esq.
23 Raleigh Dixon, Esq.
24 Attorney for Plaintiffs LISSETTE ANAYA
25 AND KARINA OLIVAREZ, as
26 representatives of the State of California and
27 the Labor and Workforce Development
28 Agency, and on behalf of aggrieved
employees

EXHIBIT A



Raleigh Dixon, Esq.
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rdixon@mahoney-law.net

June 24, 2022

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA CERTIFIED MAIL # 7021 0950 0001 6447 5414

Return Receipt Requested

Hao Dai Bui, M.D. – Managing Member and Agent for Service of Process
Kern Vascular Center for Angiography and Interventions
4901 Centennial Plaza Way
Bakersfield, CA 93312

*Re: Lissete Anaya and Karina Olivarez v.
Kern Vascular Center for Angiography and Interventions*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2698 ET SEQ.**

To: Labor and Workforce Development Agency; Kern Vascular Center for Angiography and Interventions (“Employer”)

From: Lissete Anaya and Karina Olivarez, on behalf of themselves and all aggrieved employees who were subject to the employer’s wage and hour policies set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents Lissete Anaya and Karina Olivarez (“Ms. Anaya and Ms. Olivarez”), who intend to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 et seq. (“PAGA”), on behalf of themselves and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Kern Vascular Center for Angiography and Interventions (referred to herein as “Employer”) is a California Company conducting business in Bakersfield, California, and was the

employer of Ms. Anaya and Ms. Olivarez. Employer is a medical group that provides vascular imaging services, angiograms and interventions, and vascular treatments.

Ms. Anaya and Ms. Olivarez are former employees of Employer and worked for Employer as Radiology Medical Assistants from in or around May 2021 and October 2019, respectively, until March 11, 2022.

Ms. Anaya and Ms. Olivarez alleges that Employer violated various sections of the Labor Code, including sections 201, 202, 203, 226, 226.7 510, 512, and 1194, by:

- a) Failing to pay Ms. Anaya, Ms. Olivarez, and aggrieved employees for all hours worked;
- b) failing to provide Ms. Anaya, Ms. Olivarez, and aggrieved employees with compliant rest periods or premium compensation in lieu thereof;
- c) failing to provide Ms. Anaya, Ms. Olivarez, and aggrieved employees with compliant meal periods or premium compensation in lieu thereof;
- d) failing to provide Ms. Anaya, Ms. Olivarez, and aggrieved employees with accurate itemized wage statements; and
- e) failing to pay Ms. Anaya, Ms. Olivarez, and aggrieved employees all wages earned and owed at separation of employment.

Ms. Anaya and Ms. Olivarez and the similarly aggrieved employees are identifiable current, and/or former hourly non-exempt employees who worked for Employer in California during the liability period of one year prior to the filing of this notice alleging the aforementioned violations of the Labor Code under PAGA.

A. Employer failed to pay Ms. Anaya, Ms. Olivarez, and aggrieved employees for all hours worked

Pursuant to Labor Code section 1194, subdivision (a), “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

Labor Code section 510, subdivision (a), provides that “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek ... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

Employer failed to compensate Ms. Anaya, Ms. Olivarez, and aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. Specifically, Ms. Anaya, Ms. Olivarez and aggrieved employees were routinely required to work through their meal breaks. In addition, Ms. Anaya, Ms. Olivarez, and aggrieved employees were paid a fifty-dollar (\$50) incentive per pay period for opting out of Employer’s health insurance plan, yet Employer failed to include this incentive payment in their regular rate of pay when calculating their overtime rate.

Employer's failure to pay Ms. Anaya, Ms. Olivarez, and aggrieved employees for all hours worked, including applicable overtime rates, as detailed above is actionable under PAGA as a violation of Labor Code sections 510 and 1194.

B. Employer failed to provide Ms. Anaya, Ms. Olivarez, and aggrieved employees with rest periods or premium compensation in lieu thereof

Labor Code section 226.7 requires that Employer permit all employees to take a ten-minute rest period for every four hours, or major fraction thereof worked. Further, when an employer fails to provide an employee with required rest periods, the employer must pay the employee one hour of pay at the employee's regular rate of pay for each workday that a required rest period is not provided.

Frequently, Ms. Anaya, Ms. Olivarez, and aggrieved employees were not permitted to take a rest period when they were busy. Routinely, Ms. Anaya, Ms. Olivarez, and aggrieved employees were required to work for six (6) hours before being permitted to take a rest period. When they worked six (6) to eight (8) hours in a workday, Ms. Anaya, Ms. Olivarez, and aggrieved employees often only received one rest period instead of the two required by law. Further, when Ms. Anaya, Ms. Olivarez, and aggrieved employees worked more than ten (10) hours in a workday, they never received the requisite third rest period.

Employer's conduct in failing to provide compliant rest periods or premium compensation in lieu thereof is actionable under PAGA as violations of Labor Code sections 226.7.

C. Employer failed to provide Ms. Anaya, Ms. Olivarez, and aggrieved employees with meal periods or premium compensation in lieu thereof

Labor Code sections 226.7 and 512 provide that no employer shall employ a person for a work period of more than five hours without providing an uninterrupted meal period of at least thirty minutes. Further, when an employer fails to provide an employee a required meal period, the employer must pay the employee one hour of pay at the employee's regular rate of pay for each workday that a required meal period is not provided.

Employer failed to provide Ms. Anaya, Ms. Olivarez, and aggrieved employees with timely uninterrupted meal periods. Employer had a practice of failing to provide adequate staffing to allow Ms. Anaya, Ms. Olivarez, and aggrieved employees to be completely relieved of all of their work responsibilities while on their legally mandated meal break. Further, Employer ordered that Ms. Anaya, Ms. Olivarez, and aggrieved employees continue to work despite being clocked-out for their meal period. As a result of Employer's policy and practices, Ms. Anaya, Ms. Olivarez, and aggrieved employees did not receive timely uninterrupted meal periods and were not compensated with premium wages for non-compliant meal periods. Employer's conduct is in violation of Labor Code Sections 226.7 and 512, is also actionable under PAGA.

D. Employer failed to provide Ms. Anaya, Ms. Olivarez, and aggrieved employees with accurate itemized wage statements

Labor Code section 226, subdivision (a), requires Employer to furnish employees with accurate itemized wage statements reflecting the total hours worked, gross and net wages, applicable hourly rates, the corresponding number of hours worked at each hourly rate, and the name and address of the legal entity that is the employer. Labor Code section 1174 further requires Employer to keep accurate payroll records that include “the hours worked daily” by employees.

By failing to pay Ms. Anaya, Ms. Olivarez, and aggrieved employees for all hours worked, including the applicable overtime rates and meal and rest period premiums, Employer provided wage statements that were incomplete and inaccurate. Specifically, Employer provided wage statements with an inaccurate corresponding number of hours worked at each hourly rate which resulted in inaccurate gross and net wages.

Employer’s conduct is not compliant with Labor Code sections 226 and 1174 and is therefore actionable under PAGA.

E. Employer failed to pay Ms. Anaya, Ms. Olivarez, and aggrieved employees all wages earned and owed upon separation of employment

Pursuant to Labor Code section 201, subdivision (a), “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

Labor Code section 202, subdivision (a) provides, “[i]f 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.”

At the time that Ms. Anaya, Ms. Olivarez, and aggrieved employees resigned or were terminated, Employer failed to compensate them for all wages earned, including unpaid overtime and meal and rest period premiums, and owed at the applicable rate.

Labor Code section 203, subdivision (a), states that “[i]f an employer willfully fails to pay 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.” Accordingly, Ms. Anaya, Ms. Olivarez, and aggrieved employees are entitled to thirty days of waiting time penalties.

F. Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Ms. Anaya and Ms. Olivarez becomes aware of additional compensation owed or losses incurred by Ms. Anaya and Ms. Olivarez or by any other aggrieved employee of the Employers, Ms. Anaya and Ms. Olivarez expressly reserves the right to revise these facts and/or add any new claims by amending the claim

LABOR AND WORKFORCE DEVELOPMENT AGENCY

June 27, 2022

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letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

Mahoney Law Group, APC
Raleigh Dixon, Esq.
249 E. Ocean Blvd., Ste. 814
Long Beach, CA 90802
Tel: (562) 590-5550
Email: rdixon@mahoney-law.net

Sincerely,

A handwritten signature in dark ink, appearing to read "Raleigh Dixon", written in a cursive style.

Raleigh Dixon, Esq.

MAHONEY LAW GROUP, APC