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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

CHARLES L. BING, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

MIRAMAR HEALTH, LLC, a limited liability
company; MIRAMAR HEALTH, INC., a
California corporation; and DOES 1 through
100, Inclusive,

Defendants.

Case No. 30-2022-01274896-CU-OE-CXC

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) FAILURE TO REIMBURSE
BUSINESS EXPENSES (LABOR
CODE §§ 2802, 2804);**
- (2) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 1198);**
- (3) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 1198)**
- (4) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (5) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*).**
- (7) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiffs Charles L. Bing (“Plaintiff Bing”) and Jonathan Wilder (“Plaintiff Wilder”)
2 (together, “Plaintiffs”), on behalf of themselves and all others similarly situated, hereby bring this
3 Second Amended Class and Representative Action Complaint against Miramar Health, LLC;
4 Miramar Health, Inc., a California corporation; and Does 1 through 100, inclusive (collectively,
5 “Defendants”), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring
8 this class action for recovery of unpaid wages and penalties under California Business and
9 Professions Code § 17200, *et. seq.*, Labor Code §§ 201-204, 226, 226.7, 512, 516, 558, 1198,
10 2802, 2804, 2698, *et seq.*, and Industrial Welfare Commission Wage Order No. 4 (“Wage Order
11 4”), in addition to seeking declaratory relief and restitution. This class action is brought pursuant
12 to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’
13 violations of the California Labor Code because the amount in controversy exceeds this Court’s
14 jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in Orange County. Defendants own, maintain offices, transact business, have an agent
19 or agents within Orange County, and/or otherwise are found within Orange County, and
20 Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiffs are individuals over the age of eighteen (18). At all relevant times herein,
23 Plaintiffs were, and currently are, California residents. During the four years immediately
24 preceding the filing of this action and within the statute of limitations periods applicable to each
25 cause of action pled herein, Plaintiffs were employed by Defendants as a non-exempt employee.
26 Plaintiffs were, and are, victims of Defendants’ policies and/or practices complained of herein,
27 lost money and/or property, and has been deprived of the rights guaranteed by California Labor
28 Code §§ 201-204, 226, 226.7, 510, 512, 516, 558, 1194, 1198, 2802, 2804, 2698, *et seq.*,

California Business & Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 4, which sets employment standards for employees in professional, technical, clerical, mechanical, and similar occupations.

4. Plaintiffs are informed and believe, and based thereon allege, that during the four years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do) business as a drug and alcohol rehab facility, and that they employed Plaintiffs and other similarly situated non-exempt employees within Orange County and the state of California.

5. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiffs are informed and believe, and thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiffs and the Classes (as defined in Paragraph 16) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiffs are informed and believe, and based thereon allege, that at all times mentioned herein, Defendants were and are the employers of Plaintiffs and all Class members.

7. At all times herein mentioned, each of said Defendants participated in the acts herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each of the acts or omissions alleged herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiffs allege that all Defendants were joint employers for all purposes of Plaintiffs and all Class Members (as defined in Paragraph 16).

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff Bing was employed by Defendants as a non-exempt employee from approximately May 2021 until approximately September 2021. Plaintiff Wilder was employed by Defendants as a non-exempt employee from approximately February 2023 to September 5, 2023.

10. During Plaintiffs' employment with Defendants, Defendants failed to reimburse Plaintiffs and other non-exempt employees for necessary business expenses. Specifically, Plaintiffs and other non-exempt employees were required to clock in and out via the Paychex app on their personal cell phones, and were required to communicate with supervisors and other employees in the discharge of their duties for Defendants using their personal cell phones, but Defendants failed to reimburse Plaintiffs and other non-exempt employees for a portion of their cell phone bill as required under California law, including Labor Code § 2802 and *Cochran v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (2014).

11. Defendants have also failed to provide Plaintiffs and other non-exempt employees with all statutorily mandated meal periods due to Defendants' meal period policies/practices. Specifically, due to the volume of work imposed on Plaintiffs and the fact that they were constantly required to be available to Defendants' clients, Plaintiffs frequently were unable to take an off-duty 30-minute meal period beginning prior to the end of the fifth hour of work. Furthermore, although Defendants paid some meal period premiums (discussed below), Defendants often failed to do so on shifts where Plaintiffs were not provided a legally compliant meal period.

12. Defendants have also failed to authorize and permit rest periods to Plaintiffs and other non-exempt employees. Specifically, Defendants have failed to authorize and permit a 10-minute net rest period for every 4 hours worked or major fraction thereof, as Plaintiffs and other non-exempt employees were frequently unable to take the rest periods to which they were entitled as a result of the workload imposed by Defendants, and/or because they were required to be constantly available to clients for the duration of their shift. In those instances that Defendants failed to provide Plaintiffs and other non-exempt employees with a legally compliant rest period, Defendants failed to pay the rest period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants

maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to authorize and permit a legally compliant rest period.

13. As a result of Defendants' failure to pay all required meal and rest period premium wages, Defendants failed to pay all wages to Plaintiffs and other formerly employed non-exempt employees at the separation of their employment.

14. As a further result of Defendants' failure to pay all meal and rest period premium wages, Defendants maintained inaccurate payroll records, and issued inaccurate wage statements to Plaintiffs and other non-exempt employees.

15. In addition, on those occasions when Defendants did pay meal period premiums, the wage statements issued to Plaintiffs and other non-exempt employees were facially deficient in that they failed to list the correct total hours worked and therefore, failed to comply with Labor Code § 226(a)(2). Specifically, the wage statements issued by Defendants included a line item titled "Total Hrs Worked," and Defendants would include the hours paid as meal period premiums as "hours worked," even though the hours ascribed to meal period premiums are not actually hours worked. For example, Plaintiff Bing's wage statement dated August 13, 2021, reported that Plaintiff Bing worked 85.68 "hourly" hours, 11.20 "overtime" hours, and 1.00 "meal premium" hour, and further reported that Plaintiff Bing's "Total Hrs Worked" was 97.88 hours, i.e., the total of all reported "hours" including the meal premium. Thus, the wage statements issued by Defendants during pay periods when employees were paid meal premiums, failed to accurately report employees' total hours worked, and in fact reported total hours worked inaccurately, in violation of Labor Code § 226(a)(2).

CLASS ACTION ALLEGATIONS

16. Class Definitions: Plaintiff bring this action on behalf of himself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

a. The Expense Reimbursement Class consists of all of Defendants' current and former non-exempt employees in California who were required to use their personal cellular phones for work purposes, at any time from four years immediately preceding the filing of this action through the present.

b. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 5.0 hours without a 30-minute meal period beginning prior to the end of the fifth of work, at any time from four years immediately preceding the filing of this action through the present.

c. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift of 3.5 hours or more, at any time from four years immediately preceding the filing of this action through the present.

d. The Waiting Time Class consists of all members of the Meal Period Class and/or Rest Period Class, who are no longer employed by Defendants and who last worked for Defendants at any time from three years immediately preceding the filing of this action through the present.

e. The Wage Statement Class consists of (i) all members of the Meal Period Class and/or Rest Period Class who received a wage statement at any time from one year immediately preceding the filing of this action through the present; and (ii) all of Defendants' current and former non-exempt employees in California who were issued a wage statement that included meal premiums and/or any other category of hours that are not actual hours worked among "total hours worked" on the wage statement, at any time from one year immediately preceding the filing of this action through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Classes is unknown to Plaintiffs at this time; however, it is estimated that the Classes number greater than fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiffs and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

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- i. Whether Defendants reimbursed employees for work-related expenses;
- ii. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class;
- iii. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class;
- iv. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and
- v. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of separation of employment.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' reimbursement, wage statement, meal period, rest period, and final wage policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

20. **Typicality:** Plaintiffs' claims are typical of the claims of the Classes because Plaintiffs were employed by Defendants as non-exempt employees in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiffs, like the members of the Classes, were not reimbursed for all business expenses incurred, were subject to Defendants' uniform meal and rest period policies/practices, was furnished with inaccurate wage statements, and were deprived of all final wages upon their separation of employment from Defendants.

21. **Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiffs' attorneys are ready, willing, and able to fully and adequately represent the members of the Classes and Plaintiffs. Plaintiffs' attorneys have prosecuted numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this

1 action on behalf of the members of the Classes.

2 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
3 an important public interest in establishing minimum working conditions and standards in
4 California. These laws and labor standards protect the average working employee from
5 exploitation by employers who have the responsibility to follow the laws and who may seek to
6 take advantage of superior economic and bargaining power in setting onerous terms and
7 conditions of employment. The nature of this action, and the format of laws available to Plaintiffs
8 and Class members, make the class action format a particularly efficient and appropriate
9 procedure to redress the violations alleged herein. If each employee were required to file an
10 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
11 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
12 their vastly superior financial and legal resources. Moreover, requiring each Class member to
13 pursue an individual remedy would discourage the assertion of lawful claims by employees who
14 would be disinclined to file an action against their former and/or current employer for real and
15 justifiable fear of retaliation and permanent damages to their careers at subsequent employment.
16 Further, the prosecution of separate actions by the individual class members, even if possible,
17 would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to
18 the individual class members against Defendants herein; and which would establish potentially
19 incompatible standards of conduct for Defendants. Further, the claims of the individual members
20 of the Classes are not sufficiently large to warrant vigorous individual prosecution considering
21 all of the concomitant costs and expenses attending thereto. As such, the Classes identified in
22 Paragraph 16 are maintainable under Code Civ. Proc. § 382 of the Code of Civil Procedure.

23 **FIRST CAUSE OF ACTION**

24 **FAILURE TO REIMBUSE BUSINESS EXPENSES**

25 **(AGAINST ALL DEFENDANTS)**

26 23. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

27 24. As alleged herein, it was necessary for Plaintiffs and members of the Expense
28 Reimbursement Class to use their personal cell phones in performing their work for Defendants.

1 Although Plaintiffs and members of the Expense Reimbursement Class incurred these expenses
2 in the direct discharge of their job duties, Defendants did not reimburse these employees for such
3 necessary work expenditures during the four years preceding the filing of this lawsuit.

4 25. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
5 states that “an employer shall indemnify his or her employees for all necessary expenditures or
6 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
7 his or her obedience to the directions of the employer.”

8 26. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
9 states, “any contract or agreement, express or implied, made by any employee to waive the
10 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
11 employee or his personal representative of any right or remedy to which he is entitled under the
12 laws of this State.”

13 27. As a proximate result of Defendants’ policies and/or practices in violation of Labor
14 Code §§ 2802 and 2804, Plaintiffs and members of the Employee Expense Class were damaged
15 in sums, which will be shown according to proof.

16 28. Plaintiffs and members of the Expense Reimbursement Class are entitled to
17 attorneys’ fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.
18 Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary
19 expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiffs and
20 members of the Expense Reimbursement Class are entitled to interest, which shall accrue from
21 the date on which they incurred the initial necessary expenditure.

22 **SECOND CAUSE OF ACTION**

23 **MEAL PERIOD VIOLATIONS**

24 **(AGAINST ALL DEFENDANTS)**

25 29. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

26 30. Plaintiffs are informed and believe, and based thereon allege, that Defendants
27 failed in their affirmative obligation to provide all their hourly non-exempt employees, including
28 Plaintiffs and members of the Meal Period Class, with all required meal periods in accordance

1 with the mandates of the California Labor Code and Wage Order 4, for the reasons set forth in
2 this Complaint.

3 31. As a result, Defendants owe premium compensation for meal period violations,
4 including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 4, Labor
5 Code §§ 226.7 and 512, Civil Code § 3287, and Art. XV, § 1 of the California Constitution.

6 **THIRD CAUSE OF ACTION**

7 **REST PERIOD VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

9 32. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

10 33. Labor Code §§ 226.7 and 516, and Wage Order 4, § 12 establish the right of
11 employees to be authorized and permitted a rest period of at least ten (10) minutes for each four
12 (4) hour period worked, or major fraction thereof.

13 34. As alleged herein, Defendants failed to authorize and permit Plaintiffs and Rest
14 Period Class members to take their legally entitled rest periods.

15 35. The foregoing violations create an entitlement to recovery by Plaintiffs and Rest
16 Period Class members in a civil action for the unpaid amount of rest period premiums owing,
17 including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor
18 Code §§ 226.7, 516, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, §
19 1 of the California Constitution.

20 **FOURTH CAUSE OF ACTION**

21 **WAGE STATEMENT VIOLATIONS**

22 **(AGAINST ALL DEFENDANTS)**

23 36. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

24 37. Plaintiffs are informed and believe, and based thereon allege, that Defendants
25 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiffs
26 and the Wage Statement Class with accurate and complete itemized wage statements that
27 included, among other requirements, all meal and rest period premium wages earned, and total
28 hours worked, in violation of Labor Code § 226.

38. Defendants' failure to furnish Plaintiffs and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, the non-payment of all their meal and rest period premium wages, an inaccurate accounting of total hours worked, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

39. Defendants' failures create an entitlement to recovery by Plaintiffs and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit according to California Labor Code §§ 226 and 226.3.

FIFTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

40. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

41. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee, or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

42. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed to timely pay Plaintiffs and members of the Waiting Time Class all final wages due to them at their separation from employment, including (but not limited to) unpaid meal and rest period premium wages.

43. Further, Plaintiffs are informed and believe, and based thereon allege, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiffs and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Cal. Labor Code §§ 201-203.

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44. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiffs and the members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of daily wages up to thirty (30) days from the time the wages were due. Plaintiffs and members of the Waiting Time Class are entitled to compensation pursuant to Cal. Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

45. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

46. Defendants have engaged, and continue to engage, in unfair and/or unlawful business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to reimburse business expenses incurred, failing to provide meal periods or pay meal period premium wages, failure to authorize and permit rest periods or pay rest period premium wages, failing to furnish accurate and complete itemized wage statements in violation of Labor Code § 226, and failing to pay all earned wages to Waiting Time Class members at the time of their separation of employment.

47. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiffs and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

48. Because Plaintiffs are victims of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiffs for themselves, and on behalf of the members of the Classes, seek full restitution of monies as necessary and according to proof, to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

49. The acts complained of herein occurred within the four years immediately preceding the filing of this action.

1 50. Plaintiffs were compelled to retain the services of counsel to file this court action
2 to protect their interests and those of the Classes, to obtain restitution and injunctive relief on
3 behalf of Defendants’ current non-exempt employees, and to enforce important rights affecting
4 the public interest. Plaintiffs have thereby incurred the financial burden of attorneys’ fees and
5 costs, which they are entitled to recover under Code of Civil Procedure § 1021.5.

6 **SEVENTH CAUSE OF ACTION**
7 **PRIVATE ATTORNEYS GENERAL ACT**
8 **(AGAINST ALL DEFENDANTS)**

9 51. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

10 52. Defendants have committed several Labor Code violations against Plaintiffs and
11 other aggrieved employees. Plaintiffs are “aggrieved employees” within the meaning of Labor
12 Code § 2698 *et seq.* Plaintiff Bing, acting on behalf of himself and other aggrieved employees,
13 brings this representative action against Defendants to recover the civil penalties due to Plaintiff
14 Bing, other aggrieved employees, and the State of California according to proof pursuant to Labor
15 Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial
16 violation for each failure to pay each employee and \$200.00 for each subsequent violation or
17 willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each
18 employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and
19 \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period;
20 (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor
21 Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code
22 § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee
23 per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent
24 violation per employee per pay period for those violations of the Labor Code for which no civil
25 penalty is specifically provided, based on the following Labor Code violations:

- 26 a. Failing to reimburse Plaintiffs and other aggrieved employees for all necessary
27 business expenditures, in violation of Labor Code §§ 2802, 2804, and 1198;

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- b. Failing to provide all legally required meal periods and failing to pay meal period premiums, in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- c. Failing to authorize and permit all legally required rest periods and failing to pay rest period premiums, in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- d. Failing to provide Plaintiffs and other aggrieved employees with complete, accurate, itemized wage statements, in violation of Labor Code § 226;
- e. Failing to pay Plaintiffs and other aggrieved former employees all final wages due at the end of their employment, in violation of Labor Code §§ 201-203;
- f. Failing to pay all wages to Plaintiffs and other aggrieved employees at least twice per calendar month, in violation of Labor Code § 204; and
- g. Failing to maintain accurate records on behalf of Plaintiffs and other aggrieved employees, in violation of Labor Code § 1174.

53. On or around August 11, 2022, Plaintiff Bing notified Defendants Miramar Health, LLC and Miramar Health, Inc., via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff Bing’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified in paragraph 52 (a)-(g) above. Now that sixty-five days have passed from Plaintiff Bing’s notifying Defendants and the LWDA of these violations, Plaintiff Bing has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

54. Plaintiff Bing was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to recover under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose behalf this suit is brought against Defendants, as follows:

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1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiffs as representative of the Classes;
3. For an order appointing counsel for Plaintiffs as counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 2802, 2804, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 1198;
7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
9. Upon the Sixth Cause of Action, for restitution to Plaintiffs and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200, *et seq.*;
10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiffs, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699, including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay

period for those violations of the Labor Code for which no civil penalty is specifically provided,
pursuant to Labor Code § 2699(f);

11. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
§§ 218.6, 1194(a), 2802(b), Civil Code § 3287, and Art. XV, § 1 of the California Constitution;

12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
226(e), 1194 *et seq.*, 2802(c), 2699(g), and Code of Civil Procedure § 1021.5; and

13. For such other and further relief the Court may deem just and proper.

Date: February 29, 2024

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: February 29, 2024

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorneys for Plaintiffs

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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1700 W. Burbank Avenue, Burbank, CA 91506.

On the below date, I served a true copy of the foregoing documents described as:

SECOND AMENDED COMPLAINT

on all interested parties in this action directed as follows:

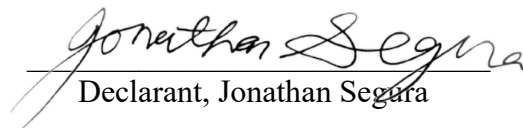
Jamie L. Keeton, Esq. Adam C. Zamost, Esq. SCHLICHTER, SHONACK & KEETON, LLP 2381 Rosecrans Ave., Ste. 326 El Segundo, CA 90245 Attorney for Defendant	Email Address: jlk@ssandkattorneys.com acz@ssandkattorneys.com
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// (BY OVERNIGHT MAIL): I am readily familiar with the firm's practice of collection and processing for overnight delivery. Under such practice, I caused the aforementioned document(s) to be delivered to an overnight courier service, carrier fees paid and deposited in an overnight delivery drop-box and/or delivered to an overnight carrier.

/ X / (BY ELECTRONIC SERVICE): BY ELECTRONIC TRANSMISSION) I served the foregoing by electronic transmission to the email addresses listed above, pursuant to Cal. Code Civ. Proc. § 1010.6 and Cal. Rules of Court Rule 2.251.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on February 29, 2024, at Burbank, California.


Declarant, Jonathan Segura