

Nicholas J. Ferraro (State Bar No. 306528)
Lauren N. Vega (State Bar No. 306525)
Ferraro Vega Employment Lawyers, Inc.
3160 Camino del Rio South, Suite 308
San Diego, California 92108
(619) 693-7727 main / (619) 350-6855 fax
nick@ferrarovega.com / lauren@ferrarovega.com

Attorneys for Plaintiff Jenelle Olea

[Additional Counsel Listed on the Next Page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JENELLE OLEA and NICOLE FOERST,
individually on behalf of themselves, the State of
California, as private attorneys general, and on
behalf of all others similarly situated,

Plaintiffs,

v.

THE STEPPING STONES GROUP LLC; EBS
HEALTHCARE STAFFING SERVICES, INC.;
AUTISM INTERVENTION PROFESSIONALS,
LLC; STAR OF CA, LLC; AND BEHAVIORAL
LEARNING CENTER, INC. and DOES 1
through 50, inclusive,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

10/30/2023 at 04:41:00 PM

Clerk of the Superior Court
By Fernando Gonzalez, Deputy Clerk

Case No. 37-2022-00040884-CU-OE-CTL

*Assigned to the Hon. Kenneth J. Medel
Dept. 66*

CLASS ACTION

**Second Amended Class and Representative
Action Complaint**

1. Failure to Pay All Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Untimely Payment of Wages
6. Wage Statement Violations
7. Waiting Time Penalties
8. Failure to Reimburse Business Expenses
9. Failure to Maintain Accurate Employment Records
10. Unfair Competition
11. Civil Penalties Under the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*)

Jonathan Melmed (State Bar No. 290218)
Meghan N. Higday (State Bar No. 334626)
Melmed Law Group P.C.
1801 Century Park East, Suite 850
Los Angeles, California 90067
Phone: (310) 824-3828
Fax: (310) 862-6851
jm@melmedlaw.com
mh@melmedlaw.com

Attorneys for Plaintiff Nicole Foerst

1 Plaintiffs JENELLE OLEA and NICOLE FOERST (collectively “Plaintiffs”) bring this
2 Second Amended Class and Representative Action Complaint against Defendants THE STEPPING
3 STONES GROUP LLC; EBS HEALTHCARE STAFFING SERVICES, INC.; AUTISM
4 INTERVENTION PROFESSIONALS, LLC; STAR OF CA, LLC; BEHAVIORAL LEARNING
5 CENTER, INC. and DOES 1 through 50, inclusive, (collectively “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. This is a class action brought under California Code of Civil Procedure § 382 for
8 Defendants’ violations of the California Labor Code and Business and Professions Code.

9 2. Plaintiffs further seek civil penalties under the Private Attorneys General Act on behalf
10 of themselves and all other similarly situated aggrieved employees.

11 **JURISDICTION & VENUE**

12 3. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
13 California Constitution as the causes of action are premised upon violations of California law.

14 4. The monetary damages and restitution sought by Plaintiffs exceed the minimal
15 jurisdiction limits of the Superior Court.

16 5. This Court has jurisdiction over Defendants because, upon information and belief,
17 Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise
18 intentionally avail themselves to the California economy so as to render the exercise of jurisdiction
19 over them by the California courts consistent with traditional notions of fair play and substantial justice.

20 6. Venue is proper in this Court under Code of Civil Procedure section 395 because
21 Defendants conduct business and committed some of the alleged violations in this county.

22 **PARTIES**

23 **A. Plaintiffs Jenelle Olea and Nicole Foerst**

24 7. Plaintiff JENELLE OLEA (“Plaintiff Olea”) is an individual over 18 years of age who
25 worked for Defendants in California as a non-exempt employee from about September 2021 to August
26 2022. Plaintiff Olea worked as a Registered Behavioral Technician.

1 8. Plaintiff NICOLE FOERST (“Plaintiff Foerst”) is an individual over 18 years of age
2 who worked for Defendants in California as a non-exempt employee from about April 2016 to October
3 28, 2022. Plaintiff Foerst worked as a Clinical Supervisor.

4 9. The State of California, via the Labor and Workforce Development Agency (“LWDA”),
5 is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81
6 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”]).

7 **B. Defendants**

8 10. Defendant THE STEPPING STONES GROUP LLC is a Delaware limited liability
9 company that maintains operations and conducts business throughout the State of California.

10 11. Defendant EBS HEALTHCARE STAFFING SERVICES, INC. is a Pennsylvania
11 corporation that maintains operations and conducts business throughout the State of California.

12 12. Defendant AUTISM INTERVENTION PROFESSIONALS, LLC is a California
13 Limited Liability Company that maintains operations and conducts business throughout the State of
14 California.

15 13. Defendant STAR OF CA, LLC is a California Limited Liability Company that
16 maintains operations and conducts business throughout the State of California.

17 14. Defendant BEHAVIORAL LEARNING CENTER, INC. is a California corporation
18 that maintains operations and conducts business throughout the State of California.

19 15. The true names and capacities, whether individual, corporate, or otherwise, of the parties
20 sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain to Plaintiffs, who
21 sue them by such fictitious names under Code of Civil Procedure section 474. Plaintiffs are informed,
22 believe, and allege that each of DOES 1 through 50 employed Plaintiffs and is responsible in some
23 manner for the acts and omissions alleged herein. Plaintiffs may seek leave to amend this Complaint
24 to reflect their true names and capacities once ascertained.

25 16. Plaintiffs are informed, believe, and allege that all Defendants in this action are
26 employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of
27 the Defendants exercised control over the wages, hours, and working conditions of Plaintiffs and other
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aggrieved employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

17. Plaintiffs are informed, believe, and allege that at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

18. Plaintiffs are informed, believe, and allege that each defendant acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

CLASS ALLEGATIONS

19. Plaintiffs bring this action individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

a. All of current and former non-exempt employees who worked for Defendants in California at any time from four years plus 178 days prior to the filing of this action through date of class certification.

20. Plaintiffs reserve the right to establish subclasses as appropriate.

21. The class is ascertainable and shares a well-defined community of interest in this litigation:

a. Numerosity: Although the precise membership of the entire class is unknown to Plaintiffs at this time, Plaintiffs estimate the class to exceed 50 individuals. The class members are so numerous that joinder of all class members is impracticable. The identity of class members is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiffs' claims are typical of the claims of the other class members. Plaintiffs and class members were subject to the same policies and practices of Defendants, which resulted in losses to Plaintiffs and Class

Members. Proof of common unlawful business practices, which Plaintiffs experienced and are representative of, will establish the right of the Class to recover on the causes of action alleged herein.

- c. Adequacy: Plaintiffs are adequate class representatives. Plaintiffs will take all necessary steps to adequately and fairly represent and protect the interests of the class. Plaintiffs have no interest antagonistic to other class members. Plaintiffs are represented by attorneys who have substantial experience prosecuting, defending, resolving, and litigating wage and hour class, collective, and representative actions in California state and federal courts.
- d. Superiority: A class action is superior to other means for adjudicating this dispute. Individual joinder is impractical. Class treatment will allow for common issues to be resolved in a single forum, simultaneously, and without duplication of effort and expense.
- e. Public Policy Considerations: Certification of this lawsuit as a class action advances the State of California's strong public interest in ensuring its approximately millions of employed residents are properly paid the wages they earned for the hours they worked. Class actions provide a mechanism for enforcement of labor laws and allow for vindication of employee rights by unnamed class members.

22. Common questions of law and fact as to the class members predominate over questions affecting only individual members. The common questions of law and fact exist as to whether the employment policies and practices formulated by Defendants and applied to the class members constitute violations of California law.

GENERAL ALLEGATIONS

23. Defendants failed to compensate Plaintiffs and Class Members for all hours suffered or permitted to work in violation of Labor Code section 1197 and the applicable IWC Wage Order.

24. Plaintiff Olea frequently had to complete paperwork, notes, and summaries and perform various administrative tasks off the clock. Plaintiff Olea would perform this work after she was done

1 seeing clients for the day as she was unable to complete these tasks during her scheduled hours.
2 Defendants paid Plaintiffs based on their scheduled hours not their actual hours worked, resulting in
3 unpaid wages. Plaintiffs and certain Class Members lacked the ability to record their actual hours
4 worked. On information and belief, other Class Members were also forced to perform work-related
5 tasks off the clock.

6 25. Plaintiff Foerst completed charting and filing work between sessions with clients.
7 However, Defendants never compensated her for this work. Furthermore, Defendants never provided
8 Plaintiff Forest with meal or rest breaks between her meetings with clients. Defendants also failed to
9 reimburse Plaintiff Foerst for her home wifi despite requiring her to use it for remote client sessions.

10 26. Plaintiffs and Class Members provided virtual and in-home services to clients as
11 assigned by Defendant. Plaintiffs were required to drive to clients' homes after they completed their
12 virtual session. Defendants failed to compensate Plaintiffs and, on information and belief, the Class
13 Members, for the time it took to drive between clients' homes, resulting in unpaid minimum wage
14 violations.

15 27. Defendants entered meal periods into Plaintiffs' time records without their knowledge
16 or authorization. On information and belief, Defendants engaged in the same practice with Class
17 Members. When Defendants recorded a false meal period on Plaintiffs' behalf, the meal period time
18 coincided with the time that Plaintiffs needed to drive to see a client, making the travel time
19 uncompensated.

20 28. Though Plaintiffs never clocked out for meal periods during their employment,
21 Defendants nonetheless recorded meal periods on their behalf and on behalf of others.

22 29. Plaintiffs were required to work during meal periods, resulting in further unpaid wages.
23 For example, Plaintiffs were required to provide virtual services to the client via Zoom in blocks of
24 6 hours. They were not allowed to sign out of the virtual session or leave their homes for a duty-free,
25 uninterrupted meal period and were required to continue working during what was essentially an on-
26 duty meal period. On other occasions, Plaintiffs would log out of their virtual sessions and would
27 immediately drive to their in-person sessions, without any time to take a meal period. On information
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1 and belief, other Class Members were also required to perform work-related tasks during their unpaid
2 meal periods.

3 30. When Plaintiffs and the Class Members worked overtime, Defendants failed to pay the
4 overtime at the “regular rate of pay” in violation of Labor Code section 510 and the IWC Wage Orders.

5 31. Defendants’ failure to pay overtime for all hours worked stems from the allegations in
6 the preceding paragraphs with regard to off the clock work.

7 32. Additionally, Defendants failed to provide compliant first and second meal periods to
8 Plaintiffs and the Class Members in violation of Labor Code sections 226.7, 512 and section 11 of the
9 applicable IWC Wage Orders.

10 33. Plaintiff Olea’s and the Class Members’ time records establish meal period liability on
11 their face. Plaintiff Olea’s time records show that she often experienced missed, short, and late meal
12 periods without a corresponding meal period premium for every non-compliant meal period.

13 34. “[T]ime records showing noncompliant meal periods raise a rebuttable presumption of
14 meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC*
15 (2021) 11 Cal. 5th 58, 61.

16 35. As discussed above, Defendants created meal period entries in Plaintiffs’ time records
17 without Plaintiffs’ knowledge or authorization, although they were unable to take their meal periods.
18 On information and belief, Defendants engaged in the same practice with other Class Members.

19 36. When Defendants did not provide fully compliant meal periods, Defendants failed to
20 pay Plaintiffs and Class Members a meal period premium at the regular rate of compensation, in
21 violation of Labor Code section 226.7. *See Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th
22 858, 863 (“We hold that the terms are synonymous: “regular rate of compensation” under section
23 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments,
24 not just hourly wages”).

25 37. Defendants failed to authorize or permit Plaintiffs and the Class Members to take ten-
26 minute rest periods for every four hours of work or major fraction thereof as required by Labor Code
27 section 226.7 and 516 and section 12 of the applicable IWC Wage Order. In some cases when the Class
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1 Members worked more than ten hours in a shift, Defendants failed to authorize and/or permit a third
2 mandated rest period.

3 38. Defendants required Plaintiffs and other Class Members to effectively waive or
4 otherwise forego their rest periods contrary to the law due to their workload.

5 39. To the extent that Plaintiffs and Class Members were able to take a break in between
6 clients, these rest periods were not duty-free and were therefore non-compliant because Plaintiffs and
7 Class Members were required to complete various work-related tasks, including, remaining with
8 clients, driving, staying logged in to their computers until it was time for the next client session, etc.

9 40. Due to the employees' job responsibilities, heavy caseload, and pressures from the
10 Defendants, Plaintiffs and the Class Members were not always authorized or permitted to take all their
11 rest periods.

12 41. To the extent Defendants ever paid a rest period premium, Defendants violated Labor
13 Code section 226.7 because such premiums were not paid at the regular rate of compensation to
14 Plaintiffs and Class Members, which would have factored in employees' additional compensation that
15 they received each pay period.

16 42. Defendants also required Plaintiffs and Class Members to incur costs for work-related
17 purposes without full reimbursement, including expenses associated with the use of their personal cars,
18 home internet, and personal cell phones.

19 43. Defendants had a policy and practice of requiring Plaintiffs and the Class Members to
20 use their personal cell phone for business purposes without any reimbursement. Plaintiffs and the Class
21 Members received calls, messages, and emails from clients' family members. Plaintiffs and the Class
22 Members were required to use their personal cell phones to communicate with their supervisor while
23 in the field. Plaintiffs, and on information and belief, other Class Members, were required to send and
24 receive work-related emails from their personal cell phones.

25 44. While working from home, Plaintiffs and the Class Members were also required to use
26 their home internet without any reimbursement from Defendants.

27 45. Plaintiffs drove their personal cars to, from, and in between clients' homes during their
28 scheduled shifts. Defendants issued reimbursements to Plaintiff Olea for gas mileage based on their

own internal calculation that was never disclosed to Plaintiff Olea. However, Plaintiff Olea never had the opportunity to provide input or documentation on the actual gas mileage she incurred.

46. Plaintiff Olea is informed and believes that Defendants undercompensated her and the other Class Members for gas mileage under the same common practice.

47. In direct consequence of their job duties, Plaintiffs and Class Members unavoidably and necessarily incurred losses, expenditures, costs and expenses that Defendants did not fully and compliantly reimburse as a matter of policy and practice.

48. To the extent Defendants reimbursed Plaintiff Olea and Class Members, those amounts were underpaid. At all relevant times, Defendants were required to comply with the reimbursement mandate of Labor Code sections 2800 and 2802.

49. With respect to the unpaid minimum and regular wages, overtime wages, sick leave, and meal and rest period premiums owed to Plaintiffs and Class Members, Defendants failed to pay those wages on time each pay period or upon separation of employment. See *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal. 5th 93.

50. Because Defendants did not pay Plaintiffs and the Class for all wages/premiums and sick leave wages owed each pay period of their employment, Defendants failed to timely pay all wages owed each pay day or upon separation of employment (or within 72 hours thereof), in violation of Labor Code sections 201 through 203 (waiting time) and 204 and 204b (paydays).

51. Defendants equally failed in their affirmative obligation to provide accurate itemized wage statements each pay period to Plaintiffs and Class Members.

52. Defendants issued wage statements to Plaintiffs and, on information and belief, other Class Members, which contain several types of violations.

53. First, on each wage statement furnished, Defendants failed to accurately state the “gross wages earned” and “net wages earned” in violation of Labor Code § 226(a)(1) and (5), as Plaintiffs and Class Members were underpaid for regular and overtime wages, meal and rest period premiums, and paid sick leave, resulting in an inaccurate and depreciated itemization of gross and net wages earned on those wage statements.

1 54. Second, Defendants violated Labor Code section 226(a)(2) by failing to list employees’
2 “total hours worked,” as Class Members worked off-the-clock to perform the various work-related
3 tasks described above, rendering the total hours listed an inaccurate reflection of hours worked.

4 55. Third, in violation of Labor Code section 226(a)(9), the hourly rates and corresponding
5 hours worked at those rates are incorrectly listed on Plaintiffs’ and Class Members’ wage statements.
6 The hourly rates on the wage statement are inaccurate with respect to overtime hours that were not paid
7 at the “regular rate of pay” with respect to overtime, meal and rest period premiums, and paid sick
8 leave hours, if any, as those hours were unpaid and/or paid at the improper base rate and reflected as
9 such on the wage statements of the Class Members.

10 56. Defendants’ wage statement issues described above rendered the wage statements
11 inaccurate and confusing to Plaintiffs and Class Members, concealing the underpayments and
12 presenting a false portrayal of accuracy on the wage statements relied upon by Plaintiffs and Class
13 Members as the sole documentary evidence of their respective earnings.

14 57. Plaintiffs and Class Members suffered injury in the form of confusion regarding
15 amounts paid for hours worked, and in the form of concealment of the common payroll practices
16 causing the violations and underpayment of wages and wage statement deficiencies as addressed in this
17 Complaint.

18 58. Indeed, Plaintiffs and, on information and belief, Class Members were misinformed and
19 misled by the wage statements’ wages, hours, rates, and earnings. As a result of the inaccuracies on
20 the wage statements, Plaintiffs and, on information and belief, Class Members were led to believe that
21 the hourly rates and net and gross wages reflected were a complete and accurate reflection of the wages
22 actually earned under California law.

23 59. Defendants’ wage statement violations were knowing and intentional as a matter of law
24 with respect to Plaintiffs and California Class Members given that the legal obligation was not disputed,
25 the wage statement and wage laws are clear and unambiguous as written, and because Defendants
26 nevertheless failed to comply despite the means and ability to do so.

27 60. Because of the violations set forth in this Complaint, including Defendants’ failure to
28 accurately maintain records of pay for all hours worked at the appropriate lawful rates of pay (i.e.,

unrecorded off-the-clock hours), Defendants violated Labor Code section 1174 and the IWC Wage Orders by failing to maintain records showing accurate daily hours worked at the corresponding wage rate, and the wages paid to each employee.

61. Plaintiffs are informed, believe, and allege that Defendants' acts and omissions have knowingly and intentionally caused harm to Plaintiffs and the Class. Plaintiffs are informed, believe, and allege that Defendants have engaged in systemic violations of the Labor Code and IWC Wage Orders by maintaining practices, policies, and customs that are inconsistent with their obligations under California law.

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

Violation of Labor Code §§ 1194, 1194.2, and 1197

(All Claims Alleged by Plaintiffs and the Class Against All Defendants)

62. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

63. This cause of action is brought by the Unpaid Minimum or Regular Wage Subclass.

64. Defendants willfully failed in their affirmative obligation to pay Plaintiffs and Class Members at least the lawful minimum wage for each hour worked in violation of Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198 and the IWC Wage Orders (the "Hours and Days of Work" and "Minimum Wages" sections of the applicable orders), including payment at the lawful local and county minimum wage ordinances in effect.

65. Defendants' unlawful acts and omissions deprived Plaintiffs and the Class of minimum, regular and overtime wages in amounts to be determined at trial. Plaintiffs and the Class are entitled to recover to the full amount of the unpaid wages, plus liquidated damages in an amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

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SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

Violation of Labor Code §§ 510 and 1194

66. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

67. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages all overtime hours worked, and which further provide a private right of action for an employer's failure to pay all overtime compensation for overtime hours worked.

68. Defendants failed in their affirmative obligation to pay Plaintiffs and Class Members no less than one and one-half times their respective "regular rate of pay" for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective "regular rate of pay" for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek for such hours worked, in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC Wage Orders (the "Hours and Days of Work" sections of the applicable orders).

69. Plaintiffs and the Class are entitled to recover the full amount of the unpaid overtime, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

70. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

71. This cause of action is brought by the Meal Period Subclass pursuant to the IWC Wage Orders; Labor Code §§ 226.7, 558 and 512; and Civil Code sections 3287, subdivision (b), and 3289, which require non-exempt employees be provided complaint meal periods (or meal period premiums, including interest thereon, in lieu of meal periods; statutory penalties; and costs of suit), and which

1 further provide a private right of action for an employer's failure to lawfully provide all meal periods
2 and/or pay meal period premiums at the lawful regular rate of compensation.

3 72. Defendants willfully failed in their affirmative obligation to consistently provide
4 Plaintiffs and Class Members compliant, duty-free meal periods of not less than 30 minutes beginning
5 before the fifth hour of hour for each work period of more than five hours per day and a second duty-
6 free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation
7 of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the "Meal Periods" sections
8 of the applicable orders).

9 73. Further, Defendants willfully failed in their affirmative obligation to consistently pay
10 Plaintiffs and the Class one additional hour of pay at the respective regular rate of compensation for
11 each workday that a fully compliant meal period was not provided, in violation of Labor Code sections
12 226.7, 512, 558, and 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable
13 orders).

14 74. Plaintiffs and the Class are entitled to recover the full amount of the meal period
15 premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to
16 the extent permitted by law.

17 **FOURTH CAUSE OF ACTION**

18 **REST PERIOD VIOLATIONS**

19 **Violation of Labor Code §§ 226.7 and 516**

20 75. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

21 76. This cause of action is brought by the Rest Period Subclass pursuant to the IWC Wage
22 Orders and Labor Code §§ 226.7 and 516, which require non-exempt employees be authorized to take
23 compliant rest periods (or rest period premiums in lieu thereof), and which further provide a private
24 right of action for an employer's failure to lawfully provide all rest periods and/or pay rest period
25 premiums at the lawful regular rate of compensation.

26 77. Defendants willfully failed in their affirmative obligation to consistently authorize and
27 permit Plaintiffs and Class Members to receive compliant, duty-free rest periods of not less than ten
28 (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code

1 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the
2 applicable orders).

3 78. Further, Defendants willfully failed in their affirmative obligation to consistently pay
4 Plaintiffs and the Class one additional hour of pay at the respective regular rate of compensation for
5 each workday that a fully compliant rest period was not provided, in violation of Labor Code sections
6 226.7, 516, 558, and 1198 and the IWC Wage Orders.

7 **FIFTH CAUSE OF ACTION**

8 **UNTIMELY PAYMENT OF WAGES**

9 **Violation of Labor Code §§ 204, 210, 218**

10 79. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

11 80. This cause of action is brought by the Untimely Payment of Wages Subclass pursuant
12 to the IWC Wage Orders and Labor Code §§ 204, 204b, 210, and 216, which require non-exempt
13 employees be timely paid all wages owed each pay period, and which further provide a private right of
14 action for an employer’s failure to comply with this obligation.

15 81. Defendants willfully failed in their affirmative obligation to timely pay all wages,
16 including paid sick leave and meal and rest premiums, earned by Plaintiffs and Class Members twice
17 during each calendar month on days designated in advance by the employer as regular paydays (for
18 employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly
19 employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the
20 “Minimum Wages” sections of the applicable orders).

21 82. Plaintiffs and the Class are entitled to recover the full amount of the unpaid wages, in
22 addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay each
23 employee and \$200 for all subsequent violations and for all willful or intentional violations for each
24 failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in
25 Labor Code § 210, in addition to interest, attorneys’ fees, and costs to the extent permitted by law.

90. Defendants willfully failed and continue to fail in their affirmative obligation to pay all wages earned and unpaid to Plaintiffs and members of the Waiting Time Class immediately upon termination of employment or within 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his or her intention to quit, and further failed to pay those sums for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

91. Plaintiffs and the Waiting Time Class are entitled to recover to a waiting time penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

EIGHTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

Violation of Labor Code § 2802

92. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

93. Defendants willfully failed in their affirmative obligation to reimburse Plaintiffs and Class Members for all necessary expenditures, losses, expenses, and costs incurred by them in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

94. Defendants' unlawful acts and omissions deprived Plaintiffs and Class Members of lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiffs and the Class are entitled to recover to amount of the unreimbursed expenses of Plaintiffs and Class Members in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2802.

NINTH CAUSE OF ACTION

FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS

95. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

96. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and wages paid to employees employed at the respective plants or establishments. These records must be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

1 interest and to prevent future damage and the public interest under Business and Professions Code
2 § 17200, et seq. Plaintiffs and the Class are further entitled to recover interest, attorneys' fees, and
3 costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

4 **ELEVENTH CAUSE OF ACTION**

5 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

6 **Violation of Labor Code §§ 2698 et seq.**

7 **(By Plaintiffs on Behalf of the State and the Aggrieved Employees Against All Defendants)**

8 105. Plaintiffs incorporate all outside paragraphs of this Complaint as if set forth herein.

9 106. Plaintiffs bring this cause of action as a proxy for the State of California on behalf of
10 the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"),
11 codified as Labor Code section 2698 et seq.:

- 12 a. All current and former non-exempt employees who worked for Defendants in
13 California at any time from one year prior to the postmark date of the initial
14 PAGA notice through date of trial.

15 107. Plaintiffs reserve the right to amend, supplement, or add to this description of the
16 aggrieved employees according to proof.

17 108. The State of California, via the Labor and Workforce Development Agency
18 ("LWDA"), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*
19 *Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff
20 files suit is always the real party in interest."])

21 109. Labor Code section 2699(a) provides: "Notwithstanding any other provision of law, any
22 provision of this code that provides for a civil penalty to be assessed and collected by the Labor and
23 Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies,
24 or employees, for a violation of this code, may, as an alternative, be recovered through a civil action
25 brought by an aggrieved employee on behalf of himself or herself and other current or former
26 employees pursuant to the procedures specified in Section 2699.3."

27 110. Labor Code section 2699(f) provides: "For all provisions of this code except those for
28 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these

1 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
2 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
3 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
4 each subsequent violation.”

5 111. Any allegations regarding violations of the IWC Wage Orders are enforceable as
6 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
7 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

8 112. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil
9 penalties under the PAGA.

10 113. On or about **September 30, 2022**, Plaintiff Olea paid the requisite PAGA filing fee and
11 provided written notice (by online electronic filing with the LWDA and by certified mail to
12 Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support
13 the alleged violations.

14 114. A true and correct copy of Plaintiff Olea’s written PAGA notice, entitled “Notice of
15 Labor Code Violations” is attached hereto as Exhibit 1 and incorporated by reference as though fully
16 set forth herein (the “Olea PAGA notice”). Plaintiff Olea’s December 2, 2022 amended PAGA notice
17 is also incorporated herein by reference and included as part of Exhibit 1.

18 115. On or about **November 1, 2022**, Plaintiff Foerst paid the requisite PAGA filing fee and
19 provided notice (by online electronic filing with the LWDA and by certified mail to Defendants) of
20 Defendants’ alleged Labor Code violations, including the facts and theories to support the alleged
21 violations.

22 116. A true and correct copy of Plaintiff Foerst’s written PAGA notice, entitled “*Nicole*
23 *Foerst v. Autism Intervention Professionals, LLC, et. al.* Notice of Intent to File Suit Pursuant to
24 California Labor Code Section 2699” is attached hereto as Exhibit 2 and incorporated by reference as
25 though fully set forth herein (the “Foerst PAGA notice”).

26 117. To date, neither Plaintiffs nor Plaintiffs’ counsel have received a response to Plaintiffs’
27 written PAGA notices from the LWDA.
28

1 118. Within 33 calendar days of the postmark date of the notice sent by Plaintiffs, neither
2 Plaintiffs nor Plaintiffs' counsel have received written notice by certified mail from any defendant
3 providing a description of any actions taken to cure the alleged violations.

4 119. Now that at least 65 days have passed from Plaintiffs notifying Defendants of these
5 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate
6 the alleged allegations and issue the appropriate citations to Defendants, Plaintiffs exhausted all
7 prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

8 120. As set forth in the Olea PAGA notice attached as Exhibit 1 and incorporated into this
9 Complaint, Defendants committed the following violations and are liable for all corresponding civil
10 penalties:

- 11 a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194,
12 1197, 1198; IWC Wage Orders.
- 13 b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage
14 Orders.
- 15 c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.5.
- 16 d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512,
17 1198; IWC Wage Orders.
- 18 e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516,
19 1198; IWC Wage Orders.
- 20 f. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code
21 §§ 204, 204b, 210.
- 22 g. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of
23 Labor Code §§ 201, 202, 203, 256.
- 24 h. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- 25 i. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- 26 j. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC
27 Wage Orders.

1 121. As set forth in the Foerst PAGA notice attached as Exhibit 2 and incorporated into this
2 Complaint, Defendants committed the following violations and are liable for all corresponding civil
3 penalties:

- 4 a. ***Failure to Pay All Minimum Wages.*** Violation of Labor Code §§ 1194, 1194.2,
5 1197, 1198; IWC Wage Orders.
- 6 b. ***Failure to Pay all Overtime Wages.*** Violation of Labor Code §§ 204, 510, 1194,
7 1198; IWC Wage Orders.
- 8 c. ***Failure to Provide Rest Periods and Pay Missed Rest Period Premiums.*** Violation
9 of Labor Code § 226.7; IWC Wage Orders.
- 10 d. ***Failure to Provide Meal Periods and Pay Missed Meal Period Premiums.***
11 Violation of Labor Code §§ 226, 7, 512; IWC Wage Orders.
- 12 e. ***Failure to maintain Accurate Employment Records.*** Violation of Labor Code §§
13 1174, 1174.5; IWC Wage Orders.
- 14 f. ***Failure to Pay Wages Timely During Employment.*** Violation of Labor Code §§
15 204, 210, 216.
- 16 g. ***Failure to Pay All Wages Earned and Unpaid at Separation.*** Violation of Labor
17 Code §§ 201, 202, 203.
- 18 h. ***Failure to Indemnify All Necessary Business Expenditures.*** Violation of Labor
19 Code §§ 2802, 2804.
- 20 i. ***Failure to Furnish Accurate Itemized Wage Statements.*** Violation of Labor Code
21 § 226
- 22 j. ***Violations of California's Unfair Competition Law.*** Violation of Business and
23 Professions Code §§ 17200–17210.

24 122. Plaintiffs seek to collect all recoverable civil penalties for the Labor Code violations
25 alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants
26 pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the
27 extent permitted by law, including under Labor Code section 2699(g).

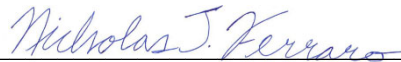
PRAYER

Plaintiffs pray for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiffs as the representatives of the Class;
- c. For appointment of above-captioned counsel for Plaintiffs as Class Counsel;
- d. For division of the Class into appropriate classes and/or subclasses according to proof;
- e. For recovery of damages in amount according to proof;
- f. For all recoverable pre- and post-judgment interest;
- g. For recovery of all civil and statutory penalties and liquidated damages;
- h. For disgorgement of all amounts wrongfully obtained;
- i. For this action to be maintained as a representative action under the PAGA;
- j. For Plaintiffs and Plaintiffs' counsel to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;
- k. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- l. For restitution and injunctive relief;
- m. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code §§ 218.5, 226, 1194, 2802, and Code of Civil Procedure section 1021.5; and
- n. For such other relief the Court deems just and proper.

Dated: October 10, 2023

Ferraro Vega Employment Lawyers, Inc.



Nicholas J. Ferraro
Attorneys for Plaintiff Olea

EXHIBIT 1

Plaintiff Olea's Notice and Amended Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

September 30, 2022

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

The Stepping Stones Group LLC
184 High Street
Boston, MA 02114

EBS Healthcare Staffing Services, Inc.
200 Skiles Blvd
West Chester, PA 19382

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **Jenelle Olea** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

THE STEPPING STONES GROUP LLC EBS HEALTHCARE STAFFING SERVICES, INC.

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in a settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Registered Behavioral Technician from about September 2021 to August 2022. Plaintiff provided services to clients both virtually and in person. For a portion of her employment, Plaintiff provided services virtually, then worked a hybrid schedule where she would work virtually for the first part of the day, and in person with clients during the remainder of the day. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS –

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and

Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

Though Plaintiff never clocked out for a meal period, Defendants nonetheless recorded meal periods on her behalf and on behalf of others. Plaintiff was required to work during meal periods, resulting in further unpaid wages. For example, Plaintiff was required to provide virtual services to the client via Zoom in blocks of 6 hours. She was not allowed to sign out of the virtual session or leave her home for a duty-free, uninterrupted meal period and was required to continue working during what was essentially an on-duty meal period. On other occasions, Plaintiff would log out of her virtual session and would immediately drive to her in-person session, without any time to take a meal period. On information and belief, other aggrieved employees were also required to perform work-related tasks during their unpaid meal periods.

Additionally, Plaintiff provided virtual and in-home services to clients as assigned by Defendant and was required to drive to clients’ homes after she completed her virtual session. Defendants failed to compensate Plaintiff and, on information and belief, the aggrieved employees, for the time it took to drive between to clients’ homes, resulting in unpaid minimum wage violations. On the many occasions when Defendants entered into the time records a meal period on Plaintiff’s behalf, the meal period time coincided with the time that Plaintiff needed to drive to see a client, making the travel time uncompensated.

Furthermore, Plaintiff frequently had to complete paperwork, notes, and summaries and perform various administrative tasks off the clock. Plaintiff would perform this work after

she was done seeing clients for the day as she was unable to complete these tasks during her scheduled hours. Defendants paid Plaintiff based on her scheduled hours not her actual hours worked, resulting in unpaid wages. Plaintiff lacked the ability to record her actual hours worked. On information and belief, other aggrieved employees were forced to perform work-related tasks off the clock.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As discussed in the minimum wage section above, Defendants failed to pay Plaintiff, and on information and belief, other aggrieved employees for the time spent driving to client locations. Defendants also required Plaintiff and, on information and belief, other aggrieved employees to work during their unpaid meal periods, resulting in unpaid overtime on days when employees worked over 8 hours.

Furthermore, Plaintiff frequently had to complete paperwork, notes, and summaries and perform various administrative tasks off the clock. Plaintiff would perform this work after she was done seeing clients for the day as she was unable to complete these tasks during her

scheduled hours. Defendants paid Plaintiff based on her scheduled hours not her actual hours worked, resulting in unpaid overtime. Plaintiff lacked the ability to record her actual hours worked. On information and belief, other aggrieved employees were forced to perform work-related tasks off the clock.

When aggrieved employees worked overtime, Plaintiff is informed and believes that Defendants failed to pay aggrieved employees at their regular rate of pay, which would have included all forms of remuneration.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.5**

Defendants violated Labor Code sections 246 through 248.5 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.”

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California's paid sick leave laws with respect to the aggrieved employees. On information and belief, Defendants failed to provide paid sick leave in accordance with California law, rendering Defendants liable for an associated civil penalty with respect to every employee and every pay period during the PAGA period. Moreover, Defendants failed to maintain the records required by Labor Code § 246 et seq. with respect to the paid sick leave. Defendants also failed to pay Plaintiff her sick leave that she was entitled to use for reasons stated under the statute.

To the extent that the Defendants paid any sick leave, on information and belief, Defendants failed to pay sick leave at the correct rate because they failed to factor in all forms of aggrieved employees' remuneration, as required by section 246. Instead, Defendants paid sick leave to aggrieved employees at their base hourly rate, resulting in an underpayment of sick wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have

agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Defendants failed to provide compliant first meal periods to Plaintiff and the aggrieved employees. Plaintiff and the aggrieved employees often experienced missed, short, and late meal periods in order to keep up with the demands of the job. Defendants created meal period entries in Plaintiff’s time records without Plaintiff’s knowledge or authorization, although she was unable to take her meal periods. On information and belief, Defendants had the same practice with other aggrieved employees. Plaintiff and the aggrieved employees were required to work during their uncompensated meal periods. When Defendants did not provide compliant meal periods, Defendants failed to pay Plaintiff and other aggrieved employees a meal period premium in violation of Labor Code section 226.7.

Defendants failed to pay any meal period premiums to Plaintiff and the aggrieved employees. On information and belief, to the extent Defendants did pay a meal period premium, the premiums were not paid at the “regular rate of compensation” because the premium did not factor in all forms of remuneration. Instead, Defendants, on information and belief paid such premiums at aggrieved employees’ base hourly rate, in violation of California law.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period

for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Defendants required Plaintiff and other aggrieved employees to effectively waive or otherwise forego their rest periods contrary to the law. To the extent that Plaintiff was able to take a break in between clients, these rest periods were not duty-free; therefore, non-compliant because Plaintiff was required to drive or stay logged in to her computer until it was time for the next client session. Due to the employees' job responsibilities, heavy caseload, and pressures from the Defendants, Plaintiff and the aggrieved employees were not always authorized or permitted to take all their rest periods.

Defendants had a policy and practice of not paying rest period premiums to employees who were unable to take rest periods. To the extent that Defendants ever paid a rest period premium to aggrieved employees, on information and belief, Defendants violated Labor Code section 226.7 because premiums were not paid at the regular rate of compensation which would have factored in all forms of remuneration.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides "every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

As explained above, Defendants underpaid Plaintiff and other aggrieved employees' minimum, regular, overtime wages, paid sick leave, and premium pay. Defendants are separately liable for not paying the full amount owed to Plaintiff and other aggrieved employees each payday violation of Labor Code sections 204 and/or 204b.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours' notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours' notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Defendants additionally failed to pay paid sick leave owed to aggrieved employees during their employment as set forth in this notice and failed to pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses
Violation of Labor Code §§ 2802, 2804

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. Defendants had a policy and practice of requiring Plaintiff and the aggrieved employees use their personal cell phone for business purposes. Plaintiff and the aggrieved employees received calls, messages, and emails from clients’ family members. Plaintiff and the aggrieved employees were required to use her personal cell phone to communicate with their supervisor while in the field. Plaintiff, and on information and belief, other aggrieved employees, were required to send and receive work-related emails from their personal cell phones. While working from home, Plaintiff and the aggrieved employees were also required to use their home internet without any reimbursement from Defendants.

As a Registered Behavioral Technician, Plaintiff provided in-home services to several clients assigned by Defendants. Plaintiff drove her personal car to, from, and in between clients’ homes during her scheduled shift. Defendants issued reimbursements to Plaintiff for gas mileage based on their own internal calculation that was never disclosed to Plaintiff. However, Plaintiff never had the opportunity to provide input or documentation on the actual gas mileage she incurred. Plaintiff is informed and believes that Defendants undercompensated her and the other aggrieved employees for gas mileage.

Thus, in direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. To the extent Defendants reimbursed aggrieved employees, those amounts were underpaid. At all times, Defendants were required to comply with the reimbursement mandate of Labor Code sections 2800 and 2802.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all Defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also

be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,



Lauren N. Vega

Cc Plaintiff Jenelle Olea
Nicholas J. Ferraro, Esq.

Stepping Stones Group, LLC and
EBS Healthcare, Inc. Human Resources
hr.requests@ssg-healthcare.com

FERRARO VEGA
SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

December 2, 2022

AMENDED NOTICE OF LABOR CODE VIOLATIONS
CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA EMAIL & CERTIFIED U.S. MAIL
- Electronic Return Receipt -

The Stepping Stones Group LLC
184 High Street
Boston, MA 02110

EBS Healthcare Staffing Services, Inc.
200 Skiles Blvd
West Chester, PA 19382

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter, as amended, serves as written notice under Labor Code section 2699.3 on behalf of **Jenelle Olea** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

THE STEPPING STONES GROUP LLC
EBS HEALTHCARE STAFFING SERVICES, INC.

Plaintiff incorporates by reference the facts and allegations identified in her September 30, 2022 LWDA Notice. Plaintiff hereby amends and supplements the September 30, 2022 LWDA Notice to include additional facts and allegations that have been identified through subsequent investigation.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.3

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages, premiums, and sick leave wages that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the wage statement.

Defendants violated Labor Code section 226(a)(2) by failing to accurately list employees’ “total hours worked,” as the wage statements did not include the uncompensated time when Plaintiff and other aggrieved employees worked off the clock, including during their unpaid meal periods.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,



Lauren N. Vega

Cc Plaintiff Jenelle Olea
 Nicholas J. Ferraro, Esq.

Mark Payne, Esq.
Jeffrey M. Goldman, Esq.
Jessica X. Rothenberg, Esq.

Counsel for Stepping Stones Group, LLC and
EBS Healthcare, Inc.

EXHIBIT 2

Plaintiff Foerst's Notice of Labor Code Violations

November 1, 2022

Filed via the LWDA's PAGA Claim Notice Online Form

Copies Sent via Certified U.S. Mail to:

Autism Intervention Professionals, LLC	The Stepping Stones Group LLC
c/o CSC—Lawyers Incorporating Service	c/o CSC—Lawyers Incorporating Service
2710 Gateway Oaks Dr. Ste 150N	2710 Gateway Oaks Dr. Ste 150N
Sacramento, California 95833	Sacramento, California 95833

Autism Intervention Professionals, LLC	The Stepping Stones Group LLC
200 Skiles Blvd.	184 High Street
West Chester, Pennsylvania 19382	Boston, Massachusetts 02114

Re: *Nicole Foerst v. Autism Intervention Professionals, LLC, et al.*
Notice of Intent to File Suit Pursuant to California Labor Code
Section 2699

To Whom It May Concern:

This office represents Nicole Foerst (“Plaintiff”) and a group of the putative class members in a forthcoming lawsuit against Autism Intervention Professionals, LLC and The Stepping Stones Group LLC (collectively “Defendants”). The action, entitled *Nicole Foerst v. Autism Intervention Professionals, LLC, et al.*, is to be filed in the Superior Court of the State of California for the County of Sonoma (the “Action”). A copy of the complaint as currently drafted, and as is intended to be filed in the Action, is enclosed as **Exhibit A**. This letter incorporates by reference the facts, law, and allegations of Exhibit A.

This letter serves as notice pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), codified at California Labor Code sections 2698 through 2699.6, that we intend to include representative claims in the Action for civil penalties under PAGA on behalf of a group of aggrieved employees. For the purposes of this letter, “Aggrieved Employees” is defined as: *All individuals who are or were employed by Defendant(s) as non-exempt employees in California, from one year prior to the mailing of this notice through the date of trial.*

As set forth in more detail in Exhibit A, Defendants violated their obligations to Plaintiff and the Aggrieved Employees under California law by: failing to pay minimum wages for all hours worked, failing to pay all overtime wages earned, failing to provide lawful rest periods and pay missed rest period premiums, failing to provide lawful meal periods and pay missed meal period premiums, failing to maintain accurate records, failing to reimburse all necessary business expenses, failing to provide accurate and complete wage statements, failing to pay all wages

Notice of Intent to File PAGA Action

November 1, 2022

Page 2 of 2

in full and on time during employment, and failing to pay all wages due upon termination.

Because of these systemic violations, Defendants violated: Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2084, and California Industrial Welfare Commission Wage Orders Wage Order 4-2001, and others that may be applicable. (Cal. Code of Regs., tit. 8, § 11040.) The enclosed Complaint further details: **(1)** the alleged violations; **(2)** the facts and theories supporting these violations; **(3)** the people and entities, dates, classifications, violations, events, and actions at issue; and **(4)** the illegal practices instituted by Defendants.

Together with this correspondence, the enclosed complaint provides notice that we intend to proceed with a claim for civil penalties in the Action pursuant to PAGA. (See Lab. Code, §§ 2698–2699.6.) We intend to fully prosecute the representative claims alleged in the complaint, including by obtaining civil penalties under PAGA.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Meghan Higday
MEGHAN N. HIGDAY

Enclosure

EXHIBIT A

MELMED LAW GROUP P.C.
Jonathan Melmed (SBN 290218)
jm@melmedlaw.com
Meghan N. Higday (SBN 334626)
mh@melmedlaw.com
1801 Century Park East, Suite 850
Los Angeles, California 90067
Phone: (310) 824-3828
Fax: (310) 862-6851

Attorneys for Plaintiff and the Putative Class

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

NICOLE FOERST, an individual, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

AUTISM INTERVENTION
PROFESSIONALS, LLC, a California Limited
Liability Company; THE STEPPING STONES
GROUP LLC, a Delaware Limited Liability
Company; and DOES 1 TO 50,

Defendants.

Case Number: _____

Class Action Complaint For:

1. Failure to Pay All Minimum Wages,
2. Failure to Pay All Overtime Wages,
3. Failure to Provide Rest Periods and Pay Missed Rest Period Premiums,
4. Failure to Provide Meal Periods and Pay Missed Meal Period Premiums,
5. Failure to Maintain Accurate Employment Records,
6. Failure to Pay Wages Timely during Employment,
7. Failure to Pay All Wages Earned and Unpaid at Separation,
8. Failure to Indemnify All Necessary Business Expenditures,
9. Failure to Furnish Accurate Itemized Wage Statements, and
10. Violations of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210).

Demand for Jury Trial

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Plaintiff Nicole Foerst (“Plaintiff”), on behalf of herself and all other similarly situated employees within the State of California, complains and alleges of defendants Autism Intervention Professionals, LLC, The Stepping Stones Group LLC, and Does 1 to 50 (collectively, “Defendants”), and each of them, as follows:

I. INTRODUCTION

1. This is a class action complaint brought pursuant to California Code of Civil Procedure section 382.

2. The “Class Period” as used herein, is defined as the period from four years prior to the filing of this action and continuing into the present and ongoing. Defendants’ violations of California’s laws as described more fully below have been ongoing throughout the Class Period and are still ongoing.

3. Plaintiff brings this class action on behalf of herself and the following class: *All individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period* (the “Class Members”). (Code Civ. Proc., § 382.)

4. Plaintiff brings this action on behalf of herself and the Class Members, as a class action, against Defendants for:

- A. Failure to pay all minimum wages,
- B. Failure to pay all overtime wages,
- C. Failure to provide rest periods and pay missed rest period premiums,
- D. Failure to provide meal periods and pay missed meal period premiums,
- E. Failure to maintain accurate employment records,
- F. Failure to pay wages timely during employment,
- G. Failure to pay all wages earned and unpaid at separation,
- H. Failure to indemnify all necessary business expenditures,
- I. Failure to furnish accurate itemized wage statements, and
- J. Violations of California’s Unfair Competition Law (“UCL”) (Bus. & Prof. Code, §§ 17200–17210).

1 5. Plaintiff is informed and believes and thereon alleges that the California Industrial
2 Welfare Commission (“IWC”) Wage Order applicable to the facts of this case is IWC Wage Order 4-
3 2001 (the “Applicable Wage Order”) and possibly others that may be applicable. (Cal. Code of Regs.,
4 tit. 8, § 11040.) Plaintiff reserves the right to amend or modify the definition of “Applicable Wage
5 Order” with greater specificity or add additional IWC Wage Orders if additional applicable wage orders
6 are discovered in litigation.

7 **II. JURISDICTION & VENUE**

8 6. This Court has subject matter jurisdiction over all causes of action asserted herein
9 pursuant to Article VI, section 10, of the California Constitution and Code of Civil Procedure section
10 410.10 because this is a civil action in which the matter in controversy, exclusive of interest, exceeds
11 \$25,000, and because each cause of action asserted arises under the laws of the State of California or
12 is subject to adjudication in the courts of the State of California.

13 7. This Court has personal jurisdiction over Defendants because Defendants have caused
14 injuries in the County of Sonoma and the State of California through their acts, and by their violation
15 of the California Labor Code and California state common law. Defendants transact millions of dollars
16 of business within the State of California. Defendants own, maintain offices, transact business, have
17 an agent or agents within the County of Sonoma, and/or otherwise are found within the County of
18 Sonoma, and Defendants are within the jurisdiction of this Court for purposes of service of process.

19 8. Venue as to Defendants is proper in this judicial district, pursuant to section 395 of the
20 Code of Civil Procedure. Defendants operate within California and do business within Sonoma
21 County, California. The unlawful acts alleged herein have a direct effect on Plaintiff and all of
22 Defendants’ employees identified above within Sonoma County and surrounding counties where
23 Defendants may remotely operate.

24 9. This matter is not appropriate for removal under the Class Action Fairness Act (28
25 U.S.C. § 1332) as the amount in controversy for Plaintiff’s and the Class Members’ claims, in
26 aggregate, is less than \$5 million. Additionally, all the allegations herein occurred in the State of
27 California. As such, even if the amount in controversy did exceed \$5 million this matter would still
28

not be appropriate for removal under the “local controversy” exception to the Class Action Fairness Act. (28 U.S.C. § 1332, subd. (d)(4)(A).)

III. THE PARTIES

A. PLAINTIFF

10. At all relevant times, Plaintiff, who is over the age of 18, was and currently is a citizen of California residing in the State of California. Defendants employed Plaintiff as a non-exempt hourly employee in the County of Sonoma.

11. Plaintiff brings this action on behalf of herself and the following class pursuant to section 382 of the Code of Civil Procedure as follows: *All individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period* (the “Class Members”).

12. The Class Members, at all times pertinent hereto, are or were employees of Defendants during the relevant statutory period.

B. DEFENDANTS

13. Plaintiff is informed and believes and thereon alleges that Defendants were authorized to and doing business in Sonoma County and is and/or was the legal employer of Plaintiff and the other Class Members during the applicable statutory periods. Plaintiff and the other Class Members were, and are, subject to Defendants’ policies and/or practices complained of herein and have been deprived of the rights guaranteed to them by: California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and others that may be applicable; California Business and Professions Code sections 17200 through 17210 (“UCL”); and the Applicable Wage Order (Cal. Code of Regs., tit. 8, § 11040).

14. Plaintiff is informed and believes, and based thereon alleges, that during the Class Period, Defendants did (and continue to do) business in the State of California, County of Sonoma.

15. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as Does 1 to 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were

1 responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff
2 and the other Class Members to be subject to the unlawful employment practices, wrongs, injuries, and
3 damages complained of herein.

4 16. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
5 herein, Defendants were and/or are the employers of Plaintiff and the other Class Members. At all
6 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged
7 to have been done by the named Defendants. Furthermore, the Defendants, and each of them, were the
8 agents, servants, and employees of each and every one of the other Defendants, as well as the agents
9 of all Defendants, and at all times herein mentioned were acting within the course and scope of said
10 agency and employment. Defendants, and each of them, approved of, condoned, or otherwise ratified
11 every one of the acts or omissions complained of herein.

12 17. At all relevant times, Defendants, and each of them, were members of and engaged in a
13 joint venture, partnership, and common enterprise, and acting within the course and scope of and in
14 pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff is informed,
15 and believes, and thereon alleges, that all Defendants were joint employers for all purposes of Plaintiff
16 and the other Class Members.

17 **IV. COMMON FACTS & ALLEGATIONS**

18 18. Plaintiff and the other Class Members (collectively, the “Class Members”) are, and were
19 at all relevant times, employed by the Defendants within the State of California.

20 19. The Class Members are, and were, at all relevant times, non-exempt employees for the
21 purposes of minimum wages, overtime, rest breaks, meal periods, and the other claims alleged in this
22 complaint.

23 20. Specifically, Plaintiff was employed by Defendants within the statutory Class Period,
24 working as an hourly, non-exempt Clinical Supervisor for Defendants. Plaintiff’s duties included
25 overseeing individualized ABA programs for clients and managing of clinical staff.

26 **A. MINIMUM WAGE VIOLATIONS**

27 21. Labor Code section 1197 requires employees to be paid at least the minimum wage fixed
28 by the IWC, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code

1 section 1194 entitles “any employee receiving less than the legal minimum wage . . . to recover in a
2 civil action the unpaid balance of the full amount of this minimum wage.” Likewise, the Applicable
3 Wage Order also obligates employers to pay each employee minimum wages for all hours worked.
4 (Cal. Code of Regs., tit. 8, § 11040.) Labor Code section 1198 makes unlawful the employment of an
5 employee under conditions that the IWC Wage Orders prohibit.

6 22. These minimum wage standards apply to each hour that employees work. Therefore,
7 an employer’s failure to pay for any particular time worked by an employee is unlawful, even if
8 averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage
9 above minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.)

10 23. Here, Defendants failed to fully conform their pay practices to the requirements of the
11 law during the relevant statutory periods. The Class Members were not compensated for all hours
12 worked including, but not limited to, all hours they were subject to the control of Defendants and/or
13 suffered or permitted to work under the California Labor Code and the Applicable Wage Order. Among
14 other violations, the Class Members were subject to the control of Defendants while off-the-clock and
15 did not receive minimum wage for each hour worked.

16 24. Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an
17 employer who has failed to pay its employees the legal minimum wage is liable to pay those employees
18 the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages
19 due and interest thereon.

20 25. When employees, such as the Class Members, are not paid for all hours worked under
21 Labor Code section 1194, they are entitled to recover minimum wages for the time which they received
22 no compensation. (See *Sillah v. Command International Security Services* (N.D. Cal. 2015) 154
23 F.Supp.3d 891 [employees suing for failure to pay overtime could recover liquidated damages under
24 Labor Code section 1194.2 if they also showed they were paid less than minimum wage].)

25 26. Labor Code section 1197.1 authorizes employees who are paid less than the minimum
26 wage fixed by an applicable state or local law, or by an order of the IWC, a civil penalty, among other
27 damages, as follows:
28

1 (1) “For any initial violation that is intentionally committed, one hundred
2 dollars (\$100) for each underpaid employee for each pay period for
3 which the employee is underpaid.”

4 (2) “For each subsequent violation for the same specific offense, two
5 hundred fifty dollars (\$250) for each underpaid employee for each pay
6 period for which the employee is underpaid regardless of whether the
7 initial violation is intentionally committed.” (Lab. Code, § 1197.1, subd.
8 (a).)

9 27. As set forth above, Defendants failed to fully compensate the Class Members for all
10 minimum wages. Accordingly, the Class Members are entitled to recover liquidated damages for
11 violations of Labor Code section 1197.1.

12 28. Based upon these same factual allegations, the Class Members are likewise entitled to
13 penalties under Labor Code sections 1199.

14 **B. OVERTIME VIOLATIONS**

15 29. Labor Code section 510 requires employers to compensate employees who work more
16 than eight hours in one workday, forty hours in a workweek, and for the first eight hours worked on
17 the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee.
18 (Lab. Code, § 510, subd. (a).) Further, Labor Code section 510 obligates employers to compensate
19 employees at no less than twice the regular rate of pay when an employee works more than twelve
20 hours in a day or more than eight hours on the seventh consecutive day of work. (Lab. Code, § 510,
21 subd. (a).) These rules are also reflected in the Applicable Wage Order.

22 30. In accordance with Labor Code section 1194 and the Applicable Wage Order, the Class
23 Members could not then agree and cannot now agree to work for a lesser wage than the amount
24 provided by Labor Code sections 510 or the Applicable Wage Order.

25 31. Here, Defendants violated their duty to accurately and completely compensate the Class
26 Members for all overtime worked. The Class Members periodically worked hours that entitled them
27 to overtime compensation under the law but were not fully compensated for those hours.
28

1 32. Defendants also had a policy and practice of denying the Class Members meal breaks,
2 but nevertheless deducting meal break time from the Class Members' pay. As a result, the Class
3 Members' on-the-clock hours were unlawfully reduced below what was actually worked and, by
4 extension, overtime hours were also reduced below what was actually worked. The Class Members
5 were thus periodically shorted the full amount of overtime pay lawfully owed.

6 33. These actions were and are in clear violation of California's overtime laws as set forth
7 in Labor Code sections 510, 1194, 1199, and the Applicable Wage Order. (Cal. Code of Regs., tit. 8,
8 § 11040.) As a result of Defendants' faulty policies and practices, the Class Members were not
9 compensated for all hours worked or paid accurate overtime compensation.

10 **C. REST BREAK VIOLATIONS**

11 34. Pursuant to Labor Code section 226.7 and the Applicable Wage Order, Defendants were
12 and are required to provide the Class Members with compensated, duty-free rest periods of not less
13 than ten minutes for every major fraction of four hours worked. Under the Applicable Wage Order, an
14 employer must authorize and permit all employees to take ten minute duty free rest periods for every
15 major fraction of four hours worked. (Cal. Code of Regs., tit. 8, § 11040.)

16 35. Likewise, Labor Code section 226.7 provides that "[a]n employer shall not require an
17 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute,
18 or applicable regulation, standard, or order of the Industrial Welfare Commission" (Lab. Code, §
19 226.7, subd. (b).) Labor Code section 226.7 also provides that employers must pay their employees
20 one additional hour of pay at the employee's regular rate for each workday that a "meal or rest or
21 recovery period is not provided." (Lab. Code, § 226.7, subd. (c).) The "regular rate" for these purposes
22 must factor in all nondiscretionary payments for work performed by the employee, including non-
23 discretionary bonuses, commissions, and other forms of wage payments exceeding the employees' base
24 hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.) Thus, the Wage
25 Orders set when and for how long the rest period must take place and the Labor Code establishes that
26 violations of the IWC Wage Orders are unlawful and sets forth the premium pay employer must pay
27 their employees when employers fail to provide rest periods.
28

1 36. The California Supreme Court has held that, during required rest periods, “employers
2 must relieve their employees of all duties and relinquish any control over how employees spend their
3 break time.” (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.) Relinquishing
4 control over employees during rest periods requires that employees be “free to leave the employer’s
5 premises” and be “permitted to attend to personal business.” (*Id.* at p. 275.) The *Brinker* Court
6 explained in the context of rest breaks that employer liability attaches from adopting an unlawful
7 policy:

8 “An employer is required to authorize and permit the amount of rest break time
9 called for under the wage order for its industry. If it does not—if, for example,
10 it adopts a uniform policy authorizing and permitting only one rest break for
11 employees working a seven-hour shift when two are required—it has violated
12 the wage order and is liable.” (*Brinker Rest. Corp. v. Superior Court* (2012) 53
13 Cal.4th 1004, 1033.)

14 37. Here, Defendants periodically did not permit the Class Members to take compliant duty-
15 free rest breaks, free from Defendants’ control as required by Labor Code section 226.7, the Applicable
16 Wage Order, and applicable precedent. (See *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th
17 257, 269 [concluding that “during rest periods employers must relieve employees of all duties and
18 relinquish control over how employees spend their time.”].) At all relevant times, the Class Members
19 were periodically not provided with legally-compliant and timely rest periods of at least ten minutes
20 for each four hour work period, or major fraction thereof due to Defendants’ unlawful rest period
21 policies/practices. The Class Members were often expected and required to continue working through
22 rest periods to meet the expectations Defendants and finish the workday. In some cases when the Class
23 Members worked more than ten hours in a shift, Defendants failed to authorize and/or permit a third
24 mandated rest period. As a result, the Class Members were periodically unable to take compliant rest
25 periods.

26 38. In such cases where Defendants did not offer the Class Members the opportunity to
27 receive a compliant off-duty rest period, “the court may not conclude employees voluntarily chose to
28 skip those breaks.” (*Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 410

1 (2015) [“If an employer fails to provide legally compliant meal or rest breaks, the court may not
2 conclude employees voluntarily chose to skip those breaks.”]; *Brinker Rest. Corp. v. Superior Court*,
3 *supra*, 53 Cal.4th at p. 1033 [“No issue of waiver ever arises for a rest break that was required by law
4 but never authorized; if a break is not authorized, an employee has no opportunity to decline to take
5 it.”].)

6 39. In addition to failing to authorize and permit compliant rest periods, the Class Members
7 were not compensated with one hour’s worth of pay at their regular rate of compensation when they
8 were not provided with a compliant rest period in accordance with Labor Code section 226.7,
9 subdivision (c). Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage
10 Order.

11 40. Based on the foregoing, Plaintiff seeks to recover, on behalf of herself and other non-
12 exempt employees, rest period premiums and penalties.

13 **D. MEAL BREAK VIOLATIONS**

14 41. Labor Code section 512 and the Applicable Wage Order require employers to provide
15 employees with a thirty-minute uninterrupted and duty-free meal period within the first five hours of
16 work. (Lab. Code, § 512, subd. (a) [“An employer shall not employ an employee for a work period of
17 more than five hours per day without providing the employee with a meal period of not less than 30
18 minutes”]; Cal. Code of Regs., tit. 8, § 11040 [“No employer shall employ any person for a work
19 period of more than five (5) hours without a meal period of not less than 30 minutes”].)
20 Additionally, an employee who works more than ten hours per day is entitled to receive a second thirty-
21 minute uninterrupted and duty-free meal period. (Lab. Code, § 512, subd. (a) [“An employer shall not
22 employ an employee for a work period of more than 10 hours per day without providing the employee
23 with a second meal period of not less than 30 minutes”].)

24 42. “An on-duty meal period is permitted only when the nature of the work prevents an
25 employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal
26 break.” (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 932.) The written agreement must
27 include a provision allowing the employee to revoke it at any time. (*Ibid.*) Generally, the California
28 Department of Industrial Relations, Division of Labor Standards Enforcement (“DLSE”) and courts

1 have “found that the nature of the work exception applies: (1) where the work has some particular
2 external force that requires the employee to be on duty at all times, and (2) where the employee is the
3 sole employee of a particular employer.” (*Id.* at p. 945, internal quotation marks omitted; *Abdullah v.*
4 *U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958–959.) “[I]t is the employer’s obligation
5 to determine whether the nature of the work prevents an employee from being relieved before requiring
6 an employee to take an on-duty meal period.” (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th
7 at p. 946.)

8 43. Here, the Class Members were never asked to sign any enforceable document agreeing
9 to an on-duty meal period. Moreover, nothing in the nature of their work involved the kind of “external
10 force” that might justify on-duty meal breaks. (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th
11 at p. 945.) Nevertheless, Defendants periodically did not provide compliant off-duty meal periods
12 within the first five hours of work for the Class Members.

13 44. As with rest breaks, meal breaks must be duty-free. (*Brinker Restaurant Corp. v.*
14 *Superior Court* (2012) 53 Cal.4th 1004, 1035 [“The IWC’s wage orders have long made a meal period’s
15 duty-free nature its defining characteristic.”].) Relinquishing control over employees during meal
16 periods requires that employees be “free to leave the employer’s premises” and be “permitted to attend
17 to personal business.” (*Augustus v. ABM Security Services, Inc.*, *supra*, 2 Cal.5th at p. 275.) Under
18 Labor Code section 512, if an employer maintains a uniform policy that does not authorize and permit
19 the amount of meal time called for under the law (as specified in the Labor Code and/or applicable
20 IWC Wage Order), “it has violated the wage order and is liable.” (*Brinker Restaurant Corp. v. Superior*
21 *Court*, *supra*, 53 Cal.4th at p. 1033.)

22 45. During the applicable statutory periods here, the Class Members were periodically
23 denied legally-compliant and timely off-duty meal periods of at least thirty minutes due to Defendants’
24 unlawful meal period policy and practices. As a result of Defendants’ uniform meal period policies
25 and practices, the Class Members were often not permitted to take compliant first meal periods before
26 the end of the fifth hour of work. The Class Members were also periodically not permitted to take
27 second meal periods for shifts in excess of ten hours. Defendants thus violated Labor Code section
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1 512 and the Applicable Wage Order by failing to advise, authorize, or permit the Class Members to
2 receive thirty-minute, off-duty meal periods within the first five hours of their shifts.

3 46. Labor Code section 226.7 provides that “[a]n employer shall not require an employee
4 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
5 applicable regulation, standard, or order of the Industrial Welfare Commission.” (Lab. Code, § 226.7,
6 subd. (b).) Labor Code section 226.7, subdivision (c), and the Applicable Wage Order further obligate
7 employers to pay employees one additional hour of pay at the employee’s regular rate of compensation
8 for each workday that the meal period is not provided. (Lab. Code, § 226.7, subd. (c); Cal. Code of
9 Regs., tit. 8, § 11040 [“If an employer fails to provide an employee a meal period in accordance with
10 the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the
11 employee’s regular rate of compensation for each workday that the meal period is not provided.”].)
12 The “regular rate” for these purposes must factor in all nondiscretionary payments for work performed
13 by the employee, including non-discretionary bonuses, commissions, and other forms of wage
14 payments exceeding the employees’ base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021)
15 11 Cal.5th 858, 878.)

16 47. Accordingly, for each day that the Class Members did not receive compliant meal
17 periods, they were and are entitled to receive meal period premiums pursuant to Labor Code section
18 226.7 and the Applicable Wage Order. Defendants, however, failed to pay the Class Members
19 applicable meal period premiums for many workdays that the employees did not receive a compliant
20 meal period. Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage
21 Order.

22 48. Based on the foregoing, Plaintiff seeks to recover, on behalf of herself and other non-
23 exempt employees, meal period premiums and penalties.

24 **E. UNTIMELY WAGES DURING EMPLOYMENT**

25 49. Labor Code section 204 expressly requires employers who pay employees on a weekly,
26 biweekly, or semimonthly basis to pay all wages “not more than seven calendar days following the
27 close of the payroll period.” Labor Code section 210, subdivision (a), makes employers who violate
28 Labor Code section 204 subject to a penalty of:

1 “(1) For any initial violation, one hundred dollars (\$100) for each failure to
2 pay each employee.

3 “(2) For each subsequent violation, or any willful or intentional violation, two
4 hundred dollars (\$200) for each failure to pay each employee, plus 25
5 percent of the amount unlawfully withheld.” (Lab. Code, § 210, subd.
6 (a).)

7 50. Notably, the penalty provided by Labor Code section 210 is “[i]n addition to, and
8 entirely independent and apart from, any other penalty provided in this article” (Lab. Code, § 210,
9 subd. (a).)

10 51. Due to Defendants’ failure to pay the Class Members the wages described above, along
11 with rest and meal break premiums, Defendants failed to timely pay the Class Members within seven
12 calendar days following the close of payroll in accordance with Labor Code section 204 on a regular
13 and consistent basis. (See *Parson v. Golden State FC, LLC* (N.D. Cal., May 2, 2016, No. 16-CV-
14 00405-JST) 2016 WL 1734010, at p. *3–5, 2016 U.S. Dist. LEXIS 58299 [finding that a failure to pay
15 rest period premiums can support claims under Labor Code sections 203 and 204].)

16 **F. UNTIMELY WAGES AT SEPARATION**

17 52. Labor Code section 203 provides “if an employer willfully fails to pay . . . any wages
18 of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty”
19 for up to thirty days. (Lab. Code § 203; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.) As a result
20 of Defendants’ failure to pay the Class Members for the wages described above, along with rest and
21 meal break premiums, Defendants violated and continue to violate Labor Code section 203.

22 53. Due to Defendants’ faulty pay policies, those Class Members whose employment with
23 Defendants concluded were not compensated for each and every hour worked at the appropriate rate.
24 Defendants have failed to pay formerly-employed Class Members whose sums were certain at the time
25 of termination within at least seventy-two hours of their resignation and have failed to pay those sums
26 for thirty days thereafter.

1 **G. FAILURE TO REIMBURSE BUSINESS EXPENSES**

2 54. At all relevant times herein, Defendants were subject to Labor Code section 2802, which
3 states that “an employer shall indemnify his or her employees for all necessary expenditures or losses
4 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
5 obedience to the directions of the employer.” The purpose of this section is to “prevent employers
6 from passing along their operating expenses onto their employees.” (*Gattuso v. Harte-Hanks Shoppers,*
7 *Inc.* (2007) 42 Cal.4th 554, 562.)

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

12 56. Thus, the Class Members were and are entitled to reimbursement for the expenses they
13 incurred during the course of their duties. The duty to reimburse even extends to the use of equipment
14 the employee may already own and would be required to pay for anyway. (*Cochran v. Schwan’s Home*
15 *Serv., Inc.* (2014) 228 Cal.App.4th 1137, 1144 [“The threshold question in this case is this: Does an
16 employer always have to reimburse an employee for the reasonable expense of the mandatory use of a
17 personal cell phone, or is the reimbursement obligation limited to the situation in which the employee
18 incurred an extra expense that he or she would not have otherwise incurred absent the job? The answer
19 is that reimbursement is always required. Otherwise, the employer would receive a windfall because it
20 would be passing its operating expenses on to the employee.”].)

21 57. Here, Defendants failed to fully reimburse the Class Members for necessary
22 expenditures incurred as a direct consequence and requirement of performing their job duties, including
23 the costs associated with their personal internet they required to perform their work. Consequently,
24 Defendants failed to comply with Labor Code section 2802.

25 **H. WAGE STATEMENT VIOLATIONS**

26 58. Defendants also failed to provide accurate itemized wage statements in accordance with
27 Labor Code sections 226, subdivisions (a)(1), (2), (5), and (9). Labor Code section 226, subdivision
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1 (a), obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage
2 statement in writing showing:

- 3 (1) The gross wages earned;
- 4 (2) The total hours worked by the employee;
- 5 (3) The number of piece-rate units earned and any applicable piece rate if
6 the employee is paid on a piece rate basis;
- 7 (4) All deductions, provided that all deductions made on written orders of
8 the employee may be aggregated and shown as one item;
- 9 (5) The net wages earned;
- 10 (6) The inclusive dates of the period for which the employee is paid;
- 11 (7) The name of the employee and only the last four digits of his or her social
12 security number or an employee identification number other than a social
13 security number;
- 14 (8) The name and address of the legal entity that is the employer; and
- 15 (9) All applicable hourly rates in effect during the pay period and the
16 corresponding number of hours worked at each hourly rate by the
17 employee.

18 59. Due to Defendants' failure to pay the Class Members properly as described above, the
19 wage statements issued do not indicate the correct amount of gross wages earned, total hours worked,
20 or the net wages earned, or the applicable hourly rates in effect during the pay period and the
21 corresponding number of hours worked at each hourly rate. Thus, Defendants have violated Labor
22 Code section 226, subdivisions (a)(1), (2), (5), and (9).

23 60. In addition to Labor Code section 226, subdivision (a), Defendants also knowingly and
24 intentionally failed to provide the Class Members with accurate itemized wage statements in violation
25 of Labor Code section 226, subdivision (e). Defendants knew that they were not providing the Class
26 Members with wage statements required by California law but nevertheless failed to correct their
27 unlawful practices and policies. (See *Garnett v. ADT LLC* (E.D. Cal. 2015) 139 F.Supp.3d 1121, 1134
28 [finding the defendant knowingly and intentionally violated Labor Code section 226 because the

1 “[d]efendant knew that it was not providing total hours worked to plaintiff or other employees paid on
2 commission” even though it believed that employees paid solely on commission or commission and
3 salary “are exempt and therefore we do not record hours on a wage statement.”].)

4 **I. RECORDKEEPING VIOLATIONS**

5 61. Labor Code section 226, subdivision (a), requires employers to keep an accurate record
6 of, among other things, all hours worked by employees. Labor Code section 226.3 provides, in
7 pertinent part, as follows:

8 “Any employer who violates subdivision (a) of Section 226 shall be subject to a
9 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per
10 violation in an initial citation and one thousand dollars (\$1,000) per employee
11 for each violation in a subsequent citation, for which the employer fails to
12 provide the employee a wage deduction statement or fails to keep the records
13 required in subdivision (a) of Section 226. The civil penalties provided for in
14 this section are in addition to any other penalty provided by law.” (Lab. Code,
15 § 226.3, emphasis added.)

16 62. Likewise, Labor Code section 1174, subdivision (d), requires every employer, including
17 Defendants, to:

18 “Keep, at a central location in the state or at the plants or establishments at which
19 employees are employed, payroll records showing the hours worked daily by
20 and the wages paid to, and the number of piece-rate units earned by and any
21 applicable piece rate paid to, employees employed at the respective plants or
22 establishments. These records shall be kept in accordance with rules established
23 for this purpose by the commission, but in any case shall be kept on file for not
24 less than three years. An employer shall not prohibit an employee from
25 maintaining a personal record of hours worked, or, if paid on a piece-rate basis,
26 piece-rate units earned.” (Lab. Code, § 1174, subd. (d), emphasis added.)

27 63. As explained in detail above, Defendants failed to provide the Class Members with
28 accurate itemized wage statements. Defendants did so, in part, because they failed to accurately track

1 hours worked by the Class Members. Defendants have thus failed to keep accurate records of the “total
2 hours worked by the employee[s]” in violation of Labor Code section 226, subdivision (a), and are
3 therefore subject to the penalties provided by Labor Code section 226.3. These penalties are “in
4 addition to any other penalty provided by law.” (Lab. Code, § 226.3.)

5 64. The failure to accurately track hours worked also resulted in a failure of Defendants to
6 keep a record of all “payroll records showing the hours worked daily by” Defendants’ employees,
7 including Plaintiff and the other Class Members, in violation of Labor Code section 1174, subdivision
8 (d).

9 **V. CLASS ACTION ALLEGATIONS**

10 65. As mentioned above, Plaintiff brings this action on behalf of herself and the Class
11 Members pursuant to section 382 of the Code of Civil Procedure.

12 66. **Numerosity/Ascertainability:** The Class Members are so numerous that joinder of all
13 members would be unfeasible and not practicable. The membership of the class is unknown to Plaintiff
14 at this time; however, it is estimated that the number of Class Members is greater than 100 individuals.
15 The identity of such membership is readily ascertainable via inspection of Defendants’ employment
16 records.

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

21 A. Whether Defendants’ pay policies/practices resulted in a failure to pay the Class
22 Members for all hours worked, including all minimum wages;

23 B. Whether Defendants’ pay policies/practices resulted in a failure to pay the Class
24 Members for all required overtime wages at the Class Members’ regular rate of pay;

25 C. Whether Defendants’ rest period policies and practices afforded legally
26 compliant rest periods or compensation in lieu thereof;

27 D. Whether Defendants’ meal period policies and practices afforded legally
28 compliant meal periods or compensation in lieu thereof;

- 1 E. Whether Defendants maintained accurate employment records;
2 F. Whether Defendants timely paid all wages during employment;
3 G. Whether Defendants timely paid all wages earned and unpaid at separation;
4 H. Whether Defendants indemnified their employees for all necessary business
5 expenditures;
6 I. Whether Defendants furnished legally-compliant wage statements to the Class
7 Members pursuant to Labor Code section 226; and
8 J. Whether Defendants' violations of the Labor Code and the Applicable Wage
9 Order amounted to a violation of California's UCL.

10 68. **Predominance of Common Questions:** Common questions of law and fact
11 predominate over questions that affect only individual Class Members. The common questions of law
12 set forth above are numerous and substantial and stem from Defendants' uniform policies and practices
13 applicable to each individual class member, such as Defendants' uniform policy and practice of failing
14 to pay for all hours worked, Defendants' uniform policies and practices which failed to provide
15 compliant rest periods, Defendants' uniform policies and practices which failed to provide compliant
16 meal periods, Defendants' failure to provide accurate itemized wage statements, and others. As such,
17 the common questions predominate over individual questions concerning each individual class
18 member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

19 69. **Typicality:** The claims of Plaintiff are typical of the claims of the Class Members
20 because Plaintiff was employed by Defendants as a non-exempt employee in California during the
21 statute(s) of limitation applicable to each cause of action pleaded in this complaint. As alleged herein,
22 Plaintiff, like the other Class Members, was deprived of minimum, regular, and overtime wages
23 because of Defendants' unlawful timekeeping policies and practices, was deprived of rest periods and
24 premium wages in lieu thereof, was deprived of meal periods and premium wages in lieu thereof, was
25 subject to Defendants' uniform rest period policies and practices, was subject to Defendants' uniform
26 meal period policies and practices, was not provided accurate itemized wage statements, was not paid
27 all wages in full and on time, , and was subject to other similar policies and practices to which the Class
28 Members were subject.

1 70. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
2 represent fairly and adequately the interests of the Class Members. Moreover, Plaintiff's attorneys are
3 ready, willing, and able to fully and adequately represent the Class Members and Plaintiff. Plaintiff's
4 attorneys have prosecuted numerous wage-and-hour class actions in state and federal court in the past
5 and are committed to vigorously prosecuting this action on behalf of the Class Members.

6 71. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
7 important public interest in establishing minimum working conditions and standards in California.
8 These laws and labor standards protect the average working employee from exploitation by employers
9 who have the responsibility to follow the laws and who may seek to take advantage of superior
10 economic and bargaining power in setting onerous terms and conditions of employment. The nature
11 of this action and the format of laws available to Plaintiff and the Class Members make the class action
12 format a particularly efficient and appropriate procedure to redress the violations alleged herein. If
13 each employee were required to file an individual lawsuit, Defendants would necessarily gain an
14 unconscionable advantage since they would be able to exploit and overwhelm the limited resources of
15 each individual plaintiff with their vastly superior financial and legal resources.

16 72. Moreover, requiring each Class Member to pursue an individual remedy would also
17 discourage the assertion of lawful claims by employees who would be disinclined to file an action
18 against their former or current employer for real and justifiable fear of retaliation and permanent
19 damages to their careers at subsequent employment. Further, the prosecution of separate actions by
20 the individual Class Members, even if possible, would create a substantial risk of inconsistent or
21 varying verdicts or adjudications with respect to the individual Class Members against Defendants
22 herein, and which would establish potentially incompatible standards of conduct for Defendants or
23 legal determinations with respect to individual Class Members which would, as a practical matter, be
24 dispositive of the interest of the other Class Members not parties to adjudications or which would
25 substantially impair or impede the ability of the Class Members to protect their interests.

26 73. Further, the claims of the individual Class Members are not sufficiently large to warrant
27 vigorous individual prosecution considering the concomitant costs and expenses attending thereto. As
28

1 such, the Class Members identified above are maintainable as a class under section 382 of the Code of
2 Civil Procedure.

3 **VI. CAUSES OF ACTION**

4 **First Cause of Action**

5 *Failure to Pay All Minimum Wages*

6 *(Against All Defendants)*

7 74. Plaintiff realleges and incorporates by reference all previous paragraphs.

8 75. Section 4 of the Applicable Wage Order and Labor Code section 1197 establish the right
9 of employees to be paid minimum wages for all hours worked, in amounts set by state law. (Lab. Code,
10 § 1197; Cal. Code of Regs., tit. 8, § 11040.) Labor Code sections 1194, subdivision (a), and 1194.2,
11 subdivision (a), provide that an employee who has not been paid the legal minimum wage as required
12 by Labor Code section 1197 may recover the unpaid balance, together with attorneys' fees and costs
13 of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued
14 thereon.

15 76. Here, Defendants failed to fully conform their pay practices to the requirements of the
16 law during the relevant statutory periods. Plaintiff and the other Class Members were not compensated
17 for all hours worked including, but not limited to, all hours they were subject to the control of
18 Defendants and/or suffered or permitted to work under the Labor Code and the Applicable Wage Order.

19 77. Labor Code section 1198 makes unlawful the employment of an employee under
20 conditions that the IWC Wage Orders prohibit. Labor Code sections 1194, subdivision (a), and 1194.2,
21 subdivision (a), provide that an employer who has failed to pay its employees the legal minimum wage
22 is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages
23 in an amount equal to the wages due and interest thereon.

24 78. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
25 Plaintiff and the other Class Members have sustained economic damages, including but not limited to
26 unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover
27 economic and statutory damages and penalties and other appropriate relief because of Defendants'
28 violations of the Labor Code and Applicable Wage Order.

79. Defendants' practices and policies regarding illegal employee compensation are unlawful and create an entitlement to recovery by Plaintiff and the other Class Members in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code sections 204, 218.5, 1194, 1194.2, 1197, and 1198, and Code of Civil Procedure section 1021.5.

Second Cause of Action

Failure to Pay All Overtime Wages

(Against All Defendants)

80. Plaintiff realleges and incorporates by reference all previous paragraphs.

81. This cause of action is brought pursuant to Labor Code sections 204, 510, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed. At all times relevant herein, Defendants were required to properly pay Plaintiff and the other Class Members for all overtime wages earned pursuant to Labor Code section 1194 and the Applicable Wage Order. Defendants caused Plaintiff and the other Class Members to work overtime hours but did not compensate them at one and one-half times their regular rate of pay for such hours in accordance with California law. Likewise, Defendants caused Plaintiff and the other Class Members to work double-time hours but did not compensate them at twice their regular rate of pay for such hours in accordance with California law.

82. Defendants failed to fully conform their pay practices to the requirements of California law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful pay policies and practices of failing to accurately record all the time that non-exempt employees were under the supervision and control of Defendants. The foregoing policies and practices are unlawful and allow Plaintiff and the other Class Members to recover in a civil action the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code section 204, 510, 1194, and 1198, the Applicable Wage Order, and Code of Civil Procedure section 1021.5.

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89. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the Applicable Wage Order and Labor Code sections 226.7 and 512, and Civil Code sections 3287, subdivision (b), and 3289. (See Cal. Code of Regs., tit. 8, § 11040.)

Fifth Cause of Action

Failure to Maintain Accurate Employment Records

(Against All Defendants)

90. Plaintiff realleges and incorporates by reference all previous paragraphs.

91. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and wages paid to employees employed at the respective plants or establishments. These records must be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

92. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records.

93. Defendant has intentionally and willfully failed to keep accurate and complete records showing the hours worked daily and wages paid to Plaintiff and the other Class Members. Thus, Plaintiff and the other Class Members have been denied their legal right and protected interest in having available at a central location at the plant or establishment where they are employed, accurate and complete payroll records showing the hours worked daily by, and the wages paid to, employees at those respective locations pursuant to Labor Code 1174.

Sixth Cause of Action

Failure to Pay Wages Timely during Employment

(Against All Defendants)

94. Plaintiff realleges and incorporates by reference all previous paragraphs.

95. Labor Code section 200 provides that “wages” include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, pieces, commission basis, or other method of calculation. Labor Code section 204 states that all

1 wages earned by any person in any employment are payable twice during the calendar month and must
2 be paid not more than seven days following the close of the period when the wages were earned. Labor
3 Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a
4 penalty of \$100 for any initial failure to timely pay each employee's full wages and \$200 for each
5 subsequent violation, plus 25% of the amount unlawfully withheld.

6 96. Labor Code section 216 establishes that it is a misdemeanor for any person, with regards
7 to wages due, to "falsely deny the amount or validity thereof, or that the same is due, with intent to
8 secure himself, his employer or other person, any discount upon such indebtedness, or with intent to
9 annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due."

10 97. Defendants as a matter of established company policy and procedure in the State of
11 California, scheduled, required, suffered, and/or permitted Plaintiff and the other Class Members, to
12 work without full compensation, to work without legally-compliant off-duty meal periods, to work
13 without legally-compliant off-duty rest periods, and thereby failed to fully pay Plaintiff and the other
14 Class Members within seven days of the close of payroll, as required by law.

15 98. Defendants, as a matter of established company policy and procedure in the State of
16 California, falsely deny they owe Plaintiff and the other Class Members these wages, with the intent of
17 securing for itself a discount upon its indebtedness and/or to annoy, harass, oppress, hinder, delay,
18 and/or defraud Plaintiff and the other Class Members.

19 99. Defendants' pattern, practice, and uniform administration of its corporate policy of
20 illegally denying employees compensation, as described herein, is unlawful and entitles Plaintiff and
21 the other Class Members to recover, pursuant to Labor Code section 218, the unpaid balance of the
22 compensation owed to them in a civil action and any applicable penalties, attorney fees, and interest
23 owed to them pursuant to Labor Code sections 210 and 218.5.

24 **Seventh Cause of Action**

25 *Failure to Pay All Wages Earned and Unpaid at Separation*

26 *(Against All Defendants)*

27 100. Plaintiff realleges and incorporates by reference all previous paragraphs.
28

101. The actionable period for this cause of action is three years prior to the filing of this complaint through the present, and ongoing until the violations are corrected or the class is certified. (*Pineda v. Bank of America, N.A.* (2010) 50 Cal.4th 1389, 1395; *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1109; Code Civ. Proc., § 338, subd. (a).) Labor Code sections 201 and 202 of the California Labor Code require Defendants to pay all compensation due and owing to its former employees (including the formerly-employed Class Members) during the actionable period for this cause of action at or around the time that their employment is or was terminated, or ended.

102. Section 203 of the Labor Code provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the employer is liable for penalties in the form of continued compensation up to thirty workdays.

103. Due to Defendants' faulty pay policies, those Class Members whose employment with Defendants has concluded were not compensated for each and every hour worked at the appropriate rate. Defendants have willfully failed to pay those formerly-employed Class Members whose sums were certain at the time of termination within seventy-two hours of their resignation and have failed to pay those sums for thirty days thereafter as required by Labor Code sections 201 through 203.

104. As a result, Defendants are liable to the formerly-employed Class Members for waiting time penalties amounting to thirty days wages for the formerly-employed Class Members pursuant to Labor Code section 203. (See, e.g., DLSE Manual, § 4.3.4 [failure to pay any sort of wages due upon termination entitles an employee to recover waiting time penalties].)

Eighth Cause of Action

Failure to Indemnify All Necessary Business Expenditures

(Against All Defendants)

105. Plaintiff realleges and incorporates by reference all previous paragraphs.

106. California Labor Code Section 2802 states that employers must “indemnify” an employee for “all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” Likewise, Labor Code section 2804 states that “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article

1 shall not deprive any employee or his personal representative of any right or remedy to which he is
2 entitled under the laws of this State.”

3 107. Here, Plaintiff and the other Class Members paid out of pocket for necessary business
4 expenditures incurred as a direct consequence and requirement of performing their job duties, including
5 the costs associated with their personal internet they required to perform their work. Despite knowing
6 that Plaintiff and the other Class Members incurred these necessary business expenses, and requiring
7 Plaintiff and the other Class Members to use such items, Defendants did not reimburse them.

8 108. Thus, Plaintiff and the other Class Members are entitled to recover the cost of such
9 necessary business expenses, plus interest from the date each incurred such business expenses, plus
10 fees and costs. (Lab. Code, § 2802, subds. (b), (c).)

11 **Ninth Cause of Action**

12 *Failure to Furnish Accurate Itemized Wage Statements*

13 *(Against All Defendants)*

14 109. Plaintiff realleges and incorporates by reference all previous paragraphs.

15 110. Labor Code section 226, subdivision (a), obligates employers, semi-monthly or at the
16 time of each payment to furnish an itemized wage statement in writing showing:

- 17 (1) The gross wages earned;
- 18 (2) The total hours worked by the employee;
- 19 (3) The number of piece-rate units earned and any applicable piece rate if
20 the employee is paid on a piece rate basis;
- 21 (4) All deductions, provided that all deductions made on written orders of
22 the employee may be aggregated and shown as one item;
- 23 (5) The net wages earned;
- 24 (6) The inclusive dates of the period for which the employee is paid;
- 25 (7) The name of the employee and only the last four digits of his or her social
26 security number or an employee identification number other than a social
27 security number;
- 28 (8) The name and address of the legal entity that is the employer; and

1 (9) All applicable hourly rates in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate by the
3 employee.

4 111. As set forth above, Defendants issued and continues to issue wage statements to its non-
5 exempt employees including Plaintiff and the other Class Members that are inadequate under Labor
6 Code section 226, subdivision (a). By failing to pay Plaintiff and the other Class Members properly as
7 described above, Defendants failed to include required information on their wage statements, including,
8 but not limited to, the gross wages earned, the net wages earned in violation of Labor Code section
9 226, subdivision (a).

10 112. Defendants' failure to comply with Labor Code section 226, subdivision (a), of the
11 Labor Code was knowing and intentional. (Lab. Code, § 226, subd. (e)).

12 113. As a result of Defendants' issuance of inaccurate itemized wage statements to Plaintiff
13 and the other Class Members in violation of Labor Code section 226, subdivision (a), Plaintiff and the
14 other Class Members are each entitled to recover an initial penalty of \$50, and subsequent penalties of
15 \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per each Class
16 Member from Defendants pursuant to Labor Code section 226, subdivision (e), along with costs and
17 reasonable attorneys' fees.

18 **Tenth Cause of Action**

19 *Violations of California's Unfair Competition Law*

20 *(Against All Defendants)*

21 114. Plaintiff realleges and incorporates by reference all previous paragraphs.

22 115. Defendants have engaged and continue to engage in unfair and/or unlawful business
23 practices in California in violation of California Business and Professions Code section 17200 through
24 17210, by committing the unlawful acts described above. Defendants' utilization of these unfair and
25 unlawful business practices deprived and continue to deprive Plaintiff and the other Class Members of
26 compensation to which they are legally entitled. These practices constitute unfair and unlawful
27 competition and provide an unfair advantage over Defendants' competitors who have been and/or are
28

1 currently employing workers and attempting to do so in honest compliance with applicable wage and
2 hour laws.

3 116. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct alleged herein,
4 Plaintiff for herself and on behalf of the Class Members, seeks full restitution of monies, as necessary
5 and according to proof, to restore any and all monies withheld, acquired and/or converted by
6 Defendants pursuant to Business and Professions Code sections 17203 and 17208.

7 117. The acts complained of herein occurred within the four years prior to the initiation of
8 this action and are continuing into the present and ongoing.

9 118. Plaintiff was compelled to retain the services of counsel to file this Court action to
10 protect her interests and those of the Class Members, to obtain restitution and injunctive relief on behalf
11 of Defendants' current non-exempt employees and to enforce important rights affecting the public
12 interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which Plaintiff
13 is entitled to recover under Code of Civil Procedure section 1021.5.

14 **VII. DEMAND FOR JURY TRIAL**

15 119. Plaintiff hereby demands trial by jury of Plaintiff's and the Class Members' claims
16 against Defendants.

17 **VIII. PRAYER FOR RELIEF**

18 Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought
19 against Defendants, as follows:

- 20 1. For an order certifying the proposed class;
- 21 2. For an order appointing Plaintiff as representative of the class;
- 22 3. For an order appointing Plaintiff's counsel as counsel for the class;
- 23 4. For the failure to pay all minimum wages, compensatory, consequential, general, and
24 special damages according to proof pursuant to Labor Code sections 1194, 1194.2,
25 1197, and others as may be applicable;
- 26 5. For the failure to pay all overtime wages, compensatory, consequential, general, and
27 special damages according to proof pursuant to Labor Code sections 204, 510, 1194,
28 1198, and others as may be applicable;

6. For the failure to provide rest periods and pay missed rest period premiums, compensatory, consequential, general, and special damages according to proof pursuant to Labor Code section 226.7;
7. For the failure to provide meal periods and pay missed meal period premiums, compensatory, consequential, general, and special damages according to proof pursuant to Labor Code sections 226.7 and 512;
8. For the failure to maintain accurate employment records, penalties pursuant to Labor Code sections 226.3, 1174.5, and others that may be applicable;
9. For the failure to pay wages timely during employment, the unpaid balance of the compensation owed to Plaintiff and the other Class Members and any applicable penalties owed to them pursuant to Labor Code section 210;
10. For the failure to pay all wages earned and unpaid at separation, statutory waiting time penalties pursuant to Labor Code sections 201 through 203, for the Class Members who quit or were fired in an amount equal to their daily wage multiplied by thirty days, as may be proven;
11. For the failure to indemnify all necessary business expenditures, all unreimbursed business expenses, and interest thereon, that are owed, pursuant to Labor Code section 2802, and attorney fees, pursuant to Labor Code section 2802, subdivision (c);
12. For the violations of California's Unfair Competition Law, restitution to Plaintiff and the other Class Members 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 sections 17200 through 17210;
13. Prejudgment interest on all due and unpaid wages pursuant to Labor Code section 218.6 and Civil Code sections 3287 and 3289;
14. On all causes of action for which attorneys' fees may be available, for attorneys' fees and costs as provided by Labor Code sections 218.5, 226, Code of Civil Procedure section 1021.5, and others as may be applicable;

1 **15.** For an order enjoining Defendants, and each of them, and their agents, servants, and
2 employees, and all persons acting under, in concert with, or for them, from acting in
3 derogation of any rights or duties adumbrated in this complaint; and

4 **16.** For such other and further relief, this Court may deem just and proper.

5
6 Dated: November 1, 2022

MELMED LAW GROUP P.C.

7 *Meghan Higday*
8 _____
 MEGHAN N. HIGDAY

9 Attorney for Plaintiff and the Putative Class
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