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KAYLE HARDMAN
on behalf of herself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

KAYLE HARDMAN, an individual on
behalf of herself and others similarly situated,

Plaintiff,

vs.

OJAI VALLEY ASSISTED LIVING LLC
dba THE ARTESIAN OF OJAI, a California
Limited Liability Company; and DOES 1 to
100, inclusive,

Defendants.

Case No.: 56-2022-00568891-CU-OE-VTA

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

- 1. FAILURE TO PAY OVERTIME;**
- 2. FAILURE TO PROVIDE MEAL PERIODS;**
- 3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS;**
- 4. WAITING TIME PENALTIES;**
- 5. FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS;**
- 6. FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 7. UNFAIR COMPETITION;**
- 8. DECLARATORY RELIEF; and**
- 9. VIOLATION OF CALIFORNIA PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2699, et seq.)**

1 } **DEMAND FOR JURY TRIAL**

2 } Complaint Filed: August 5, 2022

3 _____

4 Plaintiff KAYLE HARDMAN ("HARDMAN" or "PLAINTIFF") on behalf of herself

5 and all others similarly situated, for her causes of action against Defendants OJAI VALLEY

6 ASSISTED LIVING LLC dba THE ARTESIAN OF OJAI ("THE ARTESIAN" or

7 "DEFENDANT") and DOES 1 through 100 (hereinafter THE ARTESIAN and DOES 1 through

8 100 are sometimes collectively referred to herein as "Defendants"), hereby complains and alleges

9 as follows:

10 **I. INTRODUCTION**

11 1. This is a class action, under Code of Civil Procedure § 382, seeking recovery for

12 Defendants' violations of California Labor Code §§ 201-203, 226, 226.7, 510, 512, 1194, 2802,

13 and Business & Professions Code §17200, and all applicable Industrial Welfare Commission

14 (IWC) Wage Orders, among other things.

15 2. Plaintiff's action seeks, among other things, monetary damages, penalties,

16 restitution from Defendants as a result of Defendants' unlawful, fraudulent, and/or unfair

17 business practices, declaratory relief, and injunctive relief.

18 3. This action is brought as a class action on behalf of all current and former

19 employees of Defendants who are California citizens and who worked for Defendants in

20 California during the relevant time period.

21 4. The acts complained of herein occurred, occur and will occur, at least in part,

22 within the time period from four (4) years preceding the filing of this Complaint, up to and

23 through the time of trial for this matter.

24 **II. THE PARTIES**

25 5. Plaintiff HARDMAN was, and at all relevant times mentioned herein, has been an

26 individual residing within the State of California. Plaintiff HARDMAN worked for Defendants

27 from July 2020 to May 2022.

1 6. Defendant THE ARTESIAN operates a senior living facility that offers assisted
2 living and memory care for seniors. Plaintiff is informed and believes, and based thereon
3 alleges, that Defendant THE ARTESIAN is a limited liability company organized and existing
4 under the laws of the State of California and doing business in the State of California.

5 7. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
6 each of them, were at all times mentioned herein the agents, servants, and/or employees of each
7 of the remaining Defendants, and in doing the things alleged herein, were acting within the
8 course and scope of their authority and acted with the knowledge, consent and permission of the
9 other Defendants, and each of them. Each and every one of the acts and omissions alleged herein
10 were performed by and/or attributable to, all Defendants, each acting under the direction and
11 control of each of the other Defendants and said acts and failures to act were within the course
12 and scope of said agency, employment and/or direction and control, and were committed
13 willfully, oppressively, and fraudulently.

14 8. Defendants DOES 1 through 100, inclusive, are sued herein under fictitious
15 names. Their true names and capacities are unknown to Plaintiff. When their true names and
16 capacities are ascertained, Plaintiff will amend the complaint by inserting their true names and
17 capacities herein. Plaintiff is informed and believes, and based thereon alleges, that each of the
18 fictitiously named Defendants are responsible in some manner for the occurrences herein alleged
19 and that Plaintiff's damages as herein alleged were proximately caused by the Defendants. Each
20 reference in this complaint to "Defendant," "Defendants," or a specifically named Defendant
21 refers also to all Defendants sued under fictitious names.

22 9. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
23 herein Defendants maintained offices, employed persons, conducted business in, and/or engaged
24 in illegal employment practices and policies in the State of California.

25 **III. JURISDICTION**

26 10. The California Superior Court has jurisdiction in this matter due to Defendants'
27 violations of California statutes and related industrial welfare commission wage orders.

1 11. The California Superior Court also has jurisdiction in this matter because both the
2 individual and aggregate monetary damages, restitution, and other relief sought herein exceed the
3 jurisdiction limits of the Superior Court and will be established at trial, according to proof.

4 **IV. VENUE**

5 12. Venue in Ventura County is proper in this matter because Defendants conduct
6 business in Ventura County as well as throughout the State of California, and the acts and
7 liabilities complained of herein arose in Ventura County and throughout the State of California.

8 **V. COMMON FACTUAL ALLEGATIONS**

9 13. Plaintiff was hired by Defendants as a Lead Guide in July 2020. Plaintiff was
10 subsequently moved into the position of Medication Tech. Plaintiff's job duties included passing
11 out medication, assisting with wound care and cleaning, administering eye drops, and general
12 patient observation. She was terminated by Defendant on or about May 27, 2022.

13 14. Defendants operate senior living facilities in Ventura County California.

14 15. Plaintiff regularly worked in excess of 8 hours per day, and in excess of 40 hours
15 per week. At the time of her termination, she was making \$20.50/hour.

16 16. Plaintiff and the class members worked overtime, without premium
17 compensation, while she worked for Defendants.

18 17. Defendants failed to provide proper meal breaks to Plaintiff and the class
19 members. Plaintiff's workload prevented her from taking meal breaks or taking them in a timely
20 manner. Often Plaintiff would be interrupted or have to respond to various communications and
21 in order to respond to patient needs. Plaintiff was not provided proper, timely meal breaks.

22 18. Defendants failed to authorize and permit proper rest breaks. In fact, Plaintiff
23 does not recall ever receiving duty free rest breaks while working for Defendants.

24 19. Defendants failed to properly reimburse Plaintiff, and the class members, for
25 necessary business expenses incurred while performing their duties for Defendants, including,
26 but not limited to, the use of personal cell phones for business purposes and related expenses.
27 Defendants did not reimburse their employees for these costs.

1 26. Numerosity (Code of Civil Procedure (CCP) § 382):

- 2 a. The potential quantity of members of the Class as defined is so numerous
3 that joinder of all members is unfeasible or impractical;
4 b. The disposition of the claims of the members of the Class through this
5 class action will benefit both the parties and this Court;
6 c. The quantity and identity of such membership of the Class is readily
7 ascertainable via inspection of Defendants' records.

8 27. Superiority (CCP § 382): The nature of this action and the nature of the laws
9 available to Plaintiff makes the use of the class action format particularly efficient and the
10 appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein, as follows:

- 11 a. California public policy encourages the use of the class action device;
12 b. By establishing a technique whereby the claims of many individuals can
13 be resolved at the same time, the class suit both eliminates the possibility
14 of repetitious litigation and provides claimants with a method of obtaining
15 redress for claims that may be too small to warrant individual litigation;
16 c. This case involves large corporate Defendants and numerous individual
17 Class Members with small claims and common issues of law and fact;
18 d. If each individual member of the Class was required to file an individual
19 lawsuit, the corporate Defendants would necessarily gain an
20 unconscionable advantage because Defendants would be able to exploit
21 and overwhelm the limited resources of each individual member of the
22 Class with Defendants' vastly superior financial and legal resources;
23 e. Requiring each individual member of the Class to pursue an individual
24 remedy would also discourage the assertion of lawful claims by the
25 members of the Class who would be disinclined to pursue an action
26 against Defendants because of an appreciable and justifiable fear of
27 retaliation and permanent damage to their lives, careers and well-being;

- 1 f. Proof of a common business practice or factual pattern, of which the
2 members of the Class experienced, is representative of the Class herein
3 and will establish the right of each of the members of the Class to recover
4 on the causes of action alleged herein;
- 5 g. Absent class treatment, the prosecution of separate actions by the
6 individual members of the Class, even if possible, would likely create:
- 7 (i) a substantial risk of each individual Plaintiff presenting in separate,
8 duplicative proceedings the same or essentially similar arguments
9 and evidence, including expert testimony;
- 10 (ii) a multiplicity of trials conducted at enormous expense to both the
11 judicial system and the litigants;
- 12 (iii) inconsistent or varying verdicts or adjudications with respect to the
13 individual members of the Class against Defendants;
- 14 (iv) potentially incompatible standards of conduct for Defendants; and
15 (v) potentially incompatible legal determinations with respect to
16 individual members of the Class which may be dispositive of the
17 interest of the other members of the Class who are not parties to
18 the adjudications, or which would substantially impair or impede
19 the ability of the members of the Class to protect their interests.
- 20 h. The claims of the individual Class Members are not sufficiently large to
21 warrant vigorous individual prosecution considering all of the concomitant
22 costs and expenses attendant thereto;
- 23 i. Courts seeking to preserve the efficiency and other benefits of class
24 actions routinely fashion methods to manage any individual questions; and
- 25 j. The Supreme Court of California urges trial courts to consider the use of
26 innovative procedural tools to manage class actions.
- 27
28

28. Well-defined Community of Interest: Plaintiff also meets the established standards for class certification as follows:

- a. Typicality: The claims of Plaintiff are typical of all members of the Class she seeks to represent because all members of the Class sustained injuries and damages arising out of Defendants' common course of conduct in violation of California law, as alleged herein.
- b. Adequacy: Plaintiff HARDMAN
 - (i) is an adequate representative of the Class she seeks to represent;
 - (ii) will fairly protect the interests of the members of the Class;
 - (iii) has no interests antagonistic to the members of the Class; and
 - (iv) will vigorously pursue this suit via attorneys who are competent, skilled, and experienced in litigating matters of this type.
- c. Predominant Common Questions of Law or Fact: There are common questions of law and fact that predominate over questions affecting only individual members. For instance, Defendants have adopted unlawful wage and hour policies and practices that apply to each and every California employee. Additional questions that should be decided on a class-wide basis, include, without limitation:
 - (i) Whether Defendants violated California Labor Code § 510, 1194, the UCL, and applicable IWC Wage Orders by failing to pay overtime to Class Members;
 - (ii) Whether Defendants violated California Labor Code § 2802 by failing to reimburse Class Members for reasonable business expenses they incurred;
 - (iii) Whether class members were provided proper meal breaks;
 - (iv) Whether class members were provided proper rest breaks;

- (v) Whether Defendants violated California Labor Code §§ 226(a), 1174.5, and applicable IWC Wage Orders by failing to furnish to Class Members proper itemized wage statements as alleged herein;
- (vi) Whether Defendants violated §§ 201-203 by failing to timely pay Class Members all wages due at the conclusion of their employment relationship;
- (vii) Whether Defendants engaged in unfair business practices;
- (ix) Whether Defendants' conduct was willful or reckless;
- (x) Whether Plaintiff and the members of the Class are entitled to seek recovery of penalties for the Labor Code and IWC Wage Order violations alleged herein;
- (xi) Whether the members of the Class are entitled to compensatory damages, and if so, the means of measuring such damages;
- (xii) Whether the members of the Class are entitled to injunctive relief;
- (xiii) Whether the members of the Class are entitled to restitution;
- (xiv) Whether Defendants are liable for attorneys' fees and costs;
- (xv) Whether Defendants violated California Business and Professions Code § 17200

29. The members of the Class are commonly entitled to declaratory relief, injunctive relief, damages, and restitution. This action is brought for the benefit of all members of the Class. Whether each member of the Class might be required to ultimately justify an individual claim does not preclude maintenance of a class action.

FIRST CAUSE OF ACTION

Failure To Pay Overtime

(Labor Code §§ 510, 1194)

30. Plaintiff incorporates by reference Paragraphs 1-29 as if fully set forth herein.

1 31. California Labor Code 510(a) and the IWC Wage Orders regulating payment of
2 wages in California, provide that eight (8) hours of labor constitutes a day's work and any work
3 in excess of eight (8) hours in one (1) workday and any work in excess of forty (40) hours in any
4 one workweek shall be compensated at the rate of no less than one and one-half times the regular
5 rate of pay for each employee and any work in excess of twelve (12) hours in any one workday
6 shall be compensated at the rate of no less than twice the regular rate of pay for each employee.

7 32. California Labor Code § 1194 states that any employee receiving less than the
8 legal overtime compensation due is entitled to recover the unpaid balance of the full amount of
9 this overtime compensation, including interest, reasonable attorney's fees, and costs of suit.

10 33. Plaintiff and the Class Members regularly worked in excess of 8 hours per day,
11 and 40 hours per week, at Defendants' location without proper compensation.

12 34. Plaintiff and the Class Members are legally entitled to overtime compensation for
13 all hours worked in excess of eight hours per day and all hours worked in excess of forty hours
14 per week pursuant to the California Labor Code and the applicable Wage Orders.

15 35. As a direct and proximate result of Defendants' conduct, Plaintiff and the class
16 members have suffered substantial losses and they have been deprived of compensation to which
17 they were entitled, according to proof, including monetary damages, pre-judgment interest, costs,
18 and attorneys' fees for the prosecution of this action.

19 36. Plaintiff and the Class Members request that the Court award them interest on all
20 unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from the
21 date the wages were due and payable pursuant to Labor Code § 218.6. Plaintiff and Class
22 Members further request that this Court award reasonable attorneys' fees and costs incurred in
23 this action pursuant to Labor Code §§ 218.5, 1194(a), and pursuant to the common fund doctrine.

24 **SECOND CAUSE OF ACTION**

25 **Failure To Provide Meal Periods**

26 **(Violation of Labor Code §§ 226.7 and 512)**

27 37. Plaintiff incorporates by reference Paragraphs 1-36 as if fully set forth herein.

1 38. California Labor Code § 512 and applicable IWC Wage Orders state that an
2 employer may not employ an employee for a work period of more than five (5) hours per day
3 without providing the employee a meal period of not less than 30 minutes, and an employer may
4 not employ an employee for a work period of more than 10 hours per day without providing the
5 employee with a second meal period of not less than 30 minutes.

6 39. Unless the employee is relieved of all duty during a 30-minute meal period, the
7 meal period shall be considered an “on duty” meal period and counted as time worked.
8 California Labor Code § 226.7(a) further states that no employer shall require any employee to
9 work during any meal mandated by an applicable order of the IWC.

10 40. Employers are prohibited from exerting coercion against the taking of, creating
11 incentives to forego, or otherwise encouraging the skipping of legally protected breaks.

12 41. Plaintiff’s duties and workload did not permit Plaintiff to take proper, timely meal
13 periods. Often Plaintiff would clock out for meal periods but be forced to work through the meal
14 period. Other times she would start her meal period later than required by the Labor Code and
15 applicable IWC Wage Orders.

16 42. Plaintiff and members of the Class were not provided with requisite meal periods
17 before the end of the first 5 hours of work. Defendants encouraged the skipping of meal periods
18 by scheduling work to coincide with the meal periods, among other things. In addition, the pace
19 of the job required Class Members to eat while working in order to keep up with their job duties.

20 43. Pursuant to California Labor Code § 226.7(c) and applicable IWC Wage Orders,
21 if an employer fails to provide an employee a meal period in accordance with the applicable
22 provisions of the IWC Wage Orders, the employer shall pay the employee one (1) hour of pay at
23 the employee’s regular rate of pay for each workday that the meal period is not provided. As
24 such, Plaintiff and members of the Class are entitled to an additional one hour’s pay for each day
25 in which Plaintiff and members of the Class were not provided a proper meal break.

1 44. Plaintiff and the members of the Class request that the Court award interest on all
2 unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from the
3 date the wages were due and payable pursuant to Labor Code § 218.6.

4 **THIRD CAUSE OF ACTION**

5 **Failure To Authorize Or Permit Rest Periods**

6 **(Violation of Labor Code § 226.7)**

7 45. Plaintiff incorporates by reference Paragraphs 1-44 as if fully set forth herein.

8 46. The applicable IWC Wage Orders state that every employer shall authorize and
9 permit all employees to take rest periods. The authorized rest period time shall be based on the
10 total hours worked daily at the rate of ten (10) minutes net rest time per four hours of work, or
11 major fraction thereof. An employer must provide employees with 10 minutes' rest for shifts
12 from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to
13 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.

14 47. Plaintiff's duties and workload did not permit Plaintiff to take proper rest periods.
15 In fact, Plaintiff does not recall ever receiving proper rest periods.

16 48. Pursuant to California Labor Code § 226.7(c) and the applicable IWC Wage
17 Orders, if an employer fails to provide an employee a rest period in accordance with the
18 applicable IWC Wage Orders, the employer shall pay the employee one (1) hour of pay at the
19 employee's regular rate of compensation for each workday that the rest period is not provided.

20 49. As such, Plaintiff and the Class members are entitled to an additional one hour's
21 pay for each day in which they were not provided a proper rest period.

22 50. Plaintiff and the members of the Class request that the Court award interest on all
23 unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from the
24 date the wages were due and payable pursuant to Labor Code § 218.6.

25 **FOURTH CAUSE OF ACTION**

26 **Waiting Time Penalties**

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

51. Plaintiff incorporates by reference Paragraphs 1-47 as if fully set forth herein.

52. Labor Code § 201 states that an employer is required to provide an employee who is terminated all unpaid wages immediately upon termination.

53. Plaintiff is informed and believes and thereon alleges that Defendants failed to pay Plaintiff and the Class Members all wages due and owing immediately upon termination, thereby violating Labor Code § 201.

54. Labor Code § 202 states that an employer is required to provide an employee who quits his or her employment all wages due and owing not later than 72 hours thereafter.

55. Plaintiff is informed and believes and thereon alleges that Defendants failed to pay Plaintiff and the Class Members all wages due and owing upon voluntary resignation, thereby violating Labor Code § 202.

56. Labor Code § 203 states that if an employer willfully fails to pay an employee wages according to Labor Code §§ 201 and 202, these wages shall continue as a penalty for up to a maximum of 30 days.

57. Defendants willfully withheld paying Plaintiff and the Class Members wages thereby violating Labor Code § 203 and requiring Defendants to pay them a 30-day wage penalty in addition to all unpaid wages as described herein.

FIFTH CAUSE OF ACTION

Failure To Provide Accurate Wage Statements

(Labor Code §§ 226, 1174.5)

58. Plaintiff incorporates by reference Paragraphs 1-57 as if fully set forth herein.

59. Labor Code § 226(a) provides that every employer shall, semi-monthly or at the time of each payment of wages, furnish each its employees, an accurate, itemized statement in writing, showing (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned if applicable, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee was paid, (7) the name of the employee and last 4 digits of the

1 social security number, (8) the name of the employer and (9) all applicable daily rates in effect
2 during the pay period and corresponding number of hours worked.

3 60. Defendants failed to provide Plaintiff and the Class Members with accurate wage
4 statements as is required by Labor Code § 226.

5 61. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class
6 Members have suffered substantial losses and they have been deprived of compensation to which
7 they were entitled, according to proof, including monetary damages, pre-judgment interest, costs,
8 and attorneys' fees for the prosecution of this action.

9 62. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class
10 Members are each entitled to recover \$50 for the initial pay period in which a violation of Labor
11 Code § 226 occurred, and \$100 per class member for each violation in a subsequent pay period,
12 not to exceed \$4000 per class member, pursuant to Labor Code §226(e).

13 **SIXTH CAUSE OF ACTION**

14 **Failure to Reimburse Business Expenses**

15 **(Labor Code § 2802)**

16 63. Plaintiff incorporates by reference Paragraphs 1-62 as if fully set forth herein.

17 64. California Labor Code § 2802 provides that "[a]n employer shall indemnify his or
18 her employee for all necessary expenditures or losses incurred by the employee in direct
19 consequence of the discharge of his or her duties."

20 65. As a matter of policy and/or practice, Defendants adopted, implemented, and
21 enforced policies and procedures whereby Plaintiff and the class members were required to incur
22 expenditures in carrying out their duties for Defendants, including but not limited to expenses for
23 cell phones charges and related expenses.

24 66. As a matter of policy, Defendants failed to indemnify or reimburse Plaintiff and
25 the class members for these expenditures. Defendants have violated and continue to violate
26 California Labor Code Section 2802.

67. As a direct and proximate result of Defendants' conduct, Plaintiff and the class members have suffered substantial losses according to proof, including pre-judgment interest, costs, and attorneys' fees for the prosecution of this action.

SEVENTH CAUSE OF ACTION

Unfair Competition

(Violation of Business & Professions Code § 17200)

68. Plaintiff incorporates by reference Paragraphs 1-67 as if fully set forth herein.

69. California Business & Professions Code §17200 prohibits unfair competition in the form of any unlawful, deceptive, or fraudulent business practice. The acts and practices described within this Complaint constitute unlawful, unfair and fraudulent business practices, and unfair competition within the meaning of Business & Professions Code §17200.

70. Plaintiff and the Class Members have suffered monetary loss and damages due to Defendants' unlawful wage and hour policies.

71. Beginning at an exact date unknown to Plaintiff, but at least since 2018, Defendants committed unlawful acts as described above, including: failing to pay overtime compensation to its employees, failing to provide proper meal and rest breaks, failing to timely pay Plaintiffs and members of the Class all wages due and owing, failing to reimburse class members for necessary business expenses, and failing to properly maintain and submit itemized wage statements.

72. The violations of these laws serve as unlawful business practices for purposes of Business and Professions Code § 17200 and remedies are provided therein under Business and Professions Code § 17203.

73. As a proximate result of the aforementioned acts, the Defendants received and continue to hold ill-gotten gains belonging to Plaintiff and all Class Members in that Defendants have profited from their unlawful practices.

74. Business and Professions Code § 17203 provides that the Court may restore to

1 any person in interest any money or property that may have been acquired by means of such
2 unfair competition and order restitutionary damages to Defendants by operation of the practices
3 alleged therein. Plaintiff and all Class Members are entitled to restitution pursuant to Business
4 and Professions Code §§ 17203 and 17208 for all wages and civil penalties unlawfully withheld
5 from them during the four (4) years prior to the filing date of this complaint.

6 75. Plaintiff and all Class Members are entitled to unpaid wages, unpaid overtime,
7 injunctive relief, statutory and civil penalties, and any other remedy owing to them.

8 76. Injunctive relief is necessary and proper to prevent Defendants from repeating
9 their wrongful practices as alleged above.

10 77. In order to prevent Defendants from profiting and benefitting from their wrongful
11 and illegal acts, an order requiring Defendants to pay restitutionary damages to Plaintiff and all
12 Class Members is also appropriate and necessary.

13 78. Plaintiff has taken it upon herself to enforce these claims. There is a financial
14 burden incurred in pursuing this action and it would be against the interests of justice to penalize
15 Plaintiff by forcing her to pay attorneys' fees in this action. Therefore, attorneys' fees are
16 appropriate pursuant to Code of Civil Procedure Section 1021.5.

17 **EIGHTH CAUSE OF ACTION**

18 **(Declaratory Relief)**

19 79. Plaintiff incorporates by reference Paragraphs 1-78 as if fully set forth herein.

20 80. California Code of Civil Procedure §1060 provides that any person who desires a
21 declaration of his or her rights or duties with respect to another, in cases of actual controversy
22 relating to the legal rights and duties of the respective parties, may ask the Court for a declaration
23 of rights or duties, and the Court may make a binding declaration of these rights or duties,
24 whether or not further relief is or could be claimed at the time; any such declaration by the Court
25 shall have the force of a final judgment.

26 81. Defendants continue to engage in some or all of the unlawful and unfair conduct
27 as described herein.

1 82. An actual controversy exists in that Defendants assert they have the legal right to
2 perform the acts as described herein.

3 83. Plaintiff desires a declaration as to the rights of Plaintiff and all others similarly
4 situated with respect to Defendants' unlawful and unfair conduct, as described herein.

5 84. It is therefore necessary that the Court declare the rights and duties of the parties
6 hereto.

7 **NINTH CAUSE OF ACTION**
8 **(Violation of California Labor Code §§ 2699 et seq.,**
9 **the Private Attorney General Act)**

10 85. Plaintiff incorporates by reference Paragraphs 1-84 as if fully set forth herein.

11 86. Plaintiff is an aggrieved employee as defined in Labor Code § 2699(c) and related
12 Labor Code provisions. Plaintiff brings this cause of action on behalf of herself and all other
13 aggrieved current and former employees affected by the labor law violations alleged herein.

14 87. Defendants committed numerous violations of the California Labor Code and
15 IWC Wage Orders against the Plaintiff, and on information and belief, other aggrieved current
16 and former employees while they were employed by Defendants, including but not limited to:

17 a. Defendants violated Labor Code §§ 510, 1194 and/or applicable wage
18 orders by failing to pay Plaintiff and all other aggrieved current and former employees all
19 overtime wages owed in compliance with California law;

20 b. Defendants violated Labor Code §§ 226.7, 510, 1194, 1197 and/or
21 applicable wage orders by failing to pay Plaintiff and all other aggrieved current and former
22 employees for a missed meal or rest period at the regular rate of pay;

23 c. Defendants violated Labor Code §§ 1194, 1197 and/or applicable wage
24 orders by failing to pay Plaintiff and all other aggrieved current and former employees all
25 minimum wages owed in compliance with California law;

1 d. Defendants violated Labor Code § 226.7, 512, and /or applicable wage orders by
2 failing to provide Plaintiff and all other aggrieved current and former employees the opportunity
3 to take the requisite meal periods in compliance with California law;

4 e. Defendants violated Labor Code § 226.7 and/or applicable wage orders by
5 failing to authorize and permit Plaintiff and all other aggrieved current and former employees the
6 opportunity to take the requisite rest periods in compliance with California law;

7 f. Defendants violated Labor Code §§ 226, 1174 and/or applicable wage orders by
8 failing to properly maintain and/or submit accurate itemized wage statements on behalf of
9 Plaintiff and all other aggrieved current and former employees as described herein;

10 g. Defendants violated Labor Code §§ 201, 202 and/or applicable wage orders by
11 failing to timely pay Plaintiff and all other aggrieved current and former employees, as described
12 herein;

13 h. Defendants violated Labor Code § 2802 and/or applicable wage orders by failing
14 to indemnify or reimburse Plaintiff and all other aggrieved current and former employees for
15 expenditures incurred in carrying out their duties for Defendant; and

16 i. Defendants violated Labor Code §§ 226, 1198.5 and/or applicable wage orders by
17 failing to provide Plaintiff with her complete personal file, as described herein;

18 88. Pursuant to Labor Code § 2699, Plaintiff and all other aggrieved current and former
19 employees seek to recover civil penalties, as otherwise provided by statute and wage order, for
20 which Defendants are liable as a result of their violations of the California Labor Code and
21 applicable wage order(s) in an amount to be proven at trial. These penalties include, but are not
22 limited to, those provided by Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1 and 2699. Plaintiff
23 and aggrieved current and former employees further seek and award of reasonable attorneys'
24 fees and costs pursuant to Labor Code § 2699, et seq.

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff prays:

3 1. That the Court issue an Order certifying the Class herein, appointing the named
4 Plaintiff as representative of all others similarly situated, and appointing the law firm
5 representing the named Plaintiff as counsel for members of the Class;

6 2. For an Order requiring Defendants to identify each of the members of the Class
7 by name, home address, e-mail addresses, and home telephone number;

8 3. For the creation of an administrative process wherein each injured member of the
9 Class may submit a claim in order to receive his or her money;

10 4. For general and compensatory damages according to proof at trial;

11 5. For damages as authorized by each and every California Labor Code statute as
12 referenced herein, including recovery of all unpaid wages due and owing;

13 6. For preliminary, permanent, and mandatory injunctive relief prohibiting the
14 Defendants and their agents from committing any future violations of the law as herein alleged;

15 7. For an order imposing all statutory and/or civil penalties provided by law;

16 8. For an award of restitution, according to proof, under the Business and
17 Professions Code §17200 et seq. and applicable California Labor Code provisions;

18 9. For a declaration from the Court determining the rights of Plaintiff and all others
19 similarly situated regarding Defendants' unlawful and unfair conduct as described herein; .

20 10. Costs of suit, including attorney's fees pursuant to California Labor Code § 1194,
21 218.5, 226, 2699, the common fund doctrine, and all applicable labor code provisions;

22 11. For interest at the legal rate of 10% per annum;

23 12. Liquidated damages pursuant to Labor Code § 1194.2;

24 13. That the Court declare, adjudge and decree that Defendant violated California
25 Private Attorneys General Act, Labor Code § 2699 et seq and order the imposition of civil
26 penalties;

27 14. Such further relief as the Court deems just and proper.
28

1 Dated: October 17, 2022

SHANBERG STAFFORD LLP

2 By: /s/Ross E. Shanberg/s/
3 ROSS E. SHANBERG
4 SHANE C. STAFFORD
5 Attorneys for Plaintiff
6 KAYLE HARDMAN, on behalf of
7 herself and all others similarly situated
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DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all others similarly situated, hereby demands a Trial by Jury for all triable issues.

Dated: October 17, 2022

SHANBERG STAFFORD LLP

By: /s/Ross E. Shanberg/s/
ROSS E. SHANBERG
SHANE C. STAFFORD
Attorneys for Plaintiff
KAYLE HARDMAN, on behalf of
herself and all others similarly situated

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PROOF OF SERVICE - C.C.P. §§ 1013A, 2015.5
STATE OF CALIFORNIA, COUNTY OF ORANGE

I, the undersigned, am employed in the County of Orange, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 4100 Newport Place, Suite 820, Newport Beach, California 92660.

On October 17, 2022, I served true copies of the foregoing documents described as: **FIRST AMENDED CLASS ACTION COMPLAINT** on the interested parties in this action, addressed as follows:

Jamie N. Stein
Elizabeth L. Harrier
LightGabler
760 Paseo Camarillo, Suite 300
Camarillo, CA 93010
jstein@lightgablerlaw.com
eharrier@lightgabler.com

Attorneys for Defendant

() BY U.S. MAIL: The documents were placed in sealed, addressed envelopes on the above date and placed for collection and mailing at my place of business. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Newport Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(X) BY ELECTRONIC TRANSMISSION: I transmitted a PDF version of this document by electronic mail to the party(s) identified on the above service list using the e-mail address(es) indicated.

(X) (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 17, 2022, at Newport Beach, California.



Jordan Carter