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7 Attorneys for Plaintiff(s),
8 PARY AL ZAHAWI, and all others similarly situated
(additional counsel on the following page)

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**
11 **(UNLIMITED JURISDICTION)**

12 PARY AL ZAHAWI, on behalf of herself and all
13 others similarly situated, and the general public,
14 and as an "Aggrieved Employee" on behalf of
15 other "Aggrieved Employees" under the Private
Attorneys General Act of 2004

16 *Plaintiff(s),*

17 vs.

18 THE KIND CENTER, INC., a California
19 corporation; KB COLLECTIVE FOR
20 COMPASSION AND CARE, INC., a California
21 corporation; FLOWER COMPANY, a
22 California business entity of unknown form; and
DOES 1-50, inclusive,

23 *Defendant(s).*

FILED
Superior Court of California
County of Los Angeles
02/21/2023

David W. Slayton, Executive Officer / Clerk of Court
By: K. Martinez Deputy

Case No.: 22STCV38571

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay Reporting Time (Lab. Code §§ 1194 and 1198);
2. Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
3. Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
4. Failure to Indemnify (Lab. Code § 2802);
5. Wage Statement Penalties (Lab. Code § 226);
6. Waiting Time Penalties (Lab. Code § 203);
7. Unfair Competition (Bus. & Prof. Code §§ 17200, et seq.; and
8. Civil Penalties (Lab Code §§2698, et seq.)

JURY TRIAL DEMANDED



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Plaintiff, Pary Al Zahawi (hereafter “Plaintiff” or “Al Zahawi”), on behalf of herself and all others similarly situated, and the State of California complains and alleges as follows:

I. INTRODUCTION

1. Plaintiff brings this class and representative action for alleged violations of the California Labor Code, Industrial Welfare Commission Order No. 7-2001 (hereafter “the Wage Order”), and the California Business and Professions Code against Defendants The Kind Center, Inc., a California corporation, KB Collective For Compassion And Care, Inc., a California corporation, Flower Company, a California business entity of unknown form, and Does 1 through 50, inclusive (collectively “Defendants”).

2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to her and other similarly situated workers for unpaid wages, statutory penalties, interest, and related relief. These claims are based on Defendants’ failures to:

- (A) Provide all meal periods;
- (B) Authorize and permit all rest breaks;
- (C) Pay premium wages for unprovided meal periods;
- (D) Pay premium wages for unprovided rest breaks;
- (E) Pay for reporting time;
- (F) Indemnify for necessary work-related expenditures;
- (G) Issue only accurate and complete itemized wage statements; and
- (H) Timely pay wages upon termination of employment.

Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages, restitution, civil and statutory penalties, attorneys’ fees, costs, and related relief through this class action.

II. THE PARTIES

3. Plaintiff Pary Al Zahawi is a resident of California. At all relevant times, Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations Section 11070, and an “aggrieved employee” within the meaning of California Labor Code § 2699(c).

3. Defendant The Kind Center, Inc. is a corporation organized and existing under the laws of California and also a citizen of California based on Plaintiff’s information and belief.

4. Defendant KB Collective For Compassion And Care, Inc. is a corporation organized and existing under the laws of California and also a citizen of California based on



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1 Plaintiff's information and belief.

2 5. Defendant Flower Company is an entity of unknown form organized and existing
3 under the laws of California and also a citizen of California based on Plaintiff's information and
4 belief.

5 6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
6 participation in the conduct alleged herein of the Defendants sued as DOES 1-50, inclusive, but
7 is informed and believes and thereon alleges that said Defendants are legally responsible for the
8 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
9 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
when ascertained.

10 7. Plaintiff is informed and believes and thereon alleges that, at all relevant times
11 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
12 remaining defendants, and in doing the things hereinafter alleged, were acting or failing to act
13 within the course and scope of such agency, employment, direction and control, and with the
14 approval and ratification of each of the other Defendants.

15 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
16 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
17 of a practice which resulted in Defendants not compensating Plaintiff and the other Class
18 Members or otherwise complying with their rights in accordance with applicable California labor
laws as alleged herein.

19 9. At all relevant times, in perpetrating the acts and omissions alleged herein,
20 Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice, or
21 lack thereof, which resulted in Defendants not paying Plaintiff and other members of the below-
22 described class in accordance with applicable laws as alleged herein.

23 **III. CLASS ALLEGATIONS**

24 10. This action has been brought and may be maintained as a class action pursuant to
25 California Code of Civil Procedure section 382 because there is a well-defined community of
interest among the persons who comprise the readily ascertainable class defined below and
because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as
a class action.

26 11. **Class Definition:** The Class is defined as follows: All persons Defendants



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1 employed in California non-exempt, hourly employees, including, but not limited to, delivery
2 drivers and mobile budtenders, individuals performing work comparable to the aforementioned,
3 compensated comparably to the aforementioned, and individuals in similar positions, at any time
4 during the period beginning four years prior to the filing of this action and ending on the date that
5 final judgment is entered in this action (“Class” or “Class Members”).

6 12. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
7 right to amend or modify the class definition with greater specificity, by further division into
8 subclasses and/or by limitation to particular issues.

9 13. **Numerosity:** The Class Members are so numerous that the individual joinder of
10 each individual Class Member is impractical. While Plaintiff does not currently know the exact
11 number of Class Members, Plaintiff is informed and believes that the actual number exceeds the
12 minimum required for numerosity under California laws.

13 14. **Commonality and Predominance:** Common questions of law and fact exist as to
14 all Class Members and predominate over any questions which affect only individual Class
15 Members. These questions include, but are not limited to:

16 A. Whether Defendants failed to pay all wages earned to Class Members for
17 all hours worked at the correct rates of pay, including reporting time;

18 B. Whether Defendants failed to provide the Class Members with all meal
19 periods in compliance with California law;

20 C. Whether Defendants failed to authorize and permit the Class Members to
21 take all rest periods in compliance with California law;

22 D. Whether Defendants failed to indemnify the Class Members for the
23 reasonable expenses they incurred during the course of performing their duties;

24 E. Whether Defendants knowingly and intentionally failed to provide the
25 class with accurate and complete itemized wage statements;

26 F. Whether Defendants willfully failed to provide the class with timely final
27 wages;

28 G. Whether Defendants engaged in unfair competition within the meaning of
Business and Professions Code sections 17200, et seq., with respect to the Class; and

H. Whether Class Members are entitled to restitution of money or property
that Defendants may have acquired from them through alleged Labor Code violations.



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1 15. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
2 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
3 practice, or lack thereof, which resulted in Defendants failing to comply with the California Labor
4 Code, the Wage Order, and the Business and Professions Code.

5 16. **Adequacy of Class Representative:** Plaintiff is an adequate class representative
6 in that she has no interests that are adverse to, or otherwise in conflict with, the interests of absent
7 Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of Class
8 Members. Plaintiff will fairly and adequately represent and protect the interests of Class

9 17. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
10 they have no known conflicts of interest with Plaintiff or absent Class Members, are experienced
11 in class action litigation, and are dedicated to vigorously prosecuting this action on behalf of
12 Plaintiff and absent Class Members.

13 18. **Superiority:** A class action is vastly superior to other available means for fair and
14 efficient adjudication of Class Members' claims and would be beneficial to the parties and the
15 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
16 and efficiently prosecute their common claims in a single forum without the unnecessary
17 duplication of effort and expense that numerous individual actions would entail. In addition, the
18 monetary amounts due to many individual Class Members are likely to be relatively small and
19 would thus make it difficult, if not impossible, for individual Class Members to both seek and
20 obtain relief. Moreover, a class action will serve an important public interest by permitting Class
21 Members to effectively pursue the recovery of monies owed to them. Further, a class action will
22 prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

23 **IV. STATEMENT OF FACTS**

24 19. The Wage Order applies to "all persons employed in the mercantile industry
25 whether paid on a time, piece rate, commission, or other basis..." Wage Order, § 1. The Wage
26 Order defines "Mercantile Industry" to mean "any industry, business, or establishment operated
27 for the purpose of purchasing, selling, or distributing goods are commodities at wholesale or
28 retail; or for the purpose of renting goods or commodities." Wage Order, § 2(H). At all relevant
times during the applicable limitations period, Defendants, Plaintiff, and all of the Class Members
were covered by the Wage Order because Defendants operated, and Plaintiff, and all of the Class



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1 Members worked for, one or more establishments operated as marijuana dispensary and delivery
2 service center. Accordingly, Plaintiff and all of the other Class Members are entitled to the
3 protections the Wage Order provides.

4 20. In approximately August 2021, the Defendants began to employ Al Zahawi in Los
5 Angeles in the position of hourly, non-exempt delivery driver and mobile budtender. The
6 Defendants continuously employed her in that capacity until November 2021 when her
7 employment ended.

8 21. At all relevant times, the Defendants issued wages to Al Zahawi and all of the
9 other Class Members on a biweekly (26 paychecks/year) basis and paid them by the hour. At all
10 relevant times, the Defendants classified Al Zahawi and all of the other Class Members as non-
11 exempt employees entitled to the protections of the Labor Code and the Wage Order.

12 22. At all relevant times, the Defendants failed to provide Al Zahawi and all of the
13 other Class Members with all timely 30-minute, off-duty meal periods. Due to their workload, Al
14 Zahawi and the Class Members were not able to take timely, uninterrupted, and duty-free meal
15 periods. On average, Defendants scheduled 15 deliveries for Al Zahawi and the Class Members
16 in a workday and required them to complete all deliveries on a timely manner. This left Al Zahawi
17 and the Class Members with no choice but to skip their meal periods or take them after they had
18 already worked more than five (5) hours in a workday. Further, Defendants required Al Zahawi
19 and the Class Members to monitor their cell phones at all times and respond to their managers
20 and supervisors' calls and messages immediately even when they tried to take a meal period. The
21 Defendants also failed to pay premium wages for days on which they failed to provide Al Zahawi
22 and all of the other Class Members with meal periods as required by law.

23 23. At all relevant times, the Defendants failed to authorize and permit Al Zahawi and
24 all of the other Class Members to take ten-minute, off-duty, paid rest breaks every four hours
25 worked or major portion thereof. Due to their workload, Al Zahawi and the Class Members were
26 not able to take timely, uninterrupted, and duty-free rest breaks. On average, Defendants
27 scheduled 15 deliveries for Al Zahawi and the Class Members in a workday and required them to
28 complete all deliveries on a timely manner. This left Al Zahawi and the Class Members with no
choice but to skip their rest breaks. Further, Defendants required Al Zahawi and the Class
Members to monitor their cell phones at all times and respond to their managers and supervisors'
calls and messages immediately even when they tried to take a rest break. The Defendants also



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1 failed to pay premium wages for days on which they failed to authorize and permit Al Zahawi
2 and all of the other Class Members to take rest breaks as required by law.

3 24. At all relevant times, the Defendants failed to pay to Al Zahawi and all of the other
4 Class Members reporting time pay they earned. Defendants often required Al Zahawi and the
5 Class Members to report to work but failed to provide them with work and sent them home.

6 25. At all relevant times, the Defendants required Al Zahawi and all of the other Class
7 Members to incur certain business expenses in the course of performing their duties. The
8 Defendants required Al Zahawi and all of the other Class Members to supply mobile phones to
9 perform their job duties. However, the Defendants did not provide these items and did not
10 reimburse Al Zahawi and the other Class Members for these items. Defendants required Al
11 Zahawi and the Class Members to use their personal mobile phones for work purposes but failed
12 to reimburse them for such expenses. Defendants required Al Zahawi and the Class Members to
13 use certain applications to locate and communicate with the customers and other staff. Defendants
14 required Al Zahawi and the Class Members to install these applications on their personal
15 cellphones and use them throughout each workday. Al Zahawi and the Class Members' managers
16 and supervises also contacted them on their cellphones several times throughout each workday.

17 26. At all relevant times, the Defendants failed to issue to Al Zahawi and all of the
18 other Class Members complete and accurate wage statements that state all hours worked at the
19 correct rates of pay, and all wages earned. The Defendants knowingly and intentionally failed to
20 state on the wage statements they issued to Al Zahawi and all of the other Class Members the
21 unpaid wages discussed above. The wage statements fail to state all meal period premium wages
22 earned, all rest break premium wages earned, all reporting time pay earned, and related
23 information.

24 27. At all relevant times, the Defendants also failed to timely pay Al Zahawi and all
25 of the other Class Members all earned wages as described above during and at the conclusion of
26 employment. In addition, Defendants paid Al Zahawi her final wages more than two (2) weeks
27 after the date she was terminated.

28 28. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
unlawful practices and policies, Plaintiff and the Class Members were:

- A. Not provided with all off duty meal periods;
- B. Not authorized and permitted to take all rest break periods;



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1 C. Not paid one hour's pay for each workday in which Defendants failed to
2 authorize and permit them to take one or more timely rest periods;

3 D. Not paid one hour's pay for each workday in which Defendants failed to
4 provide them with one or more timely meal periods;

5 E. Not paid all reporting time;

6 F. Not indemnified for all necessary business expenditures incurred during
7 the discharge of their duties;

8 G. Not provided with accurate and complete wage statements; and

9 H. Not timely paid all earned and unpaid wages at the time their employment
ended.

10 **FIRST CAUSE OF ACTION**

11 **FAILURE TO PAY, DEDUCTING, OR WITHHOLDING ALL WAGES AT THE** 12 **CORRECT RATES**

13 **Lab. Code §§ 1194 and 1198**

14 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

15 29. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

16 30. At all relevant times, Plaintiff and the Class Members have been non-exempt
employees entitled to the protections of both the Labor Code and the Wage Order.

17 31. Under Section 5 of the Wage Order

18
19 [e]ach workday an employee is required to report for work and does report, but is
20 not put to work or is furnished less than half said employee's usual or scheduled
21 day's work, the employee shall be paid for half the usual or scheduled day's work,
but in no event for less than two (2) hours nor more than four (4) hours, at the
employee's regular rate of pay, which shall not be less than the minimum wage.

22 32. Labor Code section 1194 invalidates any agreement between an employer and an
23 employee to work for less than the minimum wage required under the applicable Wage Order.

24 33. Labor Code section 1198 makes it unlawful for an employer to employ an
25 employee under conditions that violate the Wage Order.

26 34. The Defendants required Al Zahawi and all of the other Class Members to report
27 for a full day of work (eight or more hours) and, instead of furnishing them with half of more of
28 their usual scheduled day's work, sent them home. Furthermore, the Defendants failed to pay Al



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1 Zahawi and all of the other Class Members at least two (2) hours at their regular rates of pay.
2 Defendants often required Al Zahawi and the Class Members to report to work but failed to
3 provide them with work and sent them home. Defendants also failed to pay them for reporting
4 time. This is a violation of the Wage Order and also the Labor Code §§ 1194 and 1198.

5 35. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
6 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
7 failure to pay Plaintiff and the other Class Members at least two (2) hours at their regular rates of
8 pay as required by California law.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PROVIDE MEAL PERIODS**

11 **Lab. Code §§ 226.7 and 512**

12 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

13 36. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

14 37. At all relevant times during the applicable limitations period, Plaintiff and the
15 Class Members have been employees of Defendants and entitled to the benefits and protections
16 of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

17 38. In relevant part, California Labor Code § 1198 states:

18 The maximum hours of work and the standard conditions of labor fixed by the
19 commission shall be the maximum hours of work and the standard conditions of
20 labor for employees. The employment of any employee for longer hours than those
21 fixed by the order or under conditions of labor prohibited by the order is unlawful.

22 39. In relevant part, In relevant part, California Labor Code § 512 states:

23 An employer shall not employ an employee for a work period of
24 more than five hours per day without providing the employee with
25 a meal period of not less than 30 minutes, except that if the total
26 work period per day of the employee is no more than six hours, the
27 meal period may be waived by mutual consent of both the
28 employer and employee.

An employer shall not employ an employee for a work period of
more than 10 hours per day without providing the employee with
a second meal period of not less than 30 minutes, except that if the
total hours worked is no more than 12 hours, the second meal
period may be waived by mutual consent of the employer and the



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employee only if the first meal period was not waived.

40. In relevant part, Section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.
- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.
- (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.
- (E) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

41. In relevant part, California Labor Code § 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of



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Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal period or rest period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

42. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the Class Members were entitled to uninterrupted meal periods of at least 30 minutes for each day they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled to a second 30-minute meal period when they worked more than 10 hours in a workday.

43. Defendants intentionally failed to provide Plaintiff and the Class Members with all required 30-minute duty free meal periods in accordance with the Wage Order. Due to their workload, Al Zahawi and the Class Members were not able to take timely, uninterrupted, and duty-free meal periods. On average, Defendants scheduled 15 deliveries for Al Zahawi and the Class Members in a workday and required them to complete all deliveries on a timely manner. This left Al Zahawi and the Class Members with no choice but to skip their meal periods or take them after they had already worked more than five (5) hours in a workday. Further, Defendants required Al Zahawi and the Class Members to monitor their cell phones at all times and respond to their managers and supervisors' calls and messages immediately even when they tried to take a meal period.

44. At all relevant times, Defendants failed to provide Plaintiff and the Class Members with all timely rest and meal periods. Defendants denied Plaintiff and the other Class Members their 30-minute off-duty meal period within the first five hours of work. Furthermore, Defendants failed to pay premium wages for days on which they failed to provide Plaintiff and the other Class Members with timely meal periods.

45. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not providing the and the Class Members with all off-duty meal



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1 periods required by California law.

2 46. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
3 suffered damages in amounts subject to proof to the extent they were not paid additional wages
4 owed for all meal periods not provided to them.

5 47. By reason of the above, Plaintiff and the Class Members are entitled to premium
6 wages for workdays in which one or more meal periods were not provided to them pursuant to
7 California Labor Code § 226.7.

8 **THIRD CAUSE OF ACTION**

9 **FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

10 **Lab. Code § 226.7**

11 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

12 48. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

13 49. At all relevant times during the applicable limitations period, Plaintiff and the
14 Class Members have been employees of Defendants and entitled to the benefits and protections
15 of California Labor Code §§ 226.7 and 1198, and the Wage Order.

16 50. In relevant part, California Labor Code § 1198 states:

17 The maximum hours of work and the standard conditions of labor
18 fixed by the commission shall be the maximum hours of work and
19 the standard conditions of labor for employees. The employment
20 of any employee for longer hours than those fixed by the order or
21 under conditions of labor prohibited by the order is unlawful.

22 51. In relevant part, Section 12 of the Wage Order states:

23 **Rest Periods:**

24 (A) Every employer shall authorize and permit all employees to take
25 rest periods, which insofar as practicable shall be in the middle of
26 each work period. The authorized rest period time shall be based
27 on the total hours worked daily at the rate of ten (10) minutes net
28 rest time per four (4) hours or major fraction thereof. However, a
rest period need not be authorized for employees whose total daily
work time is less than three and one-half (3 ½) hours. Authorized
rest period time shall be counted as hours worked for which there
shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in



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1 accordance with the applicable provisions of this order, the
2 employer shall pay the employee one (1) hour of pay at the
3 employee's regular rate of compensation for each workday
4 that the rest period is not provided.

5 52. In relevant part, California Labor Code § 226.7 states:

6 (b) An employer shall not require an employee to work during
7 a meal or rest period mandated pursuant to an applicable
8 statute, or applicable regulation, standard, or order of the
9 Industrial Welfare Commission, the Occupational Safety
10 and Health Standards Board, or the Division of
11 Occupational Safety and Health.

12 (c) If an employer fails to provide an employee a meal period
13 or rest period in accordance with a state law, including, but
14 not limited to, an applicable statute or applicable
15 regulation, standard, or order of the Industrial Welfare
16 Commission, the Occupational Safety and Health
17 Standards Board, or the Division of Occupational Safety
18 and Health, the employer shall pay the employee one
19 additional hour of pay at the employee's regular rate of
20 compensation for each work day that the meal or rest
21 period is not provided.

22 53. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to be
23 authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period
24 of work, or major fraction thereof.

25 54. Defendants intentionally failed to authorize and permit Plaintiff and the Class
26 Members to take all 10-minute rest periods free from any work duties in accordance with the
27 Wage Order. Due to their workload, Al Zahawi and the Class Members were not able to take
28 timely, uninterrupted, and duty-free rest breaks. On average, Defendants scheduled 15 deliveries
for Al Zahawi and the Class Members in a workday and required them to complete all deliveries
on a timely manner. This left Al Zahawi and the Class Members with no choice but to skip their
rest breaks. Further, Defendants required Al Zahawi and the Class Members to monitor their cell
phones at all times and respond to their managers and supervisors' calls and messages
immediately even when they tried to take a rest break.

55. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
Class Members to take all timely rest periods. Furthermore, Defendants failed to pay premium



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1 wages to Plaintiff and the Class Members for days on which they failed to authorize and permit
2 Plaintiff and the other Class Members to take timely rest periods.

3 56. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
4 Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or major
5 fraction thereof. Defendants did not seek an exemption from the rest period protections of the
6 Wage Order from the California Division of Labor Standards Enforcement. Moreover,
7 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they failed
8 to authorize and permit them to take 10-minute rest periods every four hours worked or major
9 fraction thereof.

10 57. Plaintiff is informed and believes and thereon alleges that, at all relevant times
11 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
12 which resulted in Defendants not authorizing and permitting Plaintiff and the Class Members to
13 take all rest breaks required by California law.

14 58. Defendants failed to provide Plaintiff with all required rest breaks in accordance
15 with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at relevant times
16 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
17 which resulted in Defendants not providing the Class Members with all rest breaks required by
18 California law.

19 59. Defendants failed to pay Plaintiff the additional wages required by California
20 Labor Code § 226.7 for all rest breaks not provided to her. Plaintiff is informed and believes and
21 thereon alleges that, at relevant times within the applicable limitations period, Defendants have
22 maintained a policy, practice, or a lack of a policy which resulted in Defendants not providing the
23 Class Members with additional wages for all rest breaks not provided to them as required by
24 California Labor Code § 226.7.

25 60. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
26 suffered damages in amounts subject to proof to the extent they were not paid additional wages
27 owed for all rest breaks not provided to them.

28 61. By reason of the above, Plaintiff and the Class Members are entitled to premium
wages for workdays in which one or more rest breaks were not provided to them pursuant to
California Labor Code § 226.7.

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FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

Lab. Code § 2802

(By Plaintiff, on behalf of herself and the Class, against all Defendants)

62. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

63. In pertinent part, California Labor Code § 2802(a) states: “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

64. At all relevant times, Defendants required Plaintiff and the Class Members to incur certain business expenses in the course of performing their duties.

65. As described above, the Defendants required Al Zahawi and all of the other Class Members to incur certain business expenses in the course of performing their duties. The Defendants required Al Zahawi and all of the other Class members to supply mobile phones to perform their job duties. However, the Defendants did not provide these items and did not reimburse Al Zahawi and the other Class members for these items. Defendants required Al Zahawi and the Class Members to use their personal mobile phones for work purposes but failed to reimburse them for such expenses. Defendants required Al Zahawi and the Class Members to use certain applications to locate and communicate with the customers and other staff. Defendants required Al Zahawi and the Class Members to install these applications on their personal cellphones and use them throughout each workday. Al Zahawi and the Class Members’ managers and supervises also contacted them on their cellphones several times throughout each workday.

66. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’ failure to indemnify Plaintiff and the Class Members for the reasonable expenses they incurred during the course of performing their duties.

67. By reason of the above, Plaintiff and the members of the class are entitled to reimbursement for all necessary expenditures and losses and interest due and owing to them within four years (4) of the date of the filing of the Complaint until the date of entry of judgment pursuant to California Labor Code section 2802(b). Further, Plaintiff, on behalf of herself and the class, prays for reasonable attorney’s fees pursuant to Labor Code section 2802(c).

68. Additionally, with respect to this cause of action, on behalf of herself and the class,



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1 Plaintiff prays for an award of reasonable attorney fees and costs, including interest thereon, as
2 permitted by law, all in amounts subject to proof.

3 **FIFTH CAUSE OF ACTION**

4 **FAILURE TO ISSUE ACCURATE AND COMPLETE WAGE STATEMENTS**

5 **Lab. Code § 226**

6 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

7 69. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

8 70. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were
9 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
10 statement showing:

11 A. Gross wages earned;

12 B. Total hours worked by the employee, except for any employee whose
13 compensation is solely based on a salary and who is exempt from payment of overtime under
14 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

15 C. The number of piece rate units earned and any applicable piece rate if the
16 employee is paid on a piece-rate basis;

17 D. All deductions, provided that all deductions made on written orders of the
18 Employee may be aggregated and shown as one item;

19 E. Net wages earned;

20 F. The inclusive dates of the period for which the employee is paid;

21 G. The name of the employee and his or her social security number, except
22 that by January 1, 2008, only the last four digits of his or her social security number or an
23 employee identification number other than a social security number may be shown on the itemized
24 statement;

25 H. The name and address of the legal entity that is the employer; and

26 I. All applicable hourly rates in effect during the pay period and the
27 corresponding number of hours worked at each hourly rate by the employee.

28 71. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
the employer fails to provide accurate and complete information as required by California Labor
Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement



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1 alone one or more of the following:

2 A. The amount of the gross wages or net wages paid to the employee during
3 the pay period or any of the other information required to be provided on the itemized wage
4 statement pursuant to California Labor Code § 226(a);

5 B. Which deductions the employer made from gross wages to determine the
6 net wages paid to the employee during the pay period;

7 C. The name and address of the employer and, if the employer is a farm labor
8 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
9 and address of the legal entity that secured the services of the employer during the pay period;

10 D. The name of the employee and only the last four digits of his or her
11 social security number or an employee identification number other than a social security number;
12 and

13 E. The number of piece-rate units earned and the piece rate.

14 72. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
15 means a reasonable person would be able to readily ascertain the information without reference
16 to other documents or information.

17 73. As alleged herein, at all relevant times during the applicable limitations period,
18 Defendants violated California Labor Code section 226 because they did not properly and
19 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
20 the corresponding number of hours worked at each rate by the employee and other requirements
21 of California Labor Code section 226. Defendants failed to state in the wage statements they
22 issued to Plaintiff and the other Class Members all wages earned (as described above). Defendants
23 knowingly and intentionally did not issue either as a detachable part of the check, draft, or voucher
24 paying the employee’s wages, or separately if wages are paid by personal check or cash,
25 statements to Plaintiff and the Class Members that state all meal period premium wages earned,
26 all rest break premium wages earned, all reporting time pay earned, and other required
27 information.

28 74. Defendants’ failure to provide Plaintiff and the other Class Members with accurate
wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
the other Class Members with accurate wage statements but intentionally provided wage
statements that Defendants knew were not accurate.



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1 employment ended all of the earned but unpaid wages described above by the conclusion of their
2 employment with Al Zahawi, including unprovided meal period premium wages, unprovided rest
3 break premium wages, reporting time pay, and other compensation. Additionally, the Defendants
4 failed to issue to Al Zahawi and all of the other Class members whose employment ended their
5 final paychecks until two weeks following the termination.

6 82. By failing to pay such earned wages to Plaintiff and the Class Members,
7 Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code
8 § 201 or § 202.

9 83. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
10 and the Class Members all of their earned and unpaid wages (described above) have been willful
11 in that, at all relevant times, Defendants have deliberately maintained policies and practices that
12 violate the requirements of the Labor Code and the Wage Order, even though at all relevant times,
13 they have had the ability to comply with those legal requirements.

14 84. Pursuant to Labor Code § 203, Plaintiffs seeks waiting time penalties on behalf of
15 themselves and the Class, in amounts subject to proof not to exceed 30 days of waiting time
16 penalties for each Class Member.

17 **SEVENTH CAUSE OF ACTION**

18 **UNFAIR COMPETITION**

19 **Bus. & Prof. Code §§ 17200, *et seq.***

20 **(By Plaintiff, on behalf of herself and the Class, against all Defendants)**

21 85. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

22 86. At all relevant times during the applicable limitations period, Plaintiff and the
23 class have been employees of Defendants and entitled to the benefits and protections of the
24 Business and Professions Code §§ 17200, *et seq.*

25 87. The unlawful conduct of Defendants alleged herein amount to and constitutes
26 unfair competition within the meaning of California Business & Professions Code §§ 17200, *et*
27 *seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly
28 gained a competitive advantage over other comparable companies doing business in California
that comply with their legal obligations to compensate employees for all earned wages.

88. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the



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1 class have suffered injuries in fact and lost money or property. Plaintiff and the class were
2 deprived of reporting time wages and rest and meal period premium wages, unreimbursed
3 expenses, and for unpaid wages resulting from not being provided with accurate wage
4 statements

5 89. Pursuant to California Business & Professions Code § 17203, Plaintiff and the
6 class are entitled to restitution of all monies rightfully belonging to them that Defendants did
7 not pay them or otherwise retained by means of their unlawful and unfair business practices.

8 90. Plaintiff and the class are entitled to reasonable attorneys' fees in connection with
9 their unfair competition claims pursuant to California Code of Civil Procedure § 1021.5, the
10 substantial benefit doctrine and/or the common fund doctrine.

11 **EIGHTH CAUSE OF ACTION**

12 **CIVIL PENALTIES**

13 **(Lab Code §§2698, *et seq.*)**

14 **(By Plaintiff and the Aggrieved Employees against all Defendants)**

15 91. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

16 92. The "Aggrieved Employees" are all members of the Class defined above who
17 Defendants employed during the period beginning November 18, 2021 and ending on the date
18 that final judgment is entered in this action.

19 93. Labor Code § 204 states

20 (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1,
21 or 204.2, earned by any person in any employment are due and payable twice
22 during each calendar month, on days designated in advance by the employer as the
23 regular paydays. Labor performed between the 1st and 15th days, inclusive, of any
24 calendar month shall be paid for between the 16th and the 26th day of the month
25 during which the labor was performed, and labor performed between the 16th and
26 the last day, inclusive, of any calendar month, shall be paid for between the 1st
27 and 10th day of the following month. ...

28 (b) (1) Notwithstanding any other provision of this section, all wages
earned for labor in excess of the normal work period shall be paid no later than the
payday for the next regular payroll period.

(2) An employer is in compliance with the requirements of subdivision (a) of
Section 226 relating to total hours worked by the employee, if hours worked in
excess of the normal work period during the current pay period are itemized as
corrections on the paystub for the next regular pay period. Any corrections set out
in a subsequently issued paystub shall state the inclusive dates of the pay period
for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining
agreement that provides different pay arrangements, those arrangements shall



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1 apply to the covered employees.

2 (d) The requirements of this section shall be deemed satisfied by the payment
3 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
4 more than seven calendar days following the close of the payroll period.

5 92. Defendants paid wages to employees on regular intervals. Defendants, however,
6 failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information
7 and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such
8 intervals for all wages earned and all hours worked.

9 93. During the applicable time period, Defendants violated California Labor Code §§
10 201, 202, 203, 204, 226, 226.7, 512, 1198, and 2802.

11 94. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
12 behalf of themselves and other current or former employees, to bring a civil action to recover civil
13 penalties pursuant to the procedures specified in California Labor Code § 2699.3.

14 95. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Class are
15 entitled to recover civil penalties for each of the Defendants' violations of California Labor Code
16 §§ 201, 202, 203, 204, 226, 226.7, 512, 1198, and 2802 during the applicable limitations period
17 in the following amounts:

18 A. For violations of California Labor Code § 204, one hundred dollars
19 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
20 (\$200.00) for each Aggrieved Employee for each subsequent, willful or intentional violation
21 (penalty amounts established by California Labor Code § 210).

22 B. For violations of California Labor Code § 226(a), two hundred fifty dollars
23 (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars (\$1,000.00)
24 for each Aggrieved Employee for each subsequent violation (penalty amounts established by
25 California Labor Code § 226.3).

26 C. For violations of California Labor Code § 512, fifty dollars (\$50.00) for
27 each Aggrieved Employee for initial violation and one hundred dollars (\$100.00) for each
28 Aggrieved Employee for each subsequent violation, per pay period (penalty amounts established
by California Labor Code § 558).

D. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1198, and
2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for each initial
violation and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for



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each subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).

96. Plaintiff has complied with the procedures for bringing suit specified in California Labor Code § 2699.3. By letter dated November 18, 2022, Plaintiff filed written notice online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. A true and correct copy of the notice to the LWDA dated November 18, 2022 is attached as Exhibit A. Plaintiff accompanied her LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff anticipates that the LWDA will provide written notice to Plaintiff informing her that it does not intend to investigate these allegations.

97. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved Employees are entitled to an award of civil penalties, reasonable attorney’s fees and costs in connection with their claims for civil penalties.

V. PRAYER FOR RELIEF

98. WHEREFORE, Plaintiff, on behalf of herself and the Class Members, prays for relief and judgment against Defendants as follows:

A. An order that the action be certified as a class action with respect to Plaintiff’s claims for violations of California law;

B. An order that Plaintiff be appointed class representative;

C. An order that counsel for Plaintiff be appointed class counsel;

D. Unpaid wages, including reporting time wages;

E. Liquidated damages;

F. Civil penalties;

G. Statutory penalties, including waiting time penalties;

H. Restitution;

I. Declaratory relief;

J. Actual damages;

K. Pre-judgment interest;

L. Costs of suit;

M. Reasonable attorneys’ fees; and



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N. Such other relief as the Court deems just and proper.

VI. DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all other Class Members, hereby demands a jury trial on all issues so triable.

Respectfully submitted,

THE SPIVAK LAW FIRM

Dated: February 17, 2023

By: 

DAVID G. SPIVAK
CAROLINE TAHMASSIAN,
Attorneys for Plaintiff(s), PARY AL
ZAHAWI, and all others similarly
situated



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EXHIBIT A



THE SPIVAK LAW FIRM
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SENT BY ELECTRONIC SUBMISSION AND CERTIFIED MAIL

November 18, 2022

Attn: PAGA Administrator
Labor and Workforce Development Agency
Attn: PAGA Administrator
<http://dir.tflaforms.net>
Via Electronic Submission

Re: *Pary Alzahawi / The Kind Center, Inc., et al.*

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Pary Alzahawi (hereafter “Alzahawi” or “Complainant”) provides notice that The Kind Center, Inc., a California corporation, KB Collective For Compassion And Care, Inc., a California corporation, Flower Company, a California business entity of unknown form, and related entities (collectively “the Employers” or “KB”) violated her rights and those of all other individuals the Employers have employed or otherwise contracted with in California as non-exempt, hourly employees, including, but not limited to, delivery drivers, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the “Aggrieved Employees”) under Labor Code sections 201, 202, 203, 204, 226, 226.7, 512, 1198, 2802, and related employee protections. On behalf of herself and all other Aggrieved Employees, Alzahawi hereby provides this notice to the Labor & Workforce Development Agency and the Employers and their agents and representatives.

At all relevant times, the Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Alzahawi and all of the other Aggrieved Employees are “employees” within the meaning of Industrial Welfare Commission Order No. 7-2001 (hereafter “the Wage Order”) section 2, subdivision (E) and “Aggrieved Employees” within the meaning of Labor Code section 2699(c).

Statement of Facts

On approximately August 2021, the Employers began to employ Alzahawi in Los Angeles in the position of hourly, non-exempt delivery driver. The Employers continuously employed her in that capacity until November 2021 when her employment ended.

At all relevant times, the Employers issued wages to Alzahawi and all of the other Aggrieved Employees on a biweekly (26 paychecks/year) basis and paid them by the hour. At all relevant times, the Employers classified Alzahawi and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

At all relevant times, the Employers failed to provide Alzahawi and all of the other Aggrieved Employees with all timely 30-minute, off-duty meal periods. Due to their workload, Alzahawi and the Aggrieved Employees were not able to take timely, uninterrupted, and duty-free meal periods. On average, the Employers scheduled 15 deliveries for Alzahawi and the Aggrieved Employees in a workday and required them to complete all deliveries on a timely manner. This left Alzahawi and the Aggrieved Employees no choice but to skip their meal periods or take them after they had already worked more than five (5) hours in a workday. Further, the Employers required Alzahawi and the Aggrieved Employees to monitor their cell phones at all times and respond to their managers and supervisors' calls and messages immediately even when they tried to take a meal period. The Employers also failed to pay premium wages for days on which they failed to provide Alzahawi and all of the other Aggrieved Employees with meal periods as required by law.

At all relevant times, the Employers failed to authorize and permit Alzahawi and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. Due to their workload, Alzahawi and the Aggrieved Employees were not able to take timely, uninterrupted, and duty-free rest breaks. On average, the Employers scheduled 15 deliveries for Alzahawi and the Aggrieved Employees in a workday and required them to complete all deliveries on a timely manner. This left Alzahawi and the Aggrieved Employees no choice but to skip their rest breaks. Further, the Employers required Alzahawi and the Aggrieved Employees to monitor their cell phones at all times and respond to their managers and supervisors' calls and messages immediately even when they tried to take a rest break.

The Employers also failed to pay premium wages for days on which they failed to authorize and permit Alzahawi and all of the other Aggrieved Employees to take rest breaks as required by law.

The Employers failed to pay to Alzahawi and all of the other Aggrieved Employees reporting time pay they earned. The Employers often required Alzahawi and the Aggrieved Employees to report to work but failed to provide them with work and sent them home.

At all relevant times, the Employers required Alzahawi and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Employers required Alzahawi and all of the other Aggrieved Employees to supply mobile phones to perform their job duties. However, the Employers did not provide these items and did not reimburse Alzahawi and the other Aggrieved Employees for these items. The Employers required Alzahawi and the Aggrieved Employees to use their personal mobile phones for work purposes but failed to reimburse them for such expenses. The Employers required Alzahawi and the Aggrieved Employees to use certain applications to locate and communicate with the customers and other staff. The Employers required Alzahawi and the Aggrieved Employees to upload these applications on their personal cellphones and use them throughout each workday. Alzahawi and the Aggrieved Employees' managers and supervises also contacted them on their cellphones several times throughout each workday to inquire about the status of their deliveries or to assign them additional tasks.

At all relevant times, the Employers failed to issue to Alzahawi and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The Employers knowingly and intentionally failed to state on the wage statements they issued to Alzahawi and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all meal period premium wages earned, all rest break premium wages earned, all reporting time pay earned, and related compensation.

The Employers also failed to timely pay Alzahawi and all of the other Aggrieved Employees all earned wages as described above during and at the conclusion of employment. In addition, the Employers paid Alzahawi her final wages more than two (2) weeks after the date she was terminated.

For the reasons stated herein, Alzahawi alleges the following violations of the Labor Code and the Wage Order on behalf of herself and all of the other Aggrieved Employees:

- (a) The Employers failed to provide Alzahawi and all of the other Aggrieved Employees all meal periods in compliance with California law;
- (b) The Employers failed to authorize and permit Alzahawi and all of the other Aggrieved Employees to take rest breaks in compliance with California law;
- (c) The Employers failed to compensate Alzahawi and all of the other Aggrieved Employees at one hour's pay for each day in which the Employers failed to provide them with one or more meal periods as required by law;
- (d) The Employers failed to compensate Alzahawi and all of the other Aggrieved Employees at one hour's pay for each day in which the Employers failed to authorize and permit them to take one or more rest breaks as required by law;
- (e) The Employers failed to pay to Alzahawi and all of the other Aggrieved Employees reporting time pay they earned;
- (f) The Employers failed to indemnify Alzahawi and all of the other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;
- (g) The Employers knowingly and intentionally failed to issue to Alzahawi and all of the other Aggrieved Employees accurate and complete wage statements; and
- (h) The Employers willfully failed to timely pay Alzahawi and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the Employers and when their employment ended.

Accordingly, Alzahawi now seeks civil penalties on behalf of herself and all of the other Aggrieved Employees based on the Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to "all persons employed in the mercantile industry whether paid on a time, piece rate, commission, or other basis." Wage Order, § 1. The Wage Order defines "Mercantile Industry" to mean, "any industry, business, or establishment operated for the purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for the purpose of renting goods or commodities." Wage Order, § 2(H). At all relevant times during the applicable limitations period, the Employers, Alzahawi, and all of the Aggrieved Employees were covered by the Wage Order because the Employers operated, and Alzahawi, and all of the Aggrieved Employees worked for, one or more establishments operated as marijuana dispensary and delivery service center. Accordingly, Alzahawi and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

Unpaid Reporting Time Pay **(Lab. Code § 1198)**

Under Section 5 of the Wage Order,

[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

The Employers required Alzahawi and all of the other Aggrieved Employees to report for a full day of work (eight or more hours) and, instead of furnishing them with half or more of their usual scheduled day's work, sent them home. Furthermore, the Employers failed to pay Alzahawi and all of the other Aggrieved Employees at least two (2) hours at their regular rates of pay. The Employers often required Alzahawi and the Aggrieved Employees to report to work but failed to provide them with work and sent them home. This is a violation of the Wage Order and also the Labor Code § 1198.

Accordingly, Alzahawi seeks civil penalties from the Employers on behalf of herself and all of the Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of California Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by California Labor Code § 2699(f)(2)).

Failure to Provide Meal Periods
(Lab. Code §§ 226.7, 512, and 1198)

In relevant part, section 2(G) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In relevant part, Labor Code section 1198 states, “The employment of any employee ... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Labor Code section 512 states:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the Employers and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the Employers and the employee only if the first meal period was not waived.

In relevant part, section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30

minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the Employers and the employee.

- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the Employers and the employee only if the first meal period was not waived.
- (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the Employers shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.
- (E) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health

Standards Board, or the Division of Occupational Safety and Health.

- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

At all relevant times, the Employers failed to provide Alzahawi and all of the other Aggrieved Employees with all timely meal periods. The Employers denied Alzahawi and all of the other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work. Due to their workload, Alzahawi and the Aggrieved Employees were not able to take timely, uninterrupted, and duty-free meal periods. On average, the Employers scheduled 15 deliveries for Alzahawi and the Aggrieved Employees in a workday and required them to complete all deliveries on a timely manner. This left Alzahawi and the Aggrieved Employees no choice but to skip their meal periods or take them after they had already worked more than five (5) hours in a workday. Further, the Employers required Alzahawi and the Aggrieved Employees to monitor their cell phones at all times and respond to their managers and supervisors' calls and messages immediately even when they tried to take a meal period. Furthermore, the Employers failed to pay premium wages for days on which they failed to provide Alzahawi and all of the other Aggrieved Employees with timely meal periods. Accordingly, Alzahawi now seeks civil penalties for these Labor Code violations that the Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2));
2. \$50 for each aggrieved employee for each initial violation of Labor Code section 512, and \$100 for each aggrieved employee for each subsequent

violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code section 558); and

3. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Authorize and Permit Rest Periods
(Lab. Code §§ 226.7 & 1198)

Section 2(G) of the Wage Order states,

“Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In relevant part, Labor Code section 1198 states,

The employment of any employee . . . under conditions of labor prohibited by the [Wage Order] is unlawful.

Section 12 of the Wage Order provides, in relevant part:

Rest Periods:

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
- (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the

Employers shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

The Employers failed to authorize and permit Alzahawi and all of the other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. The Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Due to their workload, Alzahawi and the Aggrieved Employees were not able to take timely, uninterrupted, and duty-free rest breaks. On average, the Employers scheduled 15 deliveries for Alzahawi and the Aggrieved Employees in a workday and required them to complete all deliveries on a timely manner. This left Alzahawi and the Aggrieved Employees no choice but to skip their rest breaks. Further, the Employers required Alzahawi and the Aggrieved Employees to monitor their cell phones at all times and respond to their managers and supervisors' calls and messages immediately even when they tried to take a rest break. Moreover, the Employers failed to pay Alzahawi and all of the other Aggrieved Employees premium wages on workdays the Employers failed to provide Alzahawi and all of the other Aggrieved Employees with

10-minute rest periods every four hours worked or major fraction thereof. Accordingly, Alzahawi now seeks civil penalties for these Labor Code violations that the Employers have committed against her and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Reimburse for Expenses
(Lab. Code § 2802)

In pertinent part, Labor Code § 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

As described above, the Employers required Alzahawi and all of the other Aggrieved Employees to incur certain business expenses in the course of performing their duties. The Employers required Alzahawi and all of the other Aggrieved Employees to supply mobile phones to perform their job duties. However, the Employers did not provide these items and did not reimburse Alzahawi and the other Aggrieved Employees for these items. The Employers required Alzahawi and the Aggrieved Employees to use their personal mobile phones for work purposes but failed to reimburse them for such expenses. The Employers required Alzahawi and the Aggrieved Employees to use certain applications to locate and communicate with the customers and other staff. The Employers required Alzahawi and the Aggrieved Employees to upload these applications on their personal cellphones and use them throughout each workday. Alzahawi and the Aggrieved Employees' managers and supervises also contacted them on their cellphones several times throughout each workday. Accordingly, Alzahawi seeks civil penalties for these Labor Code violations that the Employers have committed against her and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 2802, and \$200

for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

1. Gross wages earned;
2. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
3. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
4. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;
5. Net wages earned;
6. The inclusive dates of the period for which the employee is paid;
7. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
8. The name and address of the legal entity that is the employer; and
9. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all relevant times during the applicable limitations period, the Employers violated Labor Code section 226. The Employers failed to state in the wage statements they issued to Alzahawi and all of the other Aggrieved Employees all their wages earned. The Employers knowingly and intentionally failed to state on the wage statements they issued to Alzahawi and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not state all meal period premium wages earned, all rest break premium wages earned, all reporting time pay earned, and related compensation. Accordingly, Alzahawi seeks civil penalties for the Labor Code violations that the Employers have committed against her and all of the other Aggrieved Employees as follows: \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3).

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the Employers as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The Employers failed to compensate Alzahawi and all of the other Aggrieved Employees for including unprovided meal period premium wages, unprovided rest break premium wages, reporting time pay, and related compensation, at the intervals stated above. As a result, the Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, Alzahawi now seeks civil penalties for the Labor Code violations that the Employers have committed against her and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

The Employers failed to pay Alzahawi and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described above by the conclusion of their employment with Alzahawi, including unprovided meal period premium wages, unprovided rest break premium wages, reporting time pay, and related compensation. Additionally, the Employers failed to issue to Alzahawi and all of the other Aggrieved Employees whose employment ended their final paychecks until weeks after their termination. By failing to pay Alzahawi and all of the other Aggrieved Employees as set forth above at the end of employment, the Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of herself and all of the other Aggrieved Employees, Alzahawi seeks civil penalties from the Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));

2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and
3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Pary Alzahawi will seek both reasonable attorneys' fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,



David G. Spivak Esq.

david@spivaklaw.com

cc: Ms. Pary Alzahawi
Benjamin J. Smith, Esq.

The Kind Center, Inc.
c/o Lisa Crockett
Agent for service of process
1944 N. Cahuenga Blvd.
Los Angeles, CA 90068

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LWDA / The Employers

Re: Pary Al Zahawi

11/18/2022

Page 16 of 16

KB Collective For Compassion And Care, Inc.
c/o Lisa Joy Crockett
Agent for service of process
1944 N. Cahuenga Blvd.
Los Angeles, CA 90068

Flower Company
c/o Lisa Crockett
Agent for service of process
1944 N. Cahuenga Blvd.
Los Angeles, CA 90068

1 PROOF OF SERVICE

2
3 State of California,
4 County of Los Angeles

5 1. I am a citizen of the United States and am employed in the County
6 of Los Angeles, State of California. I am over the age of 18 years, and not a
party to the within action. My business address is 1801 Century Park East,
25th Fl, Los Angeles, CA 90067.

7 2. I am familiar with the practice of The Spivak Law Firm, for
8 collection and processing of correspondence for mailing with the United States
Postal Service. It is the practice that correspondence is deposited with the
United States Postal Service the same day it is submitted for mailing.

9 On Tuesday, February 21, 2023, I served the foregoing document described
10 as **FIRST AMENDED COMPLAINT** on interested parties by placing a true and correct
11 copy thereof enclosed in a sealed envelope, with postage fully prepaid,
addressed as follows:

12 The Kind Center, Inc.
13 c/o Lisa Crockett
14 Agent for Service of Process
15 1944 N Cahuenga Blvd
16 Los Angeles, CA 90068

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Compassion and Care, Inc.

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22
23 XXXX (BY MAIL) I caused such an envelope to be mailed by placing it for
24 collection and mailing, in the course of ordinary business practice, with
other correspondence of The Spivak Law Firm, 1801 Century Park East, 25th Fl,
Los Angeles, CA 90067.

25 XXXX (BY EMAIL) I caused the documents to be sent to the persons at the
26 electronic service addresses listed above from my electronic service address
emily@spivaklaw.com.

27 / / /

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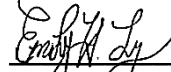
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EXECUTED on Tuesday, February 21, 2023, at Los Angeles, California.

XXXX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



EMILY HOUNG LY



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