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County of Alameda

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

JOANA RIOS LAGUNAS, on behalf of the
State of California and Aggrieved Employees,

Plaintiff,

vs.

YOUNG ADULT INSTITUTE, INC.; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: **23CV030512**

**COMPLAINT FOR PENALTIES
PURSUANT TO SECTIONS 2699(a) and
(f) OF THE CALIFORNIA LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT**

DEMAND FOR JURY TRIAL

1 Plaintiff Joana Rios Lagunas, on behalf of the State of California and Aggrieved Employees,
2 complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff Joana Rios Lagunas (“Plaintiff”) brings this enforcement action against
5 Defendant Young Adult Institute, Inc. (“Defendant”), on behalf of the State of California to collect
6 civil penalties pursuant to Section 2699(a) and (f) of the California Labor Code Private Attorneys
7 General Act (“PAGA”) as a result of Defendant’s systemic violations of California labor law with
8 respect to Defendant’s non-exempt, hourly employees in California (“Aggrieved Employees”).

9 2. Defendant maintains a longstanding policy and/or practice of failing to properly
10 compensate Plaintiff and Aggrieved Employees for all hours worked, including minimum wage and
11 overtime payments. Additionally, Plaintiff and Aggrieved Employees have been denied proper meal
12 and rest breaks and have been denied reimbursement for necessary business expenses.

13 3. As a result, Plaintiff and Aggrieved Employees bring this action to challenge
14 Defendant’s policies and practices of: (1) failing to compensate Plaintiff and Aggrieved Employees
15 for all hours worked; (2) failing to pay Plaintiff and Aggrieved Employees all minimum wages
16 owed; (3) failing to properly pay Plaintiff and Aggrieved Employees overtime wages; (4) failing to
17 authorize and permit Plaintiff and Aggrieved Employees to take compliant meal and rest periods to
18 which they are entitled by law, and failing to properly pay premiums for those missed meal and rest
19 periods; (5) failing to reimburse Plaintiff and Aggrieved Employees for necessary business
20 expenses; (6) failing to provide Plaintiff and Aggrieved Employees accurate, itemized wage
21 statements; and (7) failing to timely pay all wages due upon separation from employment.

22 4. Plaintiff, on behalf of the State of California, seeks to recover penalties and
23 reasonable attorneys’ fees for these violations pursuant to Section 2699(a) and (f) of the California
24 Labor Code Private Attorneys General Act (“PAGA”).

25 **JURISDICTION AND VENUE**

26 5. Venue is proper in this County pursuant to Code of Civil Procedure §§ 393(a) and/or
27 395.5. Defendant conducts business and employs Aggrieved Employees in this County, and
28 therefore the liability and the cause or some part of the cause arose in this County.

6. This Court has jurisdiction over Plaintiff's claims for penalties pursuant to the PAGA. The Court also has jurisdiction over Defendant because it is a company authorized to do business in California, and in fact does business and employs workers in California.

PARTIES

7. Plaintiff and Aggrieved Employees are all current and former non-exempt, hourly employees employed by Defendant in California.

8. Plaintiff is an individual over the age of eighteen, and at all times mentioned in this Complaint was a resident of the State of California.

9. Plaintiff was employed by Defendant as a Lead Registered Behavioral Technician from approximately November 30, 2021 to December 26, 2022, in Hollister, California.

10. Plaintiff is informed, believes, and thereon alleges that Young Adult Institute is a New York corporation headquartered in New York, New York. Defendant is registered to do business in California, employs workers, including Plaintiff and Aggrieved Employees, in California, and employs Aggrieved Employees in this County.

11. The true names and capacities, whether individual, corporate, associate, or otherwise, of Does 1-100, inclusive, are unknown to Plaintiff, who therefore sues the Doe Defendants by fictitious names. Plaintiff is informed, believes, and thereon alleges that each of these fictitiously named Defendants is responsible in some manner for the occurrences and violations as herein alleged. Plaintiff will amend this Complaint to show their true names and capacities when they have been ascertained. Defendants are jointly and severally liable for the civil penalties asserted.

12. At all relevant times, Defendant has done business under the laws of California, has had places of business in California, including in this county, and has employed Aggrieved Employees in this county, and elsewhere throughout California.

13. Defendant is a “person” as defined in Cal. Lab. Code § 18 and an “employer” as that term is used in the Cal. Lab. Code, the IWC Wage Orders regulating wages, hours, and working conditions, and the Cal. Bus. & Prof. Code § 17201.

1 **FACTUAL ALLEGATIONS**

2 14. Defendant owns and operates facilities that specialize in serving people with
3 intellectual and developmental disabilities. Defendant operates throughout California and employs
4 hundreds of hourly, non-exempt workers in California.

5 15. Plaintiff worked for Defendant as a Lead Registered Behavioral Technician in
6 Hollister, California from approximately November 30, 2021 to December 26, 2022. Plaintiff's
7 primary duties include, but were not limited to, providing direct care to Defendant's patients, which
8 includes assisting clients with showers; prepping clients for bed; preparing snacks; managing
9 medication; preparing notes on intakes tracking sleep; and assisting clients with court appointments,
10 hospital visits, and outings.

11 16. Plaintiff was classified as an hourly, non-exempt employee and was paid an hourly
12 rate of approximately \$35 per hour.

13 17. Although Plaintiff's shifts varied in length, Plaintiff was usually scheduled to work
14 at least 10 hours per shift, often worked double shifts of 16 to 22 hours. Plaintiff usually worked 4
15 shifts per week.

16 18. Plaintiff is informed, believes, and thereon alleges that Aggrieved Employees were
17 and are employed by Defendant throughout California, including in this County, and perform work
18 materially similar to Plaintiff. Defendant pays and/or paid Aggrieved Employees, including
19 Plaintiff, on an hourly rate basis.

20 19. Plaintiff is informed, believes, and thereon alleges that the policies and practices of
21 Defendant have at all relevant times been similar for Plaintiff and Aggrieved Employees, regardless
22 of the facilities' location in California.

23 20. Plaintiff and Aggrieved Employees are required to follow and abide by common
24 work, time, and pay policies and procedures in the performance of their jobs and duties.

25 21. At the end of each pay period, Plaintiff and Aggrieved Employees receive wages from
26 Defendant that are determined by common systems and methods that Defendant selects and
27 controls.

1 22. As a matter of policy and/or practice, despite often working 10 or more hours per day,
2 Plaintiff and Aggrieved Employees are not paid overtime for working more than 8 hours in a day
3 as required by California law. Plaintiff and Aggrieved Employees are only paid overtime when
4 working over 40 hours in a week. Plaintiff and Aggrieved Employees are also not properly paid
5 double time.

6 23. Moreover, Defendant fails to properly pay for all hours worked, including all
7 minimum wages and overtime, because Defendant routinely requires Plaintiff and Aggrieved
8 Employees to perform work off-the-clock and without compensation. Defendant's policies and
9 practices cause Plaintiff and Aggrieved Employees to have to work before and after their shifts,
10 while they are not clocked in.

11 24. Defendant requires Plaintiff and Aggrieved Employees to perform certain tasks
12 during each shift, that when taken together, take more time than is provided in a scheduled shift.
13 Defendant underestimates how long it takes to complete the assigned tasks, and expects Plaintiff
14 and Aggrieved Employees to complete the tasks within the scheduled time. Because these tasks in
15 fact take longer to complete, Plaintiff and Aggrieved Employees often have to clock out and then
16 finish work-related tasks, debrief staff members, and wrap up conversations with patient while off-
17 the-clock. Moreover, in emergency situations, Plaintiff and Aggrieved Employees are required to
18 respond in the following situations, even if they are not clocked in: responding to patient crises,
19 providing assistance to patients, and calling 911 or emergency services in emergency situations.

20 25. Additionally, Plaintiff and Aggrieved Employees are required to attend weekly
21 meetings of approximately one to one and one-half hours each, while off-the-clock.

22 26. Because this time spent working off-the-clock occurs during shifts when Plaintiff and
23 Aggrieved Employees are working over eight hours, it should be paid at the overtime or double
24 time rate.

25 27. Defendant also regularly fails to authorize and permit Plaintiff and Aggrieved
26 Employees to take legally compliant meal and rest periods. Up until early December 2022, Plaintiff
27 and Aggrieved Employees were not provided with compliant meal periods because as a matter of
28 policy and procedure they remained on the clock during their purported lunch break and were

1 expected to continue working. Despite these violations, Defendant fails to pay the required premium
2 pay for these facially non-compliant meal periods.

3 28. Even after the change to Defendant's policies and procedures, Plaintiff and
4 Aggrieved Employees are still not provided legally compliant meal periods. Defendant's policies,
5 practices, and procedures still require Plaintiff and Aggrieved Employees to routinely skip their
6 meal and rest periods, take them late, or cut them short, yet do not provide them with requisite
7 premium payments for missed meal and rest periods.

8 29. When Plaintiff and Aggrieved Employees do attempt a meal period, they are not
9 provided duty-free, uninterrupted, and timely thirty-minute meal periods during which they should
10 be completely relieved of any duty, by the end of the fifth hour of work. Plaintiff and Aggrieved
11 Employees are also not provided a duty-free, uninterrupted, and timely second meal period by the
12 tenth hour of work.

13 30. Plaintiff and Aggrieved Employees are also always required to remain on the
14 premises during their meal periods. Plaintiff and Aggrieved Employees remain on duty during their
15 whole shift.

16 31. Further, Plaintiff and Aggrieved Employees are routinely denied compliant rest
17 periods. Plaintiff and Aggrieved Employees regularly miss, work through, are interrupted during,
18 or take late rest breaks.

19 32. Despite these violations, Defendant fails to pay the required premium pay for all
20 noncompliant meal and rest periods.

21 33. Plaintiff is informed, believes, and thereon alleges that Defendant utilizes and applies
22 these same meal and rest period policies and practices across all Defendant's facilities throughout
23 California.

24 34. Plaintiffs and Aggrieved Employees are also required to pay out of pocket for
25 necessary business expenses incurred as a result of their work for Defendant, but they are not
26 reimbursed for these expenses. For example, Plaintiff often arrived for her shift and noticed there
27 were no groceries to feed the clients. As a result, she would be required to go to the grocery store
28 to make the required purchases, and was not reimbursed for the same.

35. Defendant's common course of wage-and-hour abuse also includes routinely failing to maintain true and accurate records of the hours worked by Plaintiff and Aggrieved Employees. In particular, Defendant fails to record the hours Plaintiff and Aggrieved Employees worked off-the-clock.

36. As a result of the aforementioned violations, Plaintiff and Aggrieved Employees are provided with inaccurate wage statements as such statements do not include payment for all hours worked, including minimum wage and overtime and premium pay for missed meal and rest periods.

37. Additionally, Plaintiff and Aggrieved Employees did not receive all wages during employment and following separation from employment, including payment for time spent working off-the-clock and during meal periods, as well as premium payments for noncompliant meal and rest periods.

38. Plaintiff is informed, believes, and thereon alleges that Defendant is well aware that its policies and practices deprive Plaintiff and Aggrieved Employees of substantial pay for all time worked and that Plaintiff and Aggrieved Employees do not receive legally compliant meal and rest periods.

39. Plaintiff is informed, believes, and thereon alleges that Defendant's unlawful conduct has been widespread, repeated, and consistent throughout Defendant's California facilities.

40. Defendant's conduct is and/or was willful, carried out in bad faith, and causes significant civil penalties in an amount to be determined at trial.

FIRST CAUSE OF ACTION

Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 204, 1194, and 1198 (Failure to Pay for all Hours Worked)

41. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

42. Cal. Lab. Code § 204 provides in part that “all wages . . . earned by any person in any employment are due and payable twice during each calendar month...”

43. Cal. Lab. Code section 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil

1 action the unpaid balance of the full amount of this minimum wage or
2 overtime compensation, including interest thereon, reasonable attorneys'
fees, and costs of suit.

3 44. Cal. Lab. Code section 200(a) defines wages as “all amounts for labor performed by
4 employees of every description, whether the amount is fixed or ascertained by the standard of time,
5 task, piece, commission basis, or other method of calculation.”

6 45. Cal. Lab. Code § 1198 makes it unlawful for employers to employ employees under
7 conditions that violate the Wage Orders.

8 46. IWC Wage Order 5-2001(2)(G) define hours worked as “the time during which an
9 employee is subject to the control of an employer and includes all the time the employee is suffered
10 or permitted to work, whether or not required to do so.”

11 47. In violation of California law, Defendant knowingly and willfully refuses to perform
12 its obligations to provide Plaintiff and Aggrieved Employees with compensation for all time
13 worked. Defendant regularly fails to track the time Plaintiff and Aggrieved Employees actually
14 work and fails to compensate them for all hours worked, as alleged above.

15 48. Therefore, Defendant committed, and continues to commit, the acts alleged herein
16 knowingly and willfully, and in conscious disregard of Plaintiff and Aggrieved Employees' rights.

17 49. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
18 each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that
19 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
20 employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each
21 Aggrieved Employee per pay period for each subsequent violation of a Labor Code provision that
22 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
23 employees.

24 50. Plaintiff seeks to recover civil penalties from Defendant for its failure to pay for all
25 hours worked in violation of Labor Code §§ 204, 1194, and 1198 throughout California on behalf
26 of herself, the State of California, and other Aggrieved Employees pursuant to Labor Code §
27 2699(f).
28

51. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and Workforce Development Agency (“LWDA”) notice of her intention to file her claims. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in compliance with § 2699.3(a).

52. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

53. Wherefore, Plaintiff requests relief as hereinafter provided.

SECOND CAUSE OF ACTION
Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 1182.12, 1194, and 1197 (Failure to Pay Minimum Wage)

54. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

55. Defendant fails to compensate Plaintiff and Aggrieved Employees with at least minimum wage for all hours worked or spent in Defendant's control.

56. During the applicable statutory period, Cal. Lab. Code §§ 1182.12 and 1197, and the Minimum Wage Order were in full force and effect, and required that Defendant's hourly employees receive the minimum wage for all hours worked irrespective of whether nominally paid on a piece rate, or any other basis, at the rate of fifteen dollars (\$15.00) per hour commencing January 2022; and at the rate of fifteen dollars and fifty cents (\$15.50) commencing January 1, 2023.

57. Cal. Lab. Code §1194 states:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

58. IWC Wage Order 5-2001(2)(G) define hours worked as “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.”

1 59. Defendant maintains policies and procedures which create a working environment
2 where hourly employees are routinely compensated at a rate that is less than the statutory minimum
3 wage. Plaintiff and Aggrieved Employees routinely work time off-the-clock without compensation
4 for this time. For instance, Plaintiff and Aggrieved Employees are not compensated for time spent
5 working before clocking in and after clocking out while responding to patient crises, providing
6 assistance to patients, and calling 911 or emergency services in emergency situations. Plaintiff and
7 Aggrieved Employees also often have to finish work-related tasks, debrief staff members, wrap up
8 conversations with patient while “off-the-clock,” and attend meetings.

9 60. As a direct and proximate result of the unlawful acts and/or omissions of Defendant,
10 Plaintiff and Aggrieved Employees have been deprived of minimum wages as required by law.

11 61. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
12 each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that
13 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
14 employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each
15 Aggrieved Employee per pay period for each subsequent violation of a Labor Code provision that
16 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
17 employees.

18 62. Plaintiff seeks to recover civil penalties from Defendant for its failure to pay
19 minimum wages in violation of Labor Code §§ 1182.12, 1194, and 1197 throughout California on
20 behalf of herself, the State of California, and other Aggrieved Employees pursuant to Labor Code
21 § 2699(f).

22 63. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA notice
23 of her intention to file her claims. Sixty-five calendar days have passed without notice from the
24 LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in
25 compliance with § 2699.3(a).

26 64. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
27 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
28 award of attorneys’ fees and costs as set forth below.

65. Wherefore, Plaintiff requests relief as hereinafter provided.

THIRD CAUSE OF ACTION

**Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 510
(Failure to Pay Overtime Wages)**

66. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

67. Defendant does not properly compensate Plaintiff and Aggrieved Employees with the appropriate overtime and double time rate, as required by California law.

68. Cal. Lab. Code § 510 provides, in pertinent part, that:

Eight hours of labor constitutes a day's work. Any 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. 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.

69. The IWC Wage Order 5-2001(3)(A)(1) state:

The following overtime provisions are applicable ... employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than: . . . One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and ... [d]ouble the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

70. Labor Code § 1194(a) provides that:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

71. Cal. Lab. Code § 200 defines wages as "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time,

1 task, piece, commission basis or other method of calculation.” All such wages are subject to
2 California’s overtime requirements, including those set forth above.

3 72. Defendant regularly requires Plaintiff and Aggrieved Employees to work in excess
4 of eight (8) hours per days and/or forty (40) hours per week, but does not compensate them at the
5 appropriate overtime and double time rates for all this work. For instance, Plaintiff and Aggrieved
6 Employees are as a matter of policy and procedure, not paid for work in excess of 8 hours per day,
7 and are only paid overtime when working over forty (40) hours a week. Additionally, Plaintiff and
8 Aggrieved Employees do not receive overtime compensation for time spent working off-the-clock
9 before clocking in and after clocking out when the hours worked are in excess of eight (8) hours
10 per day and forty (40) hours per week.

11 73. Plaintiff and Aggrieved Employees work overtime hours for Defendant without being
12 paid overtime premiums in violation of the Cal. Lab. Code, applicable IWC Wage Orders, and other
13 applicable law.

14 74. Defendant knowingly and willfully refused to perform its obligation to provide
15 Plaintiff and Aggrieved Employees with premium wages for all overtime work.

16 75. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
17 each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that
18 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
19 employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each
20 Aggrieved Employee per pay period for each subsequent violation of a Labor Code provision that
21 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
22 employees.

23 76. Plaintiff seeks to recover civil penalties from Defendant for its failure to pay overtime
24 wages in violation of Labor Code §§ 510 and 1194 throughout California on behalf of herself, the
25 State of California, and other Aggrieved Employees pursuant to Labor Code § 2699(f).

26 77. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA notice
27 of her intention to file her claims. Sixty-five calendar days have passed without notice from the
28

1 LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in
2 compliance with § 2699.3(a).

3 78. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
4 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
5 award of attorneys' fees and costs as set forth below.

6 79. Wherefore, Plaintiff requests relief as hereinafter provided.

7 **FOURTH CAUSE OF ACTION**

8 **Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code
§§ 226.7 and 512 (Meal Periods and Failure to Provide Premium Pay Therefrom)**

9 80. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
10 herein.

11 81. Defendant routinely fails to authorize, permit and/or make available compliant meal
12 periods to Plaintiff and Aggrieved Employees.

13 82. Cal. Lab. Code §§ 226.7 and 512 and the applicable Wage Orders require Defendant
14 to authorize and permit meal periods to its employees. Cal. Lab. Code §§ 226.7 and 512 and the
15 Wage Orders prohibit employers from employing an employee for more than five hours without a
16 meal period of not less than thirty minutes, and from employing an employee more than ten (10)
17 hours per day without providing the employee with a second meal period of not less than thirty
18 minutes.

19 83. Under Cal. Lab. Code § 226.7(b) and the applicable Wage Orders, an employer who
20 fails to provide a required meal period must, as compensation, pay the employee one hour of pay at
21 the employee's regular rate of compensation for each workday that the meal period was not
22 authorized and permitted.

23 84. Unless the employee is relieved of all duty during the thirty-minute meal period, the
24 employee is considered "on duty" and the meal period is counted as time worked under the
25 applicable Wage Orders.

26 85. Despite these requirements, Defendant knowingly and willfully refused to perform
27 its obligations to authorize and permit and/or make available to Plaintiff and Aggrieved Employees
28 the ability to take the meal to which they are entitled. Plaintiff and Aggrieved Employees were not

1 provided with meal periods until approximately December 2022. Prior to that date, they were
2 provided a lunch break during which they remained on the clock and were expected to continue
3 working. Following December 2022, when Plaintiff and Aggrieved Employees do attempt to take
4 their meal periods, such are often untimely, short, or interrupted.

5 86. Plaintiff and Aggrieved Employees are also not provided a duty-free, uninterrupted,
6 and timely second meal period by the tenth hour of work. Plaintiff and Aggrieved Employees are
7 required to remain on the premises during their meal periods. Plaintiff and Aggrieved Employees
8 remain on duty during their whole shift.

9 87. Plaintiff and Aggrieved Employees do not receive the requisite premium pay for their
10 missed meal periods as required by California law.

11 88. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
12 each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that
13 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
14 employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each
15 Aggrieved Employee per pay period for each subsequent violation of a Labor Code provision that
16 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
17 employees.

18 89. Plaintiff seeks to recover civil penalties from Defendant for its violations of the meal
19 period requirements of Labor Code §§ 226.7 and 512 throughout California on behalf of herself,
20 the State of California, and other Aggrieved Employees pursuant to Labor Code § 2699(f).

21 90. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA notice
22 of her intention to file her claims. Sixty-five calendar days have passed without notice from the
23 LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in
24 compliance with § 2699.3(a).

25 91. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
26 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
27 award of attorneys' fees and costs as set forth below.

28 92. Wherefore, Plaintiff requests relief as hereinafter provided.

FIFTH CAUSE OF ACTION

**Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code § 226.7
(Rest Breaks and Failure to Pay Premiums Therefrom)**

93. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

94. Defendant routinely fails to make rest periods available to Plaintiff and Aggrieved Employees. When available, if ever, their rest breaks are often not compliant. Instead, they are generally untimely, interrupted, and/or shortened. Plaintiff and Aggrieved Employees also do not receive premium pay for their missed rest breaks as required by California law.

95. Cal. Lab. Code §§ 226.7 and the applicable Wage Orders require employers to authorize and permit non-exempt workers to take ten minutes of net rest time per four hours or major fraction thereof of work, and to pay non-exempt workers their full wages during those rest periods. Unless the employee is relieved of all duty during the ten-minute rest period, the employee is considered “on duty” and the rest period is counted as time worked under the applicable Wage Orders.

96. Under Cal. Lab. Code § 226.7(b) an employer must pay an employee denied a required rest period is required to pay one hour of pay at the employee’s regular rate of compensation for each workday that the rest period was not authorized and permitted and/or not made available.

97. Despite these requirements, Defendant knowingly and willfully refuses to perform its obligations to authorize and permit and/or make available to Plaintiff and Aggrieved Employees the ability to take compliant rest periods to which they are entitled. Defendant also fails to pay Plaintiff and Aggrieved Employees one hour of pay for each day Plaintiff and Aggrieved Employees are denied compliant rest periods. Defendant’s conduct described herein violates Cal. Lab. Code § 226.7.

98. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each

1 Aggrieved Employee per pay period for each subsequent violation of a Labor Code provision that
2 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
3 employees.

4 99. Plaintiff seeks to recover civil penalties from Defendant for its violations of the rest
5 period requirements of Labor Code § 226.7 throughout California on behalf of herself, the State of
6 California, and other Aggrieved Employees pursuant to Labor Code § 2699(f).

7 100. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA notice
8 of her intention to file her claims. Sixty-five calendar days have passed without notice from the
9 LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in
10 compliance with § 2699.3(a).

11 101. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
12 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
13 award of attorneys' fees and costs as set forth below.

14 102. Wherefore, Plaintiff requests relief as hereinafter provided.

15 **SIXTH CAUSE OF ACTION**

16 **Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code § 2802
(Reimbursement for Necessary Business Expenses)**

17 103. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
18 herein.

19 104. Defendant does not reimburse Plaintiff and Aggrieved Employees for all necessary
20 business expenditures and losses incurred in direct consequence of the discharge of their work
21 duties.

22 105. Cal. Lab. Code § 2802 provides, in relevant part:

23 An employer shall indemnify his or her employee for all necessary
24 expenditures or losses incurred by the employee in direct consequence
25 of the discharge of his or her duties, or of his or her obedience to the
26 directions of the employer, even though unlawful, unless the employee,
27 at the time of obeying the directions, believed them to be unlawful. ...
28 For the purposes of this section, the term "necessary expenditures or
losses" shall include all reasonable costs, including, but not limited to,
attorney's fees incurred by the employee enforcing the rights granted
by this section.

1 106. Defendant fails to provide Plaintiffs and Aggrieved Employees reimbursement for all
2 necessary expenditures or losses incurred by Plaintiff and Aggrieved Employees in direct
3 consequence of the discharge of their duties, or as a result of their obedience to the directions of
4 Defendant. Defendant regularly requires Plaintiff and Aggrieved Employees to pay out-of-pocket
5 expenses necessary to perform their daily work assignments. For example, Plaintiff often arrived
6 for her shift and noticed there were no groceries to feed the clients. As a result, she would be
7 required to go to the grocery store to make the required purchases. However, Defendant does not
8 reimburse their workers for these expenditures.

9 107. Defendant's failure to reimburse for necessary business expenses is a violation of
10 Labor Code § 2802.

11 108. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
12 each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that
13 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
14 employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each
15 Aggrieved Employee per pay period for each subsequent violation of a Labor Code provision that
16 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
17 employees.

18 109. Plaintiff seeks to recover civil penalties from Defendant for its failure to reimburse
19 for all necessary business expenses in violation of Labor Code §§ 2802 and the applicable wage on
20 behalf of herself, the State of California, and other Aggrieved Employees pursuant to Labor Code
21 § 2699(f).

22 110. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA notice
23 of her intention to file her claims. Sixty-five calendar days have passed without notice from the
24 LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in
25 compliance with § 2699.3(a).

26 111. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
27 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
28 award of attorneys' fees and costs as set forth below.

112. Wherefore, Plaintiff requests relief as hereinafter provided.

SEVENTH CAUSE OF ACTION

Penalties Pursuant to Labor Code § 2699(a) for Violations of California Labor Code § 226 (Accurate, Itemized Wage Statements)

113. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

114. Defendant does not provide Plaintiff and Aggrieved Employees with accurate, itemized wage statements as required by California law.

115. Cal. Lab. Code § 226(a) provides that:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (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 only the last four digits of his or her social security number or an employee identification number other than a social security number, (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 ... The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

116. The IWC Wage Order also establishes this requirement.

117. Cal. Lab. Code § 226(e) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) and is entitled to an award of costs and reasonable attorney's fees.

118. Labor Code § 226.3 provides:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one

thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

119. Due to the failure to pay one hour of premium pay to Plaintiff and the Aggrieved Employees for each missed or noncompliant meal or rest period, along with the off-the-clock work, minimum wage, and overtime violations, the wage statements Defendant provide its employees, including the Aggrieved Employees, do not reflect the actual gross wages earned, actual net wages earned, or actual hours worked. Accordingly, Defendant knowingly and willfully failed to provide timely, accurate itemized wage statements to Plaintiff and the Aggrieved Employees in accordance with Labor Code §§ 226, 226.3 and the IWC Wage Order.

120. Labor Code § 2699(a) permits an Aggrieved Employee to recover any civil penalty to be assessed and collected by the LWDA for a violation of the Labor Code on behalf of himself or herself and other current or former employees pursuant to the procedures set forth in Labor Code § 2699.3. Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

121. Plaintiff seeks to recover civil penalties from Defendant pursuant to Labor Code § 2699(a) for each failure by Defendant, alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code § 226.3. Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code § 226(e), as prayed for herein.

122. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA notice of her intention to file her claims. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in compliance with § 2699.3(a).

123. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

124. Wherefore, Plaintiff requests relief as hereinafter provided.

EIGHTH CAUSE OF ACTION

Penalties Pursuant to Labor Code § 2699(a) for Violations of California Labor Code §§ 201-203 (Waiting Time Penalties)

125. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

126. Defendant did not provide Plaintiff, and other Aggrieved Employees who left their employment with Defendant, with their wages when due under California law after their employment with Defendant ended.

127. Cal. Lab. Code § 201 provides:

If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

128. Cal. Lab. Code § 202 provides:

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.

129. Cal. Lab. Code § 203 provides, in relevant part:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any 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.

130. Plaintiff and some of the Aggrieved Employees left their employment with Defendant during the statutory period, at which time Defendant owed them unpaid wages. These earned, but unpaid, wages derive from time spent working for the benefit of Defendant, which went unrecorded and/or uncompensated, and premium payments for noncompliant meal periods and rest periods.

131. Defendant willfully refuses and continues to refuse to pay Plaintiff and Aggrieved Employees all the wages that are due and owing to them for the work performed, including but not

1 limited to, uncompensated off-the-clock and overtime, and time premium payments for missed meal
2 and rest periods, upon the end of their employment. As a result of Defendant's actions, Plaintiff and
3 Aggrieved Employees have suffered and continue to suffer substantial losses, including lost
4 earnings, and interest.

5 132. Defendant's willful failure to pay Plaintiff and Aggrieved Employees the wages due
6 and owing them constitutes a violation of Cal. Lab. Code §§ 201-202. As a result, Defendant is
7 liable to Plaintiff and proposed Aggrieved Employees for all penalties owing pursuant to Cal. Lab.
8 Code §§ 201-203.

9 133. In addition, addition, Cal. Lab. Code § 203 provides that an employee's wages will
10 continue as a penalty up to thirty days from the time the wages were due. Therefore, Plaintiff seeks
11 to recover PAGA penalties, costs, and attorneys' fees pursuant to this section.

12 134. Labor Code § 2699(a) permits an Aggrieved Employee to recover any civil penalty
13 to be assessed and collected by the LWDA for a violation of the Labor Code on behalf of himself
14 or herself and other current or former employees pursuant to the procedures set forth in Labor Code
15 § 2699.3. Labor Code § 2699(a) provides:

16 Notwithstanding any other provision of law, any provision of this code
17 that provides for a civil penalty to be assessed and collected by the
18 Labor and Workforce Development Agency or any of its departments,
19 divisions, commissions, boards, agencies or employees, for a violation
of this code, may, as an alternative, be recovered through a civil action
brought by an aggrieved employee on behalf of himself or herself and
other current or former employees.

20 135. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by
21 Defendant, as alleged above, to timely pay all wages owed to Plaintiff and Aggrieved Employees
22 in compliance with Labor Code §§ 201-202 in the amounts established by Labor Code § 203.
23 Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code § 203,
24 as prayed for herein.

25 136. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA notice
26 of her intention to file her claims. Sixty-five calendar days have passed without notice from the
27 LWDA. Plaintiff therefore satisfied the administrative prerequisites for this civil action in
28 compliance with § 2699.3(a).

137. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

138. Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For the Court to declare, adjudge, and decree that Defendant has violated the California Labor Code as alleged herein;
2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties to the full extent provided under the PAGA;
3. For interest on penalties awarded as provided by applicable law;
4. For an award of reasonable attorneys' fees;
5. For all costs of suit; and
6. For such other and further relief as this Court deems just and proper.

Dated: April 4, 2023

Respectfully Submitted,



Carolyn H. Cottrell
Ori Edelstein
Kristabel Sandoval
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

Attorneys for Plaintiff, on behalf of the State of California and Aggrieved Employees

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Dated: April 4, 2023

Jim EHS

*Attorneys for Plaintiff, on behalf of the State of
California and Aggrieved Employees*