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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN BERNARDINO**

11 SABRINA TULA,

12 Plaintiff,

13 vs.

14 G.R.A.D. VETS, INC.; GEORGE MAKAR;
15 and DOES 1 to 25, inclusive,

16 Defendants.

) CASE NO.: **CIV SB 2301920**

) **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) **RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 1102.5;**

) 12) **RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 98.6;**

) 13) **WRONGFUL TERMINATION IN**
) **VIOLATION OF PUBLIC POLICY;**

) 14) **VIOLATION OF CALIFORNIA**
) **BUSINESS AND PROFESSIONS**
) **CODE SECTION 17200.**

) **DEMAND FOR JURY TRIAL**

COMES NOW Plaintiff, SABRINA TULA (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of San Bernardino in this judicial district because Defendants G.R.A.D. VETS, INC.; GEORGE MAKAR and DOES 1 to 25, inclusive, do business in the County of San Bernardino and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of San Bernardino is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the County of San Bernardino, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant G.R.A.D. VETS, INC., which does business as YUCAIPA ANIMAL HOSPITAL, among other entity names, is and was a California corporation, doing business in San Bernardino County as well as other counties in Southern California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant GEORGE MAKAR is and was a male resident of the State of California, and the owner, principal, director, and/or managing agent of G.R.A.D. VETS, INC. Defendant GEORGE MAKAR is being included in this lawsuit pursuant to Labor Code Section 558.1 in that he was involved in the day-to-day operations of the business and controlled the wages, hours, and/or working conditions of Plaintiff and other similarly situated hourly, non-exempt employees. G.R.A.D. VETS, INC.; GEORGE MARKAR and DOES 1 to 25, inclusive are collectively referred to as “Defendant(s)” or “GRAD VETS”.

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 **GENERAL ALLEGATIONS**

14
15 7. Plaintiff started working for GRAD VETS in or around January 2022.

16 8. Plaintiff was classified as an hourly, non-exempt employee.

17 9. Plaintiff's latest rate of pay was \$16 per hour.

18 10. Plaintiff's employment ended on or around June 2022.

19 11. It is Plaintiff's position that GRAD VETS has violated numerous Labor Code Sections
20 against Plaintiff and other similarly situated aggrieved employees.

21 12. GRAD VETS did not provide Plaintiff and other similarly situated aggrieved
22 employees with the minimum wages to which they were entitled for work performed and as
23 such did not compensate Plaintiff and others for all hours worked at the minimum wage rate
24 pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so because there
25 have been occasions wherein Plaintiff and others would perform work duties during their meal
26 periods, which would be akin to a minimum wage violation since Plaintiff and others would be
27 clocked out during this time. Moreover, GRAD VETS had a policy and practice of rounding
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1 down work hours to the detriment of employees, which would result in less working hours and
2 would also be akin to a minimum wage violation.

3 13. Due to the “off the clock” work as alleged above, GRAD VETS violated Labor Code
4 §510 because it failed to pay Plaintiff and other similarly situated aggrieved employees the
5 correct amount of overtime, even though they worked more than 8 hours per day, 12 hours per
6 day and/or 40 hours per week throughout their employment. Plaintiff’s and others’ actual work
7 hours entitled them to overtime compensation (both daily and weekly), especially due to the “off
8 the clock” and time shaving/rounding issues as described above, however, they were not paid
9 accurately and fully for their overtime hours worked. Furthermore, GRAD VETS failed to
10 include bonuses/incentive pay/shift differential pay in calculating employees’ regular rate of pay
11 for purposes of paying them their proper overtime rates (i.e., one-and-a-half or two times their
12 regular rate of pay). Additionally, the incentive and bonus payments were also not factored into
13 Plaintiff’s and others’ regular rate for purposes of receiving meal and rest break premiums per
14 the Ferra v. Loews case.

15 14. GRAD VETS also violated Labor Code § 226.7 and the applicable Industrial Welfare
16 Commission Wage Order (no. 4/5) because it failed to provide Plaintiff and others with 10-
17 minute rest periods for every four hours of work, or majority portion thereof, throughout their
18 employment. GRAD VETS did not completely relieve Plaintiff and others of all duty during
19 said rest periods. GRAD VETS did not pay to Plaintiff and others one additional hour of pay at
20 Plaintiff’s regular rate of compensation for each workday that one or more statutory rest periods
21 was not provided. It was not company policy and not part of the company culture for employees
22 such as Plaintiff and others to consistently take TWO timely, uninterrupted rest breaks at the
23 appropriate times during a regular shift. They were understaffed at times and too busy to take
24 rest breaks. As such, the culture at GRAD VETS did not lend itself to the employees always
25 receiving statutory breaks wherein they were relieved of all work duties. As such, it was the
26 normal practice and custom of GRAD VETS not to authorize, permit, and enforce timely,
27 uninterrupted statutory rest periods. The latter part of the day/shift was always busiest for
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1 Plaintiff and others, which led to employees not being able to take rest breaks and feeling as
2 though they were being overworked. As such, the work environment and culture at GRAD VETS
3 was not conducive to receiving statutory rest breaks under California law.

4 15. GRAD VETS violated Labor Code §§ 512 and 226.7 along with the applicable Industrial
5 Welfare Commission Wage Order (no. 4/5) because it failed to provide Plaintiff and others the
6 requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their
7 employment. GRAD VETS did not always completely relieve Plaintiff and others of all duty
8 during said meal periods. GRAD VETS did not pay to Plaintiff and others one additional hour
9 of pay at Plaintiff's regular rate of compensation for each workday that one or more statutory
10 meal periods was not provided or was late, short, or interrupted. There were times wherein
11 Plaintiff and others would perform works tasks during their meal periods.

12 16. To the extent that GRAD VETS argues that employees receive meal break premium pay
13 for missed meal periods, that argument is inconsequential for PAGA penalty purposes since the
14 PAGA penalties are for the violations themselves, irrespective of whether an employee received
15 the premium payment for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire*
16 *Protection, Inc.*, the Court stated, "section 226.7 does not give employers a lawful choice
17 between providing *either* meal and rest breaks *or* an additional hour of pay." *See Kirby v.*
18 *Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the
19 extra hour of pay does not excuse the violation; the employer has still committed a violation even
20 if the remedy for the violation has been paid. *See Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016,
21 2016 WL 1110302 at *4).

22 17. As such, the work environment and culture at GRAD VETS was not conducive to
23 receiving consistent, timely, statutory meal breaks under California law. Moreover, any meal
24 or rest break premiums paid were not compensated at the weighted average regular rate, inclusive
25 of bonuses and/or incentive payments.

26 18. Furthermore, during the relevant time period and due to the above-mentioned violations,
27 GRAD VETS failed to pay Plaintiff and others all wages due to them within any time period
28 specified by California Labor Code section 204.

1 19. GRAD VETS was also in violation of California Labor Code section 226(a), by failing
2 to include pertinent information on the wage statements, including but not limited to, all hours
3 worked (minimum wages and overtime due to the “off the clock” work), gross wages earned, net
4 wages earned, total pay, the correct legal name and address of the employing entity, the correct
5 start and end of the pay period, all applicable hourly rates, itemized deductions, and premium
6 pay for the missed meal and rest breaks, among others. As such, GRAD VETS did not provide
7 Plaintiff and other similarly situated aggrieved employees with complete, accurate itemized
8 wage statements.

9 20. During the relevant time period, GRAD VETS also failed to keep accurate and complete
10 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and
11 others pursuant to California Labor Code sections 1174(d).

12 21. GRAD VETS also violated Labor Code § 203 because it willfully failed to pay Plaintiff
13 and other similarly situated aggrieved employees earned and due wages upon separation of
14 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
15 These earned but unpaid wages include minimum wages, overtime compensation, premium pay
16 for missed meal and rest breaks, and business expense reimbursement.

17 22. Additionally, during the relevant time period, Plaintiff and others incurred necessary,
18 business-related expenses and costs that were not reimbursed by GRAD VETS. These costs
19 include, but are not limited to, uniforms for the workplace. Accordingly, GRAD VETS was in
20 violation of California Labor Code sections 2800 and 2802.

21 23. In addition, Plaintiff would have individual claims for retaliation and wrongful
22 termination in violation of Labor Code Section 1102.5 and 98.6 and after Plaintiff complained
23 to the company about not being provided COVID-19 sick pay after Plaintiff had contracted the
24 covid-19 virus.

25 24. After Plaintiff complained about the fact that she was owed COVID pay under the law,
26 the company retaliated against Plaintiff by not providing her with a bonus payment (that all
27 other employees received) and then subsequently terminated her employment on or around
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June 3, 2022 with Defendant MAKAR making the decision on the termination.

25. Any reasoning provided by GRAD VETS for Plaintiff's termination was pretextual, especially the write-up Plaintiff received about allegedly being on her cell phone (in responding to her child) during work hours when it was in fact after hours and the hospital was locking up.

FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

(California Industrial Welfare Commission Order 4-2001/5-2001, California Code of Regulations Title 8 Section 11040/11050, and California Labor Code Section 1198)

(Plaintiff against all named defendants and all DOE defendants)

26. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.

27. At all times relevant herein, Defendants were required to compensate its employees for all hours worked upon reporting for work at the appointed time stated by the employer pursuant to Industrial Welfare Commission Order 4-2001/5-2001, California Code of Regulations, Title 8, Section 11040/11050.

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

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

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

31. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus

1 reasonable attorney's fees and costs of suit.

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

6 **SECOND CAUSE OF ACTION**

7 **FAILURE TO PAY MINIMUM WAGES**

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

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

10 33. Plaintiff re-alleges and incorporates by reference each and every allegation in
11 paragraphs 1 through 32, inclusive, of this Complaint as though fully set forth herein.

12 34. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
13 to suffer or permit a California employee to work without paying wages at the minimum wage
14 rate for all hours worked as required by the applicable Industrial Welfare Commission
15 (hereinafter "IWC") Wage Order No. 4-2001/5-2001, codified at California Code of
16 Regulations, Title 8, Section 11040/11050, subdivision 4.

17 35. Pursuant to IWC Wage Order no. 4-2001/5-2001, subdivision 2(K)/(H), at all relevant
18 times, "hours worked" included "the time during which an employee is subject to the control of
19 an employer, and includes all the time the employee is suffered or permitted to work, whether
20 or not required to do so..."

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

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

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

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

11 **THIRD CAUSE OF ACTION**

12 **FAILURE TO PAY OVERTIME**

13 **(California Industrial Welfare Commission Order 4-2001/5-2001, California Code of**
14 **Regulations Title 8 Section 11040/11050; California Labor Code Section 510)**

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

16 40. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 39, inclusive, of this Complaint as though fully set forth herein.

18 41. Pursuant to Industrial Welfare Commission Order No. 4-2001/5-2001, Cal. Code of
19 Regs., Title 8, Section 11040/11050, for the period of Plaintiff's employment, Defendants were
20 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
21 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
22 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
23 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
24 week.
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26 42. Plaintiff was a non-exempt employee entitled to the protections of the California
27 Industrial Welfare Commission Order No. 4-2001/5-2001, California Code of Regulations,
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1 Title 8, Section 11040/11050.

2 43. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a
3 single workday, forty (40) hours in a single workweek on numerous occasions, and over 7
4 consecutive days in a row.

5 44. Plaintiff was entitled to the above overtime premiums.

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

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

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

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

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

19 50. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
20 Regulations, Title 8, Sections 11040/11050, Plaintiff is entitled to recover damages for the
21 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
22 reasonable attorney's fees and costs of suit.

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

26 **FOURTH CAUSE OF ACTION**

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

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

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

2 52. Plaintiff re-alleges and incorporates by reference each and every allegation in
3 paragraphs 1 through 51, inclusive, of this Complaint as though fully set forth herein.

4 53. Pursuant to California Labor Code Section 226, every employer must furnish each
5 employee an itemized statement of wages and deductions at the time of payment of wages.

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

12 55. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
13 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
14 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
15 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
16 reasonable attorney's fees.

17 56. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
18 sustained damages, including loss of earnings, in an amount to be established at trial. As a
19 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
20 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
21 and attorney's fees pursuant to statute.

22 57. 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 **FIFTH CAUSE OF ACTION**

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

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

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

2 58. Plaintiff re-alleges and incorporates by reference each and every allegation in
3 paragraphs 1 through 57, inclusive, of this Complaint as though fully set forth herein.

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

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

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

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

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

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

22 65. 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 **SIXTH CAUSE OF ACTION**

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

27 **(California Labor Code Section 204)**

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

2 66. Plaintiff re-alleges and incorporates by reference each and every allegation in
3 paragraphs 1 through 65, inclusive, of this Complaint as though fully set forth herein.

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

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

8 69. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
9 informed, believes, and thereon alleges, that all times relevant during the liability period,
10 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
11 including overtime hours, the minimum wage, and premium pay for missed meal and rest
12 breaks.

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

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

20 **SEVENTH CAUSE OF ACTION**

21 **FAILURE TO GIVE REST BREAKS**

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

23 72. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 71, inclusive, of this Complaint as though fully set forth herein.

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

- 26 a. Title 8 of the California Code of Regulations Sections 11040/11050(12)(A), which
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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 11040/11050(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 11040/11050(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.

74. 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.

75. Under this cause of action, Plaintiff prays for wages due to her under the statutes,

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

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

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

9 **EIGHTH CAUSE OF ACTION**

10 **FAILURE TO GIVE MEAL BREAKS**

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

12 78. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 77, inclusive, of this Complaint as though fully set forth herein.

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

- 15 a. California Labor Code section 512(a), which requires that employees be given a 30-
16 minute uninterrupted meal break after five (5) hours of work, and a second
17 uninterrupted meal break after ten (10) hours of work;
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19 b. California Labor Code section 226.7, which states that (a) no employer shall require
20 any employee to work during any meal period mandated by an applicable order of
21 the Industrial Welfare Commission, and (b) if any employer fails to provide an
22 employee a meal period in accordance with an applicable order of the Industrial
23 Welfare Commission, the employer shall pay the employee one (1) additional hour
24 of pay at the employee's regular rate of compensation for each workday that the
25 meal period is not provided;
26
27 c. California Industrial Welfare Commission Order No. 4/5 section 11(B), as codified
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1 under Title 8 of the California Code of Regulations Section 11040/11050, which
2 states that if an employer fails to provide an employee a meal period in accordance
3 with the applicable provisions of the Wage Order, the employer shall pay the
4 employee one (1) hour of pay at the employee's regular rate of compensation for
5 each workday that the meal period is not provided;

6 d. California Industrial Welfare Commission Wage Order No. 4/5 Section 7(A)(3), as
7 codified under Title 8 of the California Code of Regulations Section 11040/11050,
8 which requires an employer to maintain records documenting its employees' meal
9 periods;
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11 e. California Industrial Welfare Commission wage order No. 4/5 Section 20(A), as
12 codified under California Code of Regulations Section 11040/11050, which
13 penalizes the employer \$50.00 for each initial violation, per employee, of any
14 provision of the Wage Order, and \$100.00 for each additional violation thereafter
15 per employee; and
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17 f. California Labor Code section 1171 and 1173, which have given the California
18 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4
19 and 5) as enforceable law.

20 80. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
21 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
22 to take a second relieved meal break after ten (10) hours of work, as required by California
23 law. California Labor Code section 512(a) and California Industrial Welfare Commission
24 Order No. 4/5, as codified under California Code of Regulations Sections 11040/11050 et. seq.
25 requires that employees receive uninterrupted meal periods every five (5) hours of consecutive
26 work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of
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1 all work duty. California Labor Code section 226.7 provides that employers may not require
2 their employees to work through their meal periods. California Labor Code section 226.7 and
3 California Code of Regulations section 11040/11050 requires that if the employer fails to
4 provide the employee with an uninterrupted meal period, the employer must pay the employee
5 one (1) hour of pay for each work day that the meal period is not given.

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

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

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

15 **NINTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
18 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194,**
19 **1197, 1198, 2800, 2802, and Wage Order no. 4/5**

20 **(Against all Named Defendants and all DOE Defendants)**

21 84. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 83, inclusive, of this Complaint as though fully set forth herein.

23 85. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
24 Defendants of the specific violations of the California Labor Code that Defendants
25 and DOE defendants have violated and continue to violate.

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

1 87. Plaintiff therefore has exhausted all administrative remedies required of her under
2 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
3 cause of action and pursue penalties in a representative action for Defendants' violations of the
4 Labor Code.

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

11 89. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
12 violator and had one or more of the alleged violations committed against her, and therefore is
13 properly suited to represent the interests of other current and former hourly, non-exempt
14 employees who worked for GRAD VETS at any of their various California locations
15 during the relevant PAGA period.

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

19 91. Plaintiff therefore has exhausted all administrative remedies required of her under
20 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
21 cause of action and pursue penalties in a representative action for Defendants' violations of the
22 Labor Code.

23 92. California Labor Code section 2699 et seq. imposes penalties upon culpable
24 Defendants for violating the Labor Code.

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

6 94. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
7 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
8 seeking individual/victim specific relief or underpaid wages under this particular cause of
9 action.

10 95. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
11 the following:

12 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210,
13 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1198, 2800, and
14 2802, via 2698 and 2699 any other Labor Codes and Wage Orders (including no.
15 4/5) violated on the facts alleged in this Complaint.

16 96. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney’s fees,
17 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
18 employees as alleged herein in an amount to be shown according to proof at trial and within the
19 jurisdictional limits of this Court.

20 **TENTH CAUSE OF ACTION**

21 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

23 97. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 96, inclusive, of this Complaint as thought fully set forth herein.

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

99. 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, uniforms for the workplace.

100. 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

RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5

(Plaintiff against All Named Defendants and all DOE Defendants)

101. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 100, inclusive, of this Complaint as though fully set forth herein.

102. At all times material to this Complaint, California Labor Code § 1102.5 was in effect and binding on Defendants. This section requires Defendants to refrain from retaliating against an employee for refusing to participate in an activity that he/she reasonably believes would result in a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation. California Labor Code section 1102.5 also requires Defendants to refrain from retaliating against an employee for disclosing information to a person with authority over the employee if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee’s job duties.

103. As mentioned above, Plaintiff complained to Defendants about lack of covid-19 sick pay.

104. Defendants retaliated against Plaintiff for her whistleblowing, as alleged above, all in violation of Labor Code § 1102.5.

105. As a direct and proximate result of the aforementioned acts and omissions of Defendants,

1 Plaintiff suffered general and compensatory damages, including but not limited to, loss of
2 income (past and future), loss of employment benefits (past and future), general and
3 compensatory damages (past and future), mental pain and anguish and emotional distress (past
4 and future), and will continue to suffer in the future, in an amount to be proved at trial.

5 106. Plaintiff requests all available relief under Labor Code § 1102.5 including damages
6 and the imposition of civil penalties of \$10,000 for each violation as well as attorney's fees.

7 **TWELFTH CAUSE OF ACTION**

8 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6**

9 **(California Labor Code section 98.6)**

10 **(Plaintiff against Defendant G.R.A.D. VETS, INC. and DOE Defendants, and each of**
11 **them)**

12 107. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 106, inclusive, of this Complaint as though fully set forth herein.

14 108. California Labor Code section 98.6 provides, in pertinent part, as follows:

15 "A person shall not discharge an employee or in any manner discriminate, retaliate, or
16 take any adverse action against any employee or applicant for employment because the
17 employee or applicant engaged in any conduct delineated in this chapter...or because
the employee or applicant...made a written or oral complaint that he or she is owed
unpaid wages...

18 109. In doing the things herein alleged, Defendants violated Labor Code section 98.6 in
19 that they retaliated against Plaintiff for complaining about labor code violations that were being
20 committed by Defendants, including the non-payment of covid-19 sick pay.

21 110. As a direct and proximate result of the aforementioned acts and omissions of
22 Defendants, Plaintiff suffered general and compensatory damages, including but not
23 limited to, loss of income (past and future), loss of employment benefits (past and future),
24 general and compensatory damages (past and future), mental pain and anguish and emotional
25 distress (past and future), and will continue to suffer in the future, in an amount to be proved at
26 trial. Moreover, pursuant to Labor Code section 98.6, an employer who violates this section is
27 liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee for each
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violation of this section.

THIRTEENTH CAUSE OF ACTION

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

(Plaintiff against G.R.A.D. VETS, INC. and all DOE Defendants)

111. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 110 inclusive, of this Complaint as though fully set forth herein.

112. At all times during her employment with Defendants, Plaintiff performed her duties with the utmost diligence and competence.

113. Plaintiff is informed and believes and thereon alleges that Defendants' decision and actions to treat her differently and terminate her employment as alleged herein, was motivated by Plaintiff's whistleblowing and complaints about illegal activity at the workplace. Plaintiff is further informed and believes and thereon alleges that any other reasons proffered by Defendants were and are pretextual in nature.

114. The employment of Plaintiff was wrongfully terminated in or around June 3, 2022 in violation of the fundamental public policy of the State of California with respect to retaliating against an employee on account of her whistleblowing. Plaintiff was forced to hire an attorney to assist her to end these illegal activities. Said conduct violated statutory and constitutional expressions of public policy including, but not limited to, Labor Code sections 1102.5 and 98.6, and the California Constitution, Article 1 section 8.

115. As set forth above, said actions by Defendants were wrongful and in violation of the fundamental principles of the public policy of the State of California as reflected in its laws, objectives and policies. Said statutes and constitutional expressions of public policy include, but are not limited to, California Labor Code sections 98.6 and 1102.5 and the California Constitution, Article 1 section 8. These laws inure to the benefit of the public at large, and not just the private interests of the employers and employees whom they govern or protect.

116. As a direct and proximate result of the aforementioned acts and omissions of Defendants, Plaintiff suffered general and compensatory damages, including but not limited to, loss of income (past and future), loss of employment benefits (past and future), general and

1 compensatory damages (past and future), mental pain and anguish and emotional distress (past
2 future), and will continue to suffer in the future, in an amount to be proved at trial.

3 117. The foregoing conduct engaged in by Defendants and each of their directors, officers
4 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
5 and carried on with a conscious and willful disregard of their workers' right to work in an
6 environment free of retaliation due to whistleblowing, so as to justify the imposition of punitive
7 damages to punish and set an example of said Defendants.

8 **FOURTEENTH CAUSE OF ACTION**

9 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

10 **(California Business and Professions Code Section 17200)**

11 **(Plaintiff against Defendant G.R.A.D. VETS, INC. and all DOE defendants)**

12 118. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 117, inclusive, of this Complaint as though fully set forth herein.

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

17 120. Defendant's violations of the Labor Code constitutes a business practice because it
18 was done repeatedly over a significant period of time in a systematic manner that was
19 detrimental to Plaintiff and others.

20 121. For the four years preceding the filing of this action, Plaintiff has suffered damages
21 and request damages and/or restitution of all monies and profits to be disgorged from
22 Defendants in an amount according to proof at time of trial, but in excess of the
23 jurisdiction of this Court.

24 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
25 follows:

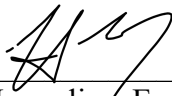
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- 27 1. For compensatory damages, according to proof;
 - 28 2. For special and consequential damages to the extent allowed by law;

3. For general damages, according to proof;
4. For an award of punitive damages against corporate Defendants according to proof;
5. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
6. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
7. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
8. For restitution and disgorgement for all unfair business practices by corporate Defendant G.R.A.D. VETS, INC. against Plaintiff in an amount subject to proof at trial;
9. For an order enjoining corporate Defendant G.R.A.D. VETS, INC. from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
10. 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;
11. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
12. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claim;
13. 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;
14. For the imposition of civil penalties and/or statutory penalties;

- 1 15. For all interest as allowed by law;
2 16. For all costs and disbursements incurred in this suit;
3 17. Reasonable attorney's fees where available by law, including but not limited to,
4 pursuant to Labor Code section 2698 et seq., California Labor Code section 1102.5,
5 Code of Civil Procedure section 1021.5, and/or other applicable laws; and
6 18. For such other and further relief as this Court may deem proper.
7

8 DATED: March 28, 2023

MESSRELIAN LAW INC.

9
10 By 
11 Harout Messrelian, Esq.
12 Attorneys for Plaintiff Sabrina Tula

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
15

16 DATED: March 28, 2023

MESSRELIAN LAW INC.

17
18 By 
19 Harout Messrelian, Esq.
20 Attorneys for Plaintiff Sabrina Tula
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