

Electronically FILED by Superior Court of California, County of Los Angeles on 12/28/2022 01:36 PM Sherri R. Carter, Executive Officer/Clerk of Court, by G. Carini, Deputy Clerk

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For Plaintiff, C. Emily Robertson

**SUPERIOR COURT OF CALIFORNIA
 COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

C. EMILY ROBERTSON, individually and on
 behalf of others similarly situated,

Plaintiff,

v.

**PRIVA PATH LABS, INC., a Delaware
 Corporation; and DOES 1-50,**

Defendants.

Unlimited Jurisdiction

Case No.: **22STCV40620**

COMPLAINT FOR:

- 1. Failure to Pay Minimum Wages for All Hours Worked;**
- 2. Failure to Pay All Wages Each Pay Period;**
- 3. Failure to Pay All Overtime Premiums Earned;**
- 4. Failure to Provide Compliant Meal Breaks;**
- 5. Failure to Provide Compliant Rest Breaks;**
- 6. Failure to Pay All Wages Upon Cessation of Employment;**
- 7. Failure to Furnish Accurate Wage Statements;**
- 8. Failure to Provide Reimbursements for Necessary Expenses;**
- 9. Failure to Pay Accrued Vacation Wages Upon Cessation of Employment;**
- 10. Unfair Business Practices;**
- 11. Penalties Pursuant to the California Private Attorneys General Act ("PAGA")**

DEMAND FOR JURY TRIAL

Plaintiff C. Emily Robinson, on behalf of herself, other aggrieved employees, and all others similarly situated, complains and alleges as follows:

INTRODUCTION

1. This is a class action lawsuit, under Code of Civil Procedure § 382, seeking earned, but unpaid wages, meal and rest break penalties, waiting time penalties in the form of continuation wages for failure to timely pay employees, injunctive relief and other equitable relief, reasonable attorneys' fees and costs, brought on behalf of Plaintiff and others similarly situated.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under Article 6 of the California Constitution and California Code of Civil Procedure § 410.10.

3. This Court has jurisdiction over Plaintiff's and Class Members' claims for unpaid minimum wages and overtime under California Labor Code § 1194, as well as waiting time penalties under Labor Code §§ 203 and 218.

4. This Court has jurisdiction over Plaintiff's and the Class Members' claims for meal and rest period wage penalties under California Labor Code §§ 204, 218, 226, 226.7, 512 and IWC Wage Order 4-2001, or alternatively, Wage Order 1-2001.

5. This Court has jurisdiction over Plaintiff's and the Class Members' claims for injunctive relief, and restitution of unpaid wages and other ill-gotten benefits arising from Defendants' unlawful and/or unfair business practices under California Business & Professions Code §§ 17200 *et seq.*

6. Pursuant to Labor Code § 2699.3(a)(2)(A), following sixty-five (65) days without response from the California Labor & Workforce Development Agency ("LWDA") this Court has jurisdiction over Plaintiff's claims for civil and statutory penalties following Plaintiff's exhaustion of administrative remedies.

7. Venue is proper in this judicial district, pursuant to California Code of Civil Procedure § 395.5 because the acts, conduct, omissions, and events alleged herein, occurred in part as to a large portion of the class members in Los Angeles County.

PARTIES

8. Plaintiff C. Emily Robinson ("Plaintiff" or "Robinson") is a California resident. At all

1 times relevant hereto, Plaintiff was employed by Defendants on an hourly basis as a non-exempt employee
2 (designated herein as “hourly employee”) of Defendant within Los Angeles County, California. She is no
3 longer an employee of Defendant and was last employed by Defendant within all applicable statutes of
4 limitations to this Complaint. Plaintiff appears in this action on behalf of herself and on behalf of all
5 others similarly situated.

6 9. Defendant Priva Path Labs, Inc. (“Priva” or “Defendant”) is a corporation formed under
7 the laws of the state of Delaware. Plaintiff is informed and believes that Priva’s principal place of business
8 is located in Monrovia, California, where it operates a mail-in testing laboratory for various health
9 conditions from men’s or women’s health to cholesterol or vitamin levels.

10 10. Plaintiff is unaware of the true names of Defendants DOES 1 through 50. Plaintiff sues
11 said defendants by said fictitious names, and will amend this complaint when the true names and capacities
12 are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the
13 Court. Plaintiff is informed and believe that each of the fictitiously named Defendants is in some manner
14 responsible for the events and allegations set forth in this complaint.

15 11. Plaintiff is informed and believes, and based thereon allege that at all relevant times, each
16 Defendant was an employer, was the principal, agent, partner, joint venture, officer, director, controlling
17 shareholder, subsidiary affiliate, parent corporation, successor in interest and/or predecessor in interest of
18 some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint
19 enterprise for profit and bore such other relationships to some or all of the other Defendants so as to be
20 liable for their conduct with respect to the matters alleged in this complaint. Plaintiff is further informed
21 and believe and thereon allege that each Defendant acted pursuant to and within the scope of the
22 relationships alleged above, and that at all relevant times, each Defendant knew or should have known
23 about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other
24 Defendants. As used in this complaint “Defendant” or “Defendants” means “Defendants and each of
25 them”, including DOES 1 through 50.

26 12. At all times mentioned herein, each Defendant was the agent of the other Defendants and
27 was acting within the course and scope of said agency and with the permission and consent and knowledge
28 of each of the other Defendants.

13. Plaintiff makes the allegations in this complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading, and Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

FACTS COMMON TO CAUSES OF ACTION

14. Defendant operates mail-in laboratory testing business in Monrovia, California, where it processes tests sold under the brand name LetsGetChecked.

15. At times during the liability period, Defendant employed Plaintiff as a laboratory technician in its Monrovia. Plaintiff and other similarly situated employees were compensated on an hourly basis. Plaintiff and other similarly situated employees worked more than 40 hours in a workweek or eight hours in a day during the liability period and are or were entitled to overtime premium wages.

16. Plaintiff and other similarly situated employees were required to wear personal protective equipment ("PPE") to perform their job duties and were required to don and doff said PPE on Priva's premises.

17. Priva directed its employees to, or knew or should have known that its employees believed they were required to, don and doff PPE while off the clock and therefore depriving Plaintiff and other similarly situated employees of wages while under the control of Priva and during times suffered or permitted to work.

18. Plaintiff is informed and believes that Priva provided Plaintiff and others similarly situated with 30 minutes for meal periods, which included time to clear the floor, doff PPE, eat, don PPE, and return to their respective workstations. Priva's policy or practice caused Plaintiff and others similarly situated to be permitted less than thirty minutes of uninterrupted time free from all control of the employer for meal periods.

19. Plaintiff is informed and believes that Priva failed to authorize two meals on shifts of greater than ten hours.

20. Plaintiff is informed and believes that Priva's rest break policy or practice resulted in less than ten minutes of uninterrupted time, given that the employees were required to doff and don PPE on their break time.

21. Plaintiff is informed and believes that Priva failed to authorize three paid rest breaks on shifts of greater than ten hours.

22. At all times during the liability period, Plaintiff and those other similarly situated hourly paid employees who no longer work for Defendant did not receive all money owed them at the time their employment with Defendant ceased and they still have not received such pay.

23. At all times relevant hereto, Defendant failed to provide wage statements in compliance with the strict requirements of Labor Code Section 226(a). Said wage statements failed to accurately state, *inter alia*, gross wages earned, net wages earned, all applicable hourly rates, the proper name and address of the employing entity, and all hours worked.

24. At all times relevant hereto, Priva provided compensation to its employees in the form of personal time off (“PTO”), which is earned by its employees through the performance of labor. Plaintiff is informed and believes that Priva failed to properly and accurately accrue earned PTO for its nonexempt employees. Plaintiff is informed and believes that the failure to properly and accurately accrue earned PTO for its nonexempt employees resulted in the nonpayment of earned wages upon separation from employment.

25. At all times relevant hereto, Priva paid its nonexempt employees who worked weekend shifts an extra payment or shift differential for those hours worked on weekends. Plaintiff is informed and believes that Priva failed to properly calculate the regular rate of pay to incorporate the shift differential payments for proper overtime premium payments.

26. At all times relevant hereto, Priva required its employees to download applications onto personal mobile devices for the benefit of the employer, and without providing compensation for the use of the employee’s personal mobile device. Among the applications required to be downloaded were and/or are ADP Mobile Solutions, When I Work, Bamboo HR, and Jumpcloud with email integration.

27. At times relevant hereto, Priva management personnel communicated with Plaintiff and other aggrieved employees via email without additional compensation for time spent by the employee responding while off-the-clock.

28. Plaintiff is informed and believes that Priva has the ability to accurately track and record employees’ time spent working. Nonetheless, Priva requires its employees to manually enter start and

1 stop times for shifts, meal breaks, and overtime. Plaintiff alleges that Priva discouraged its employees
2 from entering accurate hours into the manual timekeeping system. Instead, employees were encouraged
3 to state that they worked rounded hours that resulted in the employer receiving the benefit of labor without
4 compensation for the employees. Priva further received the benefit of shortened meal periods from
5 employees as a result of the timekeeping practices.

6 29. Priva's rounding policy lacks neutrality in practice as a result of discipline levied upon
7 employees for tardiness.

8 30. California Department of Labor Standards Enforcement Opinion Letter 2006.07.06
9 provides guidance that employers who deliver wage statements to employees through electronic format
10 must provide access to employees for a period of not less than three years. Priva delivers wage statements
11 to its employees through electronic format and fails to make those records available to its former
12 employees for a minimum of three years.

13 **CLASS DEFINITIONS AND CLASS ALLEGATIONS**

14
15 31. Plaintiff brings the first through eighth causes of action on behalf of herself, on behalf of
16 all others similarly situated, and on behalf of the General Public, and as a member of classes defined as
17 follows:

18 **Unpaid Wages Class:** All former non-exempt employees of Priva who
19 worked for Defendant at any time beginning four years prior to the
20 date of filing of this Complaint through the date notice is mailed to the
21 Class.

22 **Former Employee Class:** All former non-exempt employees of
23 Defendants any time beginning three years prior to the date of filing of
24 this Complaint through the date notice is mailed to the Class.

25 **Wage Statement Class:** All current and former hourly employees of
26 Defendant Priva in California for which wage statements were issued
27 at any time during the period beginning one year prior to the date of
28 filing of this Complaint through the date notice is mailed to the Class.

32. This action has been brought and may be properly maintained as a class action pursuant to
the provisions of California Code of Civil Procedure § 382 and other applicable law.

33. **Numerosity of the Classes:** Members of the Classes are so numerous that their individual

joinder is impracticable. Plaintiff estimates that there are no less than 100 persons in the Unpaid Wages Class and no less than 50 members of the Former Employee Class and Wage Statement Class. The precise number of Class members and their addresses are unknown to Plaintiff. However, Plaintiff is informed and believe that the number can be obtained from Defendants' records. Class members may be notified of the pendency of this action by conventional mail, electronic mail, the Internet, or published notice.

34. **Existence of Predominance of Common Questions of Fact and Law:** Common questions of law and fact exist as to all members of the Class. These questions predominate over any questions effecting only individual members of the class. These common factual and legal questions include:

- (a) Whether Priva permitted its employees to work without compensation as a result of its timekeeping practices;
- (b) Whether time spent donning and doffing PPE is labor as defined by the Labor Code;
- (c) Whether nonexempt employees of Priva were under Defendant's control while donning and doffing PPE;
- (d) Whether employees who were required to use personal mobile devices during their employment were entitled to reimbursement for necessary expenses incurred by the employee during the discharge of the employee's duties;
- (e) Whether the Priva's wage statements issued to its employees complied with the requirements of Labor Code § 226(a);
- (f) Whether Priva properly accrued earned PTO for its employees, and whether said accrued PTO was paid in full upon separation from employment;
- (g) Whether members of the Unpaid Wages Class were provided with a paid 10-minute rest break for each four hours of work or major fraction thereof;
- (h) Whether Defendant provided members of the Unpaid Wages Class with one hour's pay for each day of work during which a compliant rest period was not provided;
- (i) Whether Defendant provided members of the Unpaid Wages Class with one hour's pay for each day of work during which an Unpaid Wages Class member was not afforded a 30-minute, unpaid, uninterrupted meal break on shifts of 6 hours or more;

- (j) Whether Defendant failed to provide members of the Former Employee Class all wages owed at the time of the cessation of the employee-employer relationship;
- (k) Whether Defendants' failure to pay meal and rest break penalties earned by the Unpaid Wages Class pursuant to Labor Code § 226.7(b) at the conclusion of each pay period constitutes a violation of Labor Code § 204 and/or Business & Professions Code §§ 17200 *et seq.*;
- (l) Whether Defendants' failure to pay meal and rest break penalties earned by the Waiting Time Penalty Class pursuant to Labor Code § 226.7(b) at the termination of the employment relationship constitutes a violation of Labor Code §§ 201 and 202 and gives rise to wage penalties under Labor Code § 203;
- (m) Whether Industrial Welfare Commission Wage Order 4-2001 or 1-2001 applies to Private employees;
- (n) Whether Defendants committed unlawful business practices or acts within the meaning of Business & Professions Code §§ 17200 *et seq.*;
- (o) Whether Defendant's conduct entitles members of the Unpaid Wages Class to restitution, and/or other equitable relief;
- (p) Whether Defendants' affirmative defenses, if any, raise any common issues of law or fact as to Plaintiff and the Class members as a whole.

35. **Typicality**: Plaintiff's claims are typical of the claims of the members of the respective Classes because Plaintiff, as an hourly paid employee, was exposed to the same unlawful business practices as the members of the respective classes. Plaintiff sustained the same types of injuries and losses that the class members sustained. Plaintiff is subject to the same affirmative defenses as the members of the classes.

36. **Adequacy**: Plaintiff will adequately and fairly protect the interests of the members each of the Classes. Plaintiff has no interest adverse to the interests of absent Class members. Plaintiff is represented by legal counsel who has substantial class action experience in civil litigation and employment law.

37. **Superiority**: A class action is superior to other available means for fair and efficient

1 adjudication of the claims of the Classes and would be beneficial for the parties and the court. Class action
2 treatment will allow a large number of similarly situated persons to prosecute their common claims in a
3 single forum, simultaneously, efficiently, and without the unnecessary duplication of effort and expense
4 that numerous individual actions would require. The monetary amounts due to many individual class
5 members are likely to be relatively small, and the burden and expense of individual litigation would make
6 it difficult or impossible for individual members of each Class to seek and obtain relief. A class action
7 will serve an important public interest by permitting such individuals to effectively pursue recovery of the
8 sums owed to them. Further, class litigation prevents the potential for inconsistent or contradictory
9 judgments raised by individual litigation.

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11 **FIRST CAUSE OF ACTION**
12 **FAILURE TO PAY MINIMUM WAGES FOR ALL HOURS WORKED**
13 **(By Plaintiff and the Unpaid Wages Class against Defendants)**

14 38. Plaintiff incorporates paragraphs 1 through 37 of this Complaint as though fully alleged
15 herein.

16 39. At all relevant times, Plaintiff and the other members of the Unpaid Wages Class were
17 employees of Defendant covered by Labor Code Section 1197 and the relevant Wage Order.

18 40. Pursuant to Labor Code Section 1197 and the relevant Wage Order, Plaintiff and the other
19 members of the Unpaid Wages Class were entitled to receive minimum wages for all hours worked.

20 41. Defendant failed to pay Plaintiff and other members of the Unpaid Wages Class minimum
21 wages for all hours worked in violation of Labor Code Section 1197 and the relevant Wage Order.
22 Plaintiff is informed and believes and thereon alleges that at all relevant times within the applicable
23 limitations period, Defendant maintained and continues to maintain a policies and practices which result
24 in the members of the Unpaid Wages Class performing work for which they are not paid.

25 42. Plaintiff is informed and believes and based thereon alleges that the unlawful practices of
26 Defendant included, but are not limited to not paying for all work time of Plaintiff and members of the
27 Unpaid Wages Class resulting in the non-payment of minimum wages owed to Plaintiff and members of
28 the Unpaid Wages Class. When Defendant paid Plaintiff and the members of the Unpaid Wages Class,
the payment calculated did not incorporate all time spent donning and doffing required PPE, nor did

Defendant pay for all hours it permitted Plaintiff and the members of the Unpaid Wages Class to work without having time recorded accurately by means available to Defendant.

43. As a result of Defendant's unlawful conduct, Plaintiff and other members of the Unpaid Wages Class have suffered damages in the form of unpaid minimum wages, in an amount, subject to proof, for all unpaid and underpaid hours actually worked.

44. Pursuant to Labor Code Sections 1194 and 1194.2, Plaintiff and other members of the Unpaid Wages Class are entitled to recover the full amount of unpaid minimum wages, prejudgment interest, liquidated damages, reasonable attorneys' fees and costs of suit.

SECOND CAUSE OF ACTION
FAILURE TO PAY ALL WAGES EARNED EACH PAY PERIOD
(By Plaintiff and the Unpaid Wages Class against Defendants)

45. Plaintiff incorporates paragraphs 1 through 44 of this complaint as though fully alleged herein.

46. At all relevant times, Labor Code § 204 applied to Plaintiff and other similarly situated employees of Defendants.

47. Pursuant to Labor Code § 204, Plaintiff and other similarly situated employees were entitled to receive on regular paydays all wages earned for the pay period corresponding to the payday.

48. Pursuant to Labor Code § 204, Plaintiff and other similarly situated employees were entitled to receive on all regular pay days all wages, and wage premiums to which they were entitled to recover pursuant to Labor Code § 226.7, on regular paydays for all non-compliant meal and rest periods during the pay period corresponding to the payday.

49. Defendants failed to pay Plaintiff and other aggrieved employees for all wages and penalties earned and to which they were entitled each pay period on the regular payday for the pay period.

50. Pursuant to Labor Code Sections 210, 218, 218.5 and 218.6, Plaintiff and members of the Unpaid Wages Class are entitled to recover the full amount of their unpaid wages plus twenty-five percent of wages unlawfully withheld, prejudgment interest, reasonable attorneys' fees and costs of suit.

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THIRD CAUSE OF ACTION
FAILURE TO PAY ALL OVERTIME PREMIUMS EARNED
(By Plaintiff and The Unpaid Wages Class Against Defendants)

51. Plaintiff incorporates paragraphs 1 through 50 of this complaint as though fully alleged herein.

52. At all relevant times, Plaintiff and the other members of the Unpaid Wages Class were employees of Defendant covered by Labor Code Section 510 and the relevant Wage Order.

53. Pursuant to Labor Code Section 510 and the relevant Wage Order, Plaintiff and the other members of the Unpaid Wage Class were entitled to overtime wages payable at the rate of at least one and one-half times their regular rate of pay for all work in excess of eight hours in one workday or in excess of forty hours in one workweek and payable at the rate of at least twice the regular rate of pay for all work in excess of twelve hours in one workday and in excess of eight hours on the seventh day worked in a workweek.

54. Defendant failed to pay Plaintiff and other members of the Unpaid Wages Class for all overtime owed in accordance with Labor Code Section 510, insofar as the unpaid work performed by Plaintiff and the Unpaid Wages Class members, at times occurred on workdays in which they worked over eight hours in a day and/or work weeks in which they worked over forty hours in a week.

55. Defendant failed to properly calculate the regular rate of pay and pay overtime premiums at the regular rate of pay.

56. As a result of Defendant's unlawful conduct, Plaintiff and other members of the Unpaid Wages Class have suffered damages in an amount, subject to proof, to the extent they were not paid all overtime wages earned.

57. Pursuant to Labor Code sections 218 and 1194, Plaintiff and other members of the Unpaid Wages Class are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, reasonable attorney's fees and costs of suit.

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FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE COMPLIANT MEAL BREAKS
(By Plaintiff and the Unpaid Wages Class Against Defendants)

58. Plaintiff incorporates paragraphs 1 through 57 of this complaint as though fully alleged herein.

59. During the relevant period, Plaintiff and other members of the Unpaid Wages Class were required to work shifts of six or more hours and did not receive the legally required full 30-minute meal periods within the time required by Labor Code § 512 and relevant order of the Industrial Welfare Commission.

60. During the relevant period, Plaintiff and other members of the Unpaid Wages Class were required to work shifts of ten or more hours and did not receive the legally required full 30-minute meal periods within the time required by Labor Code § 512 and relevant order of the Industrial Welfare Commission.

61. During the relevant period, Plaintiff and other members of the Unpaid Wages Class were required to return to work from a purported meal break without being provided an opportunity to take a full, uninterrupted thirty-minute meal period.

62. At all relevant times, Plaintiff and other members of the Unpaid Wages Class did not receive wages contemplated by Labor Code § 226.7 for missed meal periods.

63. Pursuant to Labor Code Sections 218, 218.5 and 218.6, Plaintiff and members of each Class are entitled to recover the full amount of their unpaid monies owed, prejudgment interest, reasonable attorneys' fees, and costs of suit.

FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE COMPLIANT REST BREAKS
(By Plaintiff and The Unpaid Wages Class against Defendants)

64. Plaintiff incorporates paragraphs 1 through 63 of this complaint as though fully alleged herein.

65. During the relevant period, Plaintiff and other members of the Unpaid Wages Class were required to work shifts of four or more hours and did not receive the legally required rest breaks pursuant to the relevant Wage Order of the Industrial Welfare Commission.

66. At all relevant times, Plaintiff and other members of each Class did not receive wages contemplated by Labor Code § 226.7 for missed or noncompliant rest breaks.

67. Pursuant to Labor Code Sections 218, 218.5 and 218.6, Plaintiff and members of each Class are entitled to recover the full amount of their unpaid monies owed, prejudgment interest, reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION
FAILURE TO PAY ALL WAGES UPON CESSATION OF EMPLOYMENT
(By Plaintiff and the Former Employee Class against Defendants)

68. Plaintiff incorporates paragraphs 1 through 67 of this complaint as though fully alleged herein.

69. At all relevant times, Plaintiff and the other members of the Unpaid Wages Class were employees of Defendants covered by Labor Code Section 201 or 202.

70. Pursuant to Labor Code Sections 201 or 202, all former employees of Defendants were entitled upon cessation of employment with Defendants to timely payment of all wages earned and unpaid prior to termination. Discharged employees were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Employees who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid prior to resignation at the time of resignation.

71. Defendants failed to pay Plaintiff and other members of the Unpaid Wages Class all wages earned and unpaid prior to termination timely in accordance with Labor Code Section 201 or 202. By failing to pay for all work time, accrued vacation wages, and noncompliant meal and rest break premiums, Plaintiff is informed and believes that Defendants maintained and continue to maintain a policy or practice of not paying terminated employees all their final wages earned before termination, due under Labor Code Section 201 or 202.

72. Defendants' failure to pay Plaintiff and members of the Unpaid Wages Class all wages earned prior to termination in accordance with Labor Code Sections 201 or 202 was willful. Defendants had the ability to pay all wages earned by employees prior to termination in accordance with Labor Code

Sections 201 or 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code Sections 201 or 202.

73. Pursuant to Labor Code Section 201 or 202, all former employees, including Plaintiff and other members of the Former Employee Class, are entitled to all wages earned prior to termination that Defendants failed to pay them.

74. Pursuant to Labor Code Section 203, all former employee Plaintiff and other members of the Unpaid Wages Class are entitled to continuation of their wages, from the day their earned and unpaid wages were due upon termination until paid, up to a maximum of 30 days.

75. As a result of Defendants' conduct, all former employees, including Plaintiff and other members of the Priva Class, have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages earned prior to termination.

76. As a result of Defendants' conduct, all former employee Plaintiff and members of the Unpaid Wages Class have suffered damages in an amount, subject to proof, to the extent they were not paid all continuation wages owed under Labor Code Section 203.

77. Pursuant to Labor Code Sections 218 and 218.5, Plaintiff and other members of the Unpaid Wages Class are entitled to recover the full amount of their unpaid wages, continuation wages under Labor Code Section 203, reasonable attorneys' fees and costs of suit. Pursuant to Labor Code Section 218.6 or Civil Code Section 3287(a), all former employee Plaintiff and other members of the Unpaid Wages Class are entitled to recover prejudgment interest on the amount of their unpaid wages and unpaid continuation wages.

SEVENTH CAUSE OF ACTION
FAILURE TO FURNISH ACCURATE WAGE STATEMENTS
(By Plaintiff and the Wage Statement Class Against All Defendants)

78. Plaintiff incorporates paragraphs 1 through 77 as though fully set forth herein.

79. Labor Code § 226(a) sets forth reporting requirements for employers when they pay wages: "Every employer shall ... at the time of each payment of wages, furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee ... (4) a deductions, (5) net wages earned ... (8) the name and address of the legal entity that is the

1 employer ... and (9) all applicable hourly rates in effect during the pay period and the corresponding
2 number of hours worked at each hourly rate by the employee.” Labor Code § 226(e) provides: “An
3 employee suffering injury as a result of a knowing and intentional failure by an employer to comply with
4 subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial
5 pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in
6 a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) per
7 employee, and is entitled to an award of costs and reasonable attorneys’ fees.”

8 80. Throughout the period applicable to this cause of action, Defendant knowingly and
9 intentionally failed to furnish, and continue to knowingly and intentionally fail to furnish, to Plaintiff
10 and other members of the Wage Statement Class, upon each payment of wages, itemized statements
11 accurately showing the required information, including but not limited to the net and gross wages earned
12 each pay period.

13 81. Plaintiff and the other members of the Wage Statement Class suffered injury by these
14 failures because, among other things, the failures led them to believe that they were being paid for all
15 time actually worked at the correct rates, and because these wage statement failures prevented and will
16 prevent them from determining the true amounts of wages owed to them, and caused them, and will
17 cause them, extra work and effort to determine their true wages.

18 82. Plaintiff and the other Wage Statement Class members are entitled to the amounts
19 provided for in Labor Code § 226(e), plus costs of suit.

20 83. Pursuant to Labor Code § § 218 and 218.5, the members of the Wage Statement Class
21 are entitled to recover the penalty wages available pursuant to Labor Code § 226(e), reasonable
22 attorneys’ fees, and costs of suit. Pursuant to Labor Code § 218.6 or Civil Code § 3287(a), Plaintiff and
23 the other members of the Unpaid Wage Class are entitled to recover prejudgment interest on the amount
24 of their unpaid penalty wages.

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EIGHTH CAUSE OF ACTION
FAILURE TO PROVIDE REIMBURSEMENTS FOR NECESSARY EXPENSES
(By Plaintiff and the Unpaid Wages Class against Defendant)

84. Plaintiff incorporates paragraphs 1 through 83 of this Complaint as though fully alleged herein.

85. Pursuant to Labor Code § 2802, Defendant is required to fully reimburse Plaintiff and members of the Unpaid Wages Class for all out-of-pocket expenses incurred by them in direct consequence of the discharge of their job duties.

86. During the applicable limitations period Plaintiff and members of the Unpaid Wages Class have been required to personally incur and pay for expenses in direct consequence of the discharge of their job duties, all without reimbursement from Defendant.

87. As a proximate result of the aforementioned violations, Plaintiff and members of the Unpaid Wages Class have been damaged in an amount according to proof at the time of trial.

88. Pursuant to Labor Code § 2802, Plaintiff and members of the Unpaid Wages Class are entitled to recover from Defendant the full amount of the expenses they incurred in the performance of their job duties, plus interest, reasonable attorney's fees, and costs of suit.

NINTH CAUSE OF ACTION
FAILURE TO PAY ALL ACCRUED VACATION WAGES
UPON CESSATION OF EMPLOYMENT
(By Plaintiff and the Former Employee Class)

89. Plaintiff incorporates paragraphs 1 through 88 of this complaint as though fully alleged herein.

90. At all times relevant hereto, Labor Code section 227.3 provided and provides in pertinent part that whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served.

91. At all times relevant hereto, Defendants maintained a policy whereby hourly, nonexempt employees accrued vacation wages based upon regular hours worked by said employees. The

implementation of said policy further constituted an implied in fact contract.

92. During the relevant liability period, Plaintiff and other members of the Former Employee Class accrued vacation wages in accordance with Defendants' vacation policy and the implied in fact contract between Defendants and hourly, nonexempt employees.

93. During the relevant liability period, upon termination of Plaintiff and other members of the Former Employee Class, Defendants failed to pay Plaintiff and other members of the Former Employee Class wages for all vested vacation time at the final rate of pay of said employee.

94. Pursuant to Labor Code sections 218, 218.5, 218.6, 227.3, and Civil Code section 3289, Plaintiff and the Former Employee Class are entitled to recover all unpaid vested vacation wages, reasonable attorney's fees, and interest at the legal rate.

TENTH CAUSE OF ACTION
UNFAIR COMPETITION
(By Plaintiff and the Classes against Defendant)

95. Plaintiff incorporates paragraphs 1 through 94 of this complaint as though fully alleged herein.

96. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business & Professions Code §§ 17200 *et seq.* Due to its unlawful and unfair business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to compensate employees for all earned wages as required by law.

97. As a result of Defendants' unfair competition as alleged herein, Plaintiff and other members of the Classes have suffered injury in fact and lost money or property. Plaintiff and members of the Classes have been deprived of their rights to minimum wages for all hours worked; overtime wages for all overtime hours worked; timely and accurate wage statements; and timely payment of all monies earned each pay period.

98. Pursuant to Business and Professions Code § 17203, Plaintiff and other members of the Classes are entitled to restitution of all wages and other monies owed and belonging to them, including interest thereon, that Defendants wrongfully withheld from them and retained for itself by means of its

unlawful and unfair business practices.

99. Pursuant to Business and Professions Code § 17203, Plaintiff and other members of the Classes are entitled to an injunction to prevent the continuation of Defendants' unlawful and unfair business practices that constitute unfair competition. Injunctive relief is warranted because, on information and belief, Defendants continue to engage in unlawful and unfair business practices with respect to currently employed members of the Classes, and such members of the Classes have no adequate legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy available to prevent Defendants from continuing to engage in the unlawful and unfair business practices described herein.

100. Plaintiff and members of the Classes are entitled to recover reasonable attorneys' fees in connection with their unfair competition claims pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

ELEVENTH CAUSE OF ACTION

For Penalties Pursuant to the Private Attorneys General Act of 2004 (PAGA) (By Plaintiff as an Aggrieved Employee Pursuant to Labor Code § 2698 *et seq.*)

101. Plaintiff incorporates paragraphs 1 through 100 of this complaint as though fully alleged herein.

102. At all times relevant herein, the Private Attorneys General Act of 2004 ("PAGA") was applicable to Plaintiff's employment by Defendants.

103. At all times relevant herein, the PAGA provides that any provision of law under the Labor Code that provides for a civil penalty to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA") for violations of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself or herself and other current or former employees pursuant to the procedures delineated in Labor Code § 2699.3.

104. Pursuant to the PAGA, a civil action under the PAGA may be brought by an aggrieved employee, which Labor Code §2699(c) defines as any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

105. Plaintiff was employed by Defendants and the alleged violations were committed against

her during the period of his employment with Defendants. Plaintiff is therefore an aggrieved employee within the meaning of the PAGA.

106. Pursuant to the requirements of Labor Code § 2699.3, Plaintiff gave written notice to the LWDA and the employer of the specific provisions of the Labor Code that Plaintiff alleges to have been violated by Defendants.

107. Pursuant to Labor Code § 2699.3, the LWDA is required to provide notice to the aggrieved employee whether it intends to investigate the alleged violation(s) within sixty (60) days of written notice from the aggrieved employee, and, if notice is not provided within sixty-five (65) calendar days of the postmark date of written notice, the aggrieved employee may commence a civil action pursuant to Labor Code § 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

108. Plaintiff has satisfied the administrative prerequisites under Labor Code §2699.3 to recover civil penalties against Defendants, in addition to other remedies, for violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 432.5, 510, 512, 558, 558.1, 1174.5, 1194, 1197, 1197.1, 1199.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of herself and all others similarly situated, pray for relief and judgment against Defendants as follows:

1. Damages for unpaid wages and overtime premiums;
2. Damages for unpaid wages and penalties pursuant to Labor Code § 226.7;
3. Penalties of 25% of all wages unpaid each pay period;
4. Damages for unpaid continuation wages owed for failing to pay all earned wages timely upon termination of employment up to 30 days' wages;
5. Damages for unreimbursed expenses necessary to the performance of work duties;
6. Remedies available pursuant to Labor Code § 226(e);
7. An order enjoining Defendants from engaging in the unfair and unlawful business practices described herein;

8. Restitution of all Unpaid Wages and other monies owed and belonging to Class members that Defendants unlawfully withheld from them and retained for itself;
9. For civil penalties pursuant to Labor Code section 2698 *et seq.*
10. Prejudgment interest at the legal rate;
11. Judgment in favor of Plaintiff and the Classes and against Defendant;
12. Reasonable attorneys' fees;
13. Costs of suit; and
14. Such other relief as the Court deems just and proper.
15. An order that the action be certified as a class action;
16. An order that Plaintiff be appointed as the representative of the Classes;
17. An order that counsel for Plaintiff be confirmed as Class counsel;

DATED: December 28, 2022

LAW OFFICE OF KENNETH A. GOLDMAN, PC

By:



KENNETH A. GOLDMAN, Esq.
Attorney for Plaintiff, C. Emily Robinson

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for herself and the Classes on all claims so triable.

DATED: December 28, 2022

LAW OFFICE OF KENNETH A. GOLDMAN, PC

By:



KENNETH A. GOLDMAN, Esq.
Attorney for Plaintiff, C. Emily Robinson