

SUMMONS

(CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

SALEM CHRISTIAN HOMES, INC., a California corporation; and DOES
1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ABRAHAM AGUSTINO, LISA ROSANA, individually, and on behalf of all
others similarly situated,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MAY 10 2023

BY: Heather M. Duffer
Heather M. Duffer, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

CASE FILED
(NUMBER OF CASES)
CIVSB 2308778

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
247 WEST 3RD STREET
SAN BERNARDINO, CALIFORNIA 92415

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

SCOTT ERNEST WHEELER (SBN 187998)
250 WEST FIRST STREET, SUITE 216
CLAREMONT, CALIFORNIA 91711

LAW OFFICE OF SCOTT ERNEST WHEELER
TELEPHONE: (909) 621-4988
FACSIMILE: (909) 621-4622

DATE:

(Fecha)

MAY 10 2023

Clerk, by
(Secretario)

Deputy
(Adjunto)

Heather M. Duffer

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):

- ☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

- ☐ by personal delivery on (date):

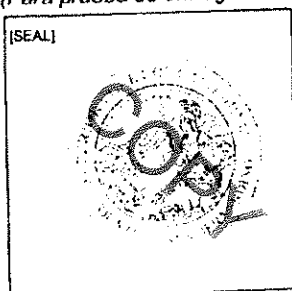
Page 1 of 1

SUMMONS

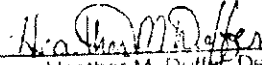
Code of Civil Procedure §§ 412.20, 465

www.courtinfo.ca.gov

Abraham Agustino and Lisa Rosana



CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): SCOTT ERNEST WHEELER (SBN 187998) LAW OFFICE OF SCOTT ERNEST WHEELER 250 WEST FIRST STREET, SUITE 216 CLAREMONT, CALIFORNIA 91711 TELEPHONE NO. (909) 621-4988 FAX NO. (Optional) (909) 621-4622 E-MAIL ADDRESS SEW@SCOTTWHEELERLAWOFFICE.COM ATTORNEY FOR (Name) PLAINTIFFS, ABRAHAM AGUSTINO AND LISA ROSANA		COPY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO APR 14 2023 BY:  Heather M. Duffer, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 WEST 3RD STREET MAILING ADDRESS: CITY AND ZIP CODE: SAN BERNARDINO, CALIFORNIA 92415 BRANCH NAME: SAN BERNARDINO - CIVIL DIVISION		
CASE NAME: ABRAHAM AGUSTINO AND LISA ROSANA V. SALEM CHRISTIAN HOMES, INC.		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)	Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: CIV SB 2308778 JUDGE: DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/W/D (23) Non-PI/PD/W/D (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/W/D tort (35) Employment ☒ Wrongful termination (36) ☐ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|---|
| a. ☒ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☒ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|---|---|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **ELEVEN CAUSES OF ACTION**
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: APRIL 11, 2023

Scott Ernest Wheeler

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

ABRAHAM AGUSTINO, LISA ROSANA, individually,
and on behalf of all others similarly situated,

CASE NO: **CIV SB 2308778**

vs.
SALEM CHRISTIAN HOMES, INC., a California corporation; and DOES 1
through 50, inclusive,

CERTIFICATE OF ASSIGNMENT

BY FAX

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the SAN BERNARDINO - CIVIL DIVISION District of the Superior Court under Rule 131 and General Order of this court for the checked reason:

☒ General☐ Collection

Nature of Action

Ground

- | | |
|---|---|
| ☐ 1. Adoption | Petitioner resides within the district. |
| ☐ 2. Conservator | Petitioner or conservatee resides within the district. |
| ☐ 3. Contract | Performance in the district is expressly provided for. |
| ☐ 4. Equity | The cause of action arose within the district. |
| ☐ 5. Eminent Domain | The property is located within the district. |
| ☐ 6. Family Law | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 7. Guardianship | Petitioner or ward resides within the district or has property within the district. |
| ☐ 8. Harassment | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 9. Mandate | The defendant functions wholly within the district. |
| ☐ 10. Name Change | The petitioner resides within the district. |
| ☐ 11. Personal Injury | The injury occurred within the district. |
| ☐ 12. Personal Property | The property is located within the district. |
| ☐ 13. Probate | Decedent resided or resides within or had property within the district. |
| ☐ 14. Prohibition | The defendant functions wholly within the district. |
| ☐ 15. Review | The defendant functions wholly within the district. |
| ☐ 16. Title to Real Property | The property is located within the district. |
| ☐ 17. Transferred Action | The lower court is located within the district. |
| ☐ 18. Unlawful Detainer | The property is located within the district. |
| ☐ 19. Domestic Violence | The petitioner, defendant, plaintiff or respondent resides within the district. |
| ☒ 20. Other Employment | The cause of action arose within the district. |
| ☐ 21. THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT. | |

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

Salem Christian Homes, Inc.

6921 Edison Avenue

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

ADDRESS

Chino

California

91710

CITY

STATE

ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed

on April 14, 2023 at Claremont, California.



Signature of Attorney/Party

COPY

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

APR 14 2023

BY: Heather M. Duffer
Heather M. Duffer, Deputy

LAW OFFICE OF SCOTT ERNEST WHEELER
Scott Ernest Wheeler (SBN 187998)
Justin A. Wheeler (SBN 342226)
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Claremont, California 91711
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Email: sew@scottwheelerlawoffice.com

Attorneys for Plaintiffs and the Putative Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

ABRAHAM AGUSTINO, LISA ROSANA,
individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

SALEM CHRISTIAN HOMES, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.:

CIV SB 2308778

CLASS ACTION COMPLAINT:

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Breaks
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Pay Timely Wages
7. Failure to Maintain Required Records
8. Failure to Furnish Accurate Itemized Statements
9. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
10. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION:

11. Penalties Under the Labor Code Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 This is a class action brought by Agustino Abraham and Lisa Rosana ("Plaintiffs"), on
3 behalf of themselves and all other similarly situated individuals, against Salem Christian Homes,
4 Inc. ("Salem" or "Defendant"), in order to hold Defendant accountable for its wage theft and
5 other violations of California wage and hour laws. Plaintiffs make the following allegations on
6 information and belief, except as to allegations pertaining to Plaintiffs individually, which are
7 based on their respective personal knowledge.

8 1. Defendant provides residential care and training for developmentally disabled
9 adults in San Bernardino County, California

10 2. In order to minimize labor costs and thereby maximize profits, Defendant has
11 implemented unlawful policies with respect to meal and rest breaks. For example, Defendant has
12 implement an illegal on-duty meal period policy. Defendant also requires its non-exempt
13 employees, who are informed that the residents are always the top priority, to work through meal
14 and rest breaks, and to remain on call during such breaks. As a result, Plaintiffs and other non-
15 exempt employees have been denied the ability to take the meal and rest breaks that they were
16 and are legally entitled to take.

17 3. Defendant has implemented an unlawful rounding practice, which in conjunction
18 with its strict attendance policy, results in the systematic underpayment of both regular and
19 overtime wages to Plaintiffs and other non-exempt employees.

20 4. Moreover, Defendant has uniformly failed to pay Plaintiffs and other non-exempt
21 employees proper overtime wages due the fact that it willfully turns a blind eye to off-the-clock
22 work that Plaintiffs and other non-exempt employees perform as a direct consequence of
23 Defendant's understaffing and imposition of an unreasonable workload.

24 5. Plaintiffs and other non-exempt employees similarly do not receive
25 reimbursements for the expenses they incur in the discharge of their job duties. These expenses
26 include cellular phone usage, and the costs associated with laundering their own clothing after
27 work which includes human waste and other bodily fluids that qualify as hazardous waste without
28 reimbursement from Defendant.

1 6. Plaintiffs seek declaratory, compensatory and other statutorily available relief for
2 themselves and a Class of all current and former non-exempt employees of Defendant during the
3 applicable limitations period to compensate these workers for the wages Defendant has stolen
4 from them and to protect current and future workers from being subjected to similar unlawful
5 working conditions perpetrated by Defendant.

6 **JURISDICTION AND VENUE**

7 7. The Superior Court of the State of California has jurisdiction in this matter
8 because Plaintiffs are residents and citizens of California, and Defendant is a California
9 corporation that is qualified to do business in California and regularly conducts business in
10 California. All putative class members and aggrieved employees are also residents of California.
11 No federal question is at issue because Plaintiffs' claims are based solely on California law.

12 8. Venue is proper in this judicial district and the County of San Bernardino because
13 Plaintiffs, and other persons similarly situated, performed work for Defendant in the County of
14 San Bernardino, and Defendant's illegal payroll policies and practices, which are the subject of
15 this action were applied to Plaintiffs, and other persons similarly situated, in the County of San
16 Bernardino.

17 **THE PARTIES**

18 9. Plaintiffs are residents of the State of California and former employees of
19 Defendant. At all relevant times herein, Plaintiffs were employed by Defendant as Direct
20 Support Professionals, non-exempt positions, working at Defendant's residential facilities
21 through southern California, during the statute of limitations period.

22 10. Plaintiffs, on behalf of themselves and all other similarly situated individuals,
23 brings this class action to recover, among other things, wages and penalties from unpaid wages
24 earned and due, including but not limited to, Defendant's failure to provide legally compliant
25 meal and rest breaks and failure to provide proper compensation for missed and otherwise
26 unlawful meal and rest breaks, unpaid and illegally calculated regular and overtime
27 compensation, failure to pay minimum wages, failure to pay all wages due to discharged or
28

1 quitting non-exempt employees, and failure to maintain required records and failure to provide
2 accurate itemized wage statements.

3 11. During the statute of limitations period, Defendant has been a corporation existing
4 under the laws of the State of California and it conducts business in the State of California.

5 12. At all times relevant herein, Defendant operates residences at the following
6 locations:

7 Blue Jay
8 Ontario, California

9 Bonnie Brae
10 Ontario, California

11 Boulder
12 Ontario, California

13 Casa Puente
14 Ontario, California

15 De Hoog
16 Chino, California

17 Farmer
18 Ontario, California

19 Immanuel
20 Lakewood, California

21 Jacaranda
22 Chino, California

23 La Deney
24 Ontario, California
25 Manzanita
26 Ontario, California

27 Nantucket
28 Chino, California

Oak Hill
Ontario, California

Palm Place
Chino, California

1 Salem South
2 Ontario, California

3 Schoneveld
4 Ontario, California

5 Sycamore
6 Chino, California

7 Walnut
8 Chino, California

9 Wester
10 Chino, California

11 Yorba
12 Chino, California

13 13. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
14 Plaintiffs at this time, and Plaintiffs therefore sue such DOE defendants under fictitious names.
15 Upon information and belief, each Defendant designated as a DOE is in some manner highly
16 responsible for the occurrences alleged herein, and Plaintiffs and Class members' injuries and
17 damages, as alleged herein, were proximately caused by the conduct of such DOE defendants.
18 Plaintiffs will seek leave of the Court to amend this Complaint to allege the true names and
19 capacities of such DOE defendants when ascertained.

20 14. As a direct and proximate result of the unlawful actions of Defendant, Plaintiffs
21 and Class members have suffered, and continue to suffer, from loss of earnings in amounts as yet
22 unascertained, but subject to proof at trial, and within the jurisdiction of this Court.

23 CLASS ACTION ALLEGATIONS

24 15. Plaintiffs bring this action on behalf of themselves and the following similarly
25 situated Class of individuals ("Class members"):

26 All non-exempt employees who have performed work for Defendant
27 in the state of California at any time during the relevant statute of
28 limitations period.

16. Plaintiffs reserve the right to name additional Class representatives as may be
necessary and appropriate. Plaintiffs also reserve the right to modify or amend the definition of

1 the proposed Class and/or add subclasses before the Court determines whether certification is
2 appropriate

3 17. This action is appropriately suited for a class action because:

4 A. The proposed Class is a significant number. Plaintiffs are informed and believe
5 that the proposed Class consists of at least 150 current and former non-exempt employees.
6 Joinder of all current and former non-exempt employees individually would be impractical.

7 B. This action involves common questions of law and fact to the proposed Class
8 because the action focuses on the Defendant's systematic course of illegal payroll practices and
9 policies, which was applied to all non-exempt employees in uniform violation of the California
10 Labor Code, IWC Wage Orders, and the California Business and Professions Code, which
11 prohibits unfair business practices arising from such violations. Here are a few common
12 questions of law and fact that can be answered on a classwide basis:

- 13 • Whether Defendant failed to provide non-exempt employees with legally
14 compliant meal periods and rest breaks;
- 15 • Whether Defendant failed to pay overtime to non-exempt employees in
16 compliance with California law;
- 17 • Whether Defendant failed to pay minimum wages to non-exempt employees in
18 compliance with California law;
- 19 • Whether Defendant failed to timely pay wages to non-exempt employees in
20 compliance with California law;
- 21 • Whether Defendant failed to maintain required records and accurate wage
22 statements for non-exempt employees;
- 23 • Whether Defendant failed to reimburse employees for business expenses
24 incurred; and
- 25 • Whether Defendant engaged in unfair and/or unlawful business practices.

26 C. Plaintiffs' claims are typical of the proposed Class because Defendant subjected
27 all of its non-exempt employees to the similar and overlapping violations of the California Labor
28 Code, the applicable IWC wage order, and the California Business and Professions Code.

1 D. Plaintiffs are able to fairly and adequately protect the interests of all members of
2 the proposed Class because it is in their best interests to prosecute the claims alleged herein to
3 obtain full compensation due to the proposed Class for all services rendered and hours worked.
4 Plaintiffs also retained counsel that are experienced in wage and hour class action litigation.

5 **FIRST CAUSE OF ACTION**

6 **Failure to Provide Required Meal Periods**

7 **[Cal. Lab. Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 5-2001, § 11 and all**
8 **other applicable IWC Wage Orders]**

9 **(On Behalf of Plaintiffs and the Class Against all Defendants)**

10 18. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
11 allegations in paragraphs 1 through 17.

12 19. During the statute of limitations period, as part of Defendant's unlawful policies
13 and practices to deprive its non-exempt employees of all wages earned and due, Defendant
14 required, permitted or otherwise suffered Plaintiffs and Class members to perform work during
15 their meal periods, to completely skip their meal periods, to take late and short meal periods, and
16 Defendant has otherwise failed to provide the required meal periods to Plaintiffs and Class
17 members as required under California Labor Code §§ 226.7, 512, and § 11 of the applicable IWC
18 Order.

19 20. Defendant has implemented several common policies and practices that have
20 caused Plaintiffs and Class members to systematically miss and otherwise take non-compliant
21 meal periods. For instance, Defendant implemented an illegal "on-duty" meal period policy
22 requiring Plaintiffs and other Class members to miss their meal periods and stay at the residences.

23 21. Defendant grossly understaffs its facility such that Class members regularly miss
24 or take non-compliant meal periods. As a direct consequence of this understaffing, Plaintiffs and
25 Class members have so much work to complete within their scheduled shifts that they are forced
26 to skip their meal periods altogether, to take them after working longer than five (5) hours, to
27 perform work during their meal periods, or return to work after taking less than a thirty (30)
28 minute meal period.

22. Moreover, Defendant failed to implement adequate policies or procedures to provide meal periods to its non-exempt employees. Among other things, Defendant overworked Plaintiffs and Class members and did not adequately advise them of their rights to take meal periods, and systematically denied them the opportunity to take meal periods, including second meal periods during shifts of ten hours or longer.

23. Defendant has also violated California Labor Code §§ 226.7, IWC Wage Order No. 5-2001, § 11, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to compensate Plaintiffs and Class members who were not authorized and permitted to take a complete, timely, uninterrupted meal period, in accordance with the applicable wage order, one additional hour of compensation at the proper regular rate of pay for each workday that such a meal period was not authorized or permitted.

24. Defendant further violated California Labor Code sections 226.7, 510, 1194, 1197, and IWC Wage Order No. 5-2001 by failing to compensate Plaintiffs and Class members for all hours worked during their meal periods.

25. As a proximate result of the aforementioned violations, Plaintiffs and Class members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses, and costs of suit.

SECOND CAUSE OF ACTION

Failure to Provide Required Rest Breaks

[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 5-2001, § 12 and all other Applicable

IWC Wage Orders]

(On Behalf of Plaintiffs and the Class Against all Defendants)

26. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 25.

27. At all times relevant herein, as part of Defendant's illegal policies and practices to deprive its non-exempt employees of all wages earned and due, Defendant failed to permit Plaintiffs and Class members to take rest breaks as required under California Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Wage Order.

1 28. As with meal periods, Defendant's policies and practices caused Plaintiffs and
2 Class members to miss or otherwise take non-compliant rest periods by, among other things,
3 giving them unreasonable amounts of work that had to be completed within their shift and
4 maintaining a caretaker to resident ratio that so high that rest periods simply could not be taken.
5 This was the result of systematic understaffing. In addition, Defendant did not adequately notify
6 Plaintiffs and Class members of their rights to take rest periods, and systematically denied them
7 the opportunity to take rest periods, including all rest periods required during long shifts, which at
8 times exceeded 12 consecutive hours.

9 29. Defendant further violated California Labor Code § 226.7, IWC Wage Order No.
10 5-2001, § 12, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et*.
11 *seq.*, by failing to pay Plaintiffs and Class members who were not provided with a rest break, in
12 accordance with the applicable wage order, one additional hour of compensation at the proper
13 regular rate of pay for each workday that a rest break was not provided.

14 30. As a proximate result of the aforementioned violations, Plaintiffs and Class
15 members have been damaged in an amount according to proof at trial, and seek all wages earned
16 and due, interest, penalties, expenses, and costs of suit.

17 **THIRD CAUSE OF ACTION**

18 **Failure to Pay Overtime Wages**

19 **[Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 5-2001, § 3**

20 **and all other applicable IWC Wage Orders]**

21 **(On Behalf of Plaintiffs and the Class against all Defendants)**

22 31. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
23 allegations in paragraphs 1 through 30.

24 32. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Order No. 5-
25 2001, § 3, Defendant is required to compensate Plaintiffs and Class members for all overtime,
26 which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in
27 excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours
28 on the seventh consecutive workday, with double time for all hours worked in excess of twelve

1 (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh
2 consecutive day of work in any workweek.

3 33. Plaintiffs and Class members are current and former non-exempt employees
4 entitled to the protections of California Labor Code §§ 510, 1194, and IWC Wage Order No. 5-
5 2001. During the Class period, Defendant failed to compensate Plaintiffs and Class members for
6 all overtime hours worked as required under the foregoing provisions of the California Labor
7 Code and IWC Wage Order by, among other methods: failing to properly calculate the regular
8 rate of pay for the purposes of calculating overtime pay owed and due; requiring, permitting or
9 suffering Plaintiffs and Class members to work off the clock; requiring, suffering, or permitting
10 Plaintiffs and Class members to work through meal and rest periods but not compensating them
11 for this time, failing to include this time in all hours worked; rounding the time worked by
12 Plaintiffs and Class members unfavorably; and other methods to be discovered.

13 34. For example, Defendant implemented a rounding practice which fails to pay
14 Plaintiffs and Class members all hours worked and is applied in such a way to favor Defendant.
15 Moreover, Defendant has the capabilities to compensate Plaintiffs and the other Class members
16 for all time worked but instead rounds their time worked in an unfavorable way which results in
17 the underpayment of wages. Defendant uses a rounding practice for the time worked by Plaintiffs
18 wherein it rounds the time worked by non-exempt employees to the nearest quarter-hour and pays
19 Plaintiffs and Class members based on rounded time. This rounding practice results in systematic
20 off-the-clock work and unpaid overtime wages.

21 35. In violation of California law, Defendant has knowingly and willfully refused to
22 perform its obligations to compensate Plaintiffs and Class members for all wages earned and all
23 hours worked at the legally required rates of pay. As a proximate result, Plaintiffs and Class
24 members have suffered, and continue to suffer, substantial losses related to the use and enjoyment
25 of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
26 Defendant to fully perform its obligations under state law, all to their respective damages in
27 amounts according to proof at time of trial, and within the jurisdiction of this Court.

36. Defendant's conduct described herein violates California Labor Code §§ 510, 1194, 1198 and IWC Wage Order No. 5-2001, § 3, and all other applicable IWC Wage Orders. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor Code and IWC Wage Orders, Plaintiffs and Class members are entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

FOURTH CAUSE OF ACTION

Failure to Pay Minimum Wages

[Cal. Lab. Code §§ 1194, 1197; IWC Wage Order No. 5-2001, § 4 and

all other applicable IWC Wage Orders]

(On Behalf of Plaintiffs and the Class against all Defendants)

37. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 36.

38. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of IWC Wage Order No. 9, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

39. During the statute of limitations period, the hourly rates for Plaintiffs and Class members were precisely at minimum wage. Based on this common practice, Defendant failed to actually pay Plaintiffs and Class members minimum wages for all hours worked by requiring, permitting or suffering them to work off-the-clock, such as requiring them to work through meal, rest breaks, but not compensating them for this time, and failing to include this time in all hours worked, and other methods to be discovered.

40. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4 of IWC Wage Order No. 9, and all other applicable IWC Wage Orders. As a proximate result of the aforementioned violations, Plaintiffs and Class members have been damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and any other applicable law, Plaintiffs and Class members are entitled to recover

1 the unpaid balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees,
2 expenses, and costs of suit.

3 **FIFTH CAUSE OF ACTION**

4 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

5 **[Cal. Lab. Code §§ 201, 202, 203]**

6 **(On Behalf of Plaintiffs and the Class against all Defendants)**

7 41. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 40.

9 42. Pursuant to California Labor Code §§ 201, 202, and 203, Defendant is required to
10 pay all earned and unpaid wages to an employee who is discharged. California Labor Code § 201
11 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid
12 at the time of discharge are due and payable immediately.

13 43. Furthermore, pursuant to California Labor Code § 202, Defendant is required to
14 pay all accrued wages due to an employee no later than seventy-two (72) hours after the
15 employee quits his or her employment, unless the employee provided seventy-two (72) hours
16 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
17 wages at the time of quitting.

18 44. California Labor Code § 203 provides that if an employer willfully fails to pay, in
19 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
20 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
21 compensation to the employee at the same rate for up to thirty (30) workdays.

22 45. During the statute of limitations period, Defendant has willfully failed to pay
23 accrued wages and other compensation to Plaintiffs and Class members in accordance with
24 California Labor Code §§ 201 and 202. Defendant does not have a sufficient policy to provide
25 Plaintiffs and Class members with their final paychecks within the timeframes required under
26 California law. In addition, because Defendant has failed and continues to fail to properly
27 compensate Plaintiffs and Class members for all hours worked when due, overtime wages,
28 minimum wages, and compensation for non-compliant meal and rest breaks, Defendant has also

1 willfully failed and continues to fail to pay accrued wages and other compensation to Plaintiffs
2 and Class members in accordance with California Labor Code §§ 201 and 202.

3 46. As a result, Plaintiffs and Class members are entitled to all available statutory
4 penalties, including the waiting time penalties provided in California Labor Code § 203, together
5 with interest thereon, as well as other available remedies.

6 47. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs
7 and Class members have been deprived of compensation in an amount according to proof at the
8 time of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such
9 amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code §
10 1194.

11 **SIXTH CAUSE OF ACTION**

12 **Failure to Pay Timely Wages**

13 **[Cal. Lab. Code §§ 204, 210]**

14 **(On Behalf of Plaintiffs and the Class against All Defendants)**

15 48. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
16 allegations in paragraphs 1 through 47.

17 49. California Labor Code § 204 provides that all wages earned by any person in any
18 employment between the 1st and 15th days, inclusive, of any calendar month, other than those
19 wages due upon termination of an employee, are due and payable between the 16th and 26th day
20 of the month during which the labor was performed. California Labor Code § 204 further
21 provides that all wages earned by any person in any employment between the 16th and the last
22 day, inclusive, of any calendar month, other than those wages due upon termination of an
23 employee, are due and payable between the 1st and the 10th day of the following month.
24 California Labor Code § 204 further provides that all wages eared for labor in excess of the
25 normal work period shall be paid no later than the payday for the next regular payroll period.

26 50. During the statute of limitations period, Defendant, among other things, willfully
27 failed to pay Plaintiffs and Class members all wages earned and due to them, including but not
28

1 limited to, meal and rest break premiums, overtime and minimum wages, and payment for work
2 performed off-the-clock, within any time period permissible under Labor Code § 204.

3 51. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs
4 and Class members are entitled to all available statutory penalties, including but not limited to,
5 civil penalties pursuant to California Labor Code §§ 200, 210, 558, 1194, 1197.1, and other
6 applicable provisions under the California Labor Code and IWC Wage Orders, and an award of
7 costs, expenses, and reasonable attorneys' fees.

8 **SEVENTH CAUSE OF ACTION**

9 **Failure to Maintain Required Records**

10 **[Cal. Lab. Code §§ 226, 1174; IWC Wage Order No. 5-2001, § 7**

11 **and all other applicable IWC Wage Orders]**

12 **(On Behalf of Plaintiffs and the Class against all Defendants)**

13 52. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
14 allegations in paragraphs 1 through 51.

15 53. During the statute of limitations period, as part of Defendant's illegal payroll
16 policies and practices to deprive Plaintiffs and Class members of all wages earned and due,
17 Defendant knowingly and intentionally failed to maintain records as required under California
18 Labor Code §§ 226, 1174, and IWC Wage Order No. 5-2001, § 7, including but not limited to,
19 the following records: total daily hours worked by each non-exempt employee; applicable rates of
20 pay; all deductions; meal periods; time records showing when each non-exempt employee begins
21 and ends each workday; and accurate itemized wage statements.

22 54. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs
23 and Class members have been damaged in an amount according to proof at trial, and are entitled
24 to all wages earned and due, plus interest thereon. Additionally, Plaintiffs and Class members are
25 entitled to all available statutory penalties, including but not limited to civil penalties pursuant to
26 California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and
27 reasonable attorneys' fees, including but not limited to those provided in California Labor Code §
28 226(e), as well as other available remedies.

1 **EIGHTH CAUSE OF ACTION**

2 **Failure to Furnish Accurate Itemized Wage Statements**

3 **[Cal. Lab. Code §§ 226; IWC Wage Order No. 5-2001, § 7**

4 **and all other applicable IWC Wage Orders]**

5 **(On Behalf of Plaintiffs and the Class against all Defendants)**

6 55. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
7 allegations in paragraphs 1 through 54.

8 56. During the statute of limitations period, Defendant routinely failed to provide
9 Plaintiffs and Class members with timely, accurate, and itemized wage statements in writing
10 showing each employee's gross wages earned, total hours worked, all deductions made, net
11 wages earned, and all applicable hourly rates in effect during each pay period and the
12 corresponding number of hours worked at each hourly rate, in violation of California Labor Code
13 § 226 and IWC Wage Order No. 5-2001, § 7.

14 57. Defendant's wage statements violate Labor Code § 226 by, among other things,
15 failing to provide Plaintiffs and Class members with proper meal and rest breaks and not
16 including in their wage statements one (1) additional hour of compensation at their regular rates
17 of pay for each non-compliant meal or rest break. In addition, Defendant required Plaintiffs and
18 Class members to work off-the-clock without compensation and illegally rounded the time that
19 they worked, rendering the wage statements inaccurate.

20 58. Defendant knowingly and intentionally failed to provide Plaintiffs and Class
21 members with timely, accurate, and itemized wage statements in accordance with California
22 Labor Code § 226(a) so as to prevent Plaintiffs and Class members from being able to determine
23 whether they were being paid for, among other things, all of the hours they worked and at the
24 proper rates of pay.

25 59. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs
26 and Class members have been damaged in an amount according to proof at trial, and seek all
27 wages earned and due, plus interest thereon. Additionally, Plaintiffs and Class members are
28 entitled to all available penalties, including but not limited to penalties pursuant to California

1 Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable
2 attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as
3 well as other available remedies.

4 **NINTH CAUSE OF ACTION**

5 **Failure to Indemnify for Necessary Expenditures Incurred in Discharge of Duties**

6 **[Cal. Lab. Code § 2802]**

7 **(On Behalf of Plaintiffs and the Class against All Defendants)**

8 60. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
9 allegations in paragraphs 1 through 59.

10 61. California Labor Code § 2802(a) requires an employer to indemnify an employee
11 for all necessary expenditures or losses incurred by the employee in direct consequence of the
12 discharge of her his or her duties, or of his or her obedience to the directions of the employer.

13 62. During the statute of limitations period, Defendant knowingly and willfully failed
14 to indemnify Plaintiffs and Class Members for all business expenses and/or losses incurred in direct
15 consequence of the discharge of their duties while working under the direction of Defendant,
16 including but not limited to, cellular phone usage, costs associate with laundering their own clothes
17 after work which included human waste and other bodily fluids that qualify as hazardous waste,
18 and other employment-related expenses, in violation of California Labor Code § 2802.

19 63. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs and
20 Class members have been damaged in an amount according to proof at trial, and seek
21 reimbursement of all necessary expenditures, plus interest thereon pursuant to California Labor
22 Code § 2802(b). Additionally, Plaintiffs and Class Members are entitled to all available statutory
23 penalties and an award of costs, expenses, and reasonable attorneys' fees, including those provided
24 in California Labor Code § 2802(c), as well as other available remedies.

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69. Defendant's unfair and unlawful business practices entitle Plaintiffs and other Class members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendant account for, disgorge, and restore to Plaintiffs and Class members the wages and other compensation unlawfully withheld from them. Plaintiffs and Class members are entitled to restitution of all monies to be disgorged from Defendant in an amount according to proof at the time of trial.

ELEVENTH CAUSE OF ACTION

Representative Action for Civil Penalties

[Cal. Lab. Code §§ 2698- 2699.5]

(On Behalf of Plaintiffs and Other Aggrieved Employees against all Defendants)

70. Plaintiffs incorporate herein by specific reference as though fully set forth the allegations in paragraphs 1 through 69, with exception of the allegations in Paragraphs 15 through 17 (A-D).

71. Plaintiffs are “aggrieved employees” within the meaning of California Labor Code § 2699(c), and is a proper representative to bring a civil action on behalf of themselves, and other non-exempt employees of Defendant who are California citizens, pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiffs were employed by Defendant and the alleged violations of the California Labor Code were committed against Plaintiffs.

72. A plaintiffs has standing to represent all aggrieved employees for all of her asserted violations of the California Labor Code under PAGA. See *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 757.

73. Plaintiffs seek to recover civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class certification is not required.

74. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698-2699.5, Plaintiffs seek to recover civil penalties, including but not limited to penalties under California Labor Code §§ 2699, 210, 225.5, 226.3, 558, 1174.5, 1197.1, 1775,

1 1199, and all applicable IWC wage order penalties, from Defendants in a representative action for
2 the violations set forth above, including but not limited to violations of California Labor Code §§
3 201, 202, 203, 226, 226.7, 351, 510, 512, 558, 1174, 1194, 1197, 1198 and 1774. Plaintiffs also
4 are entitled to an award of reasonable attorneys' fees and costs pursuant to California Labor Code
5 § 2699(g)(1). In addition, Defendant failed to provide seating for Plaintiffs and the other Class
6 members pursuant to IWC Wage Order No. 5-2001, § 14.

7 75. Pursuant to California Labor Code §§ 2699.3, on February 3, 2023, Plaintiffs gave
8 written notice by certified mail to the California Labor and Workforce Development Agency
9 ("LWDA") and Defendant of the specific provisions of the California Labor Code and IWC
10 Wage Orders alleged to have been violated, including the facts and theories to support the alleged
11 violations. Within sixty-five (65) calendar of the postmark date of Plaintiffs' notice letter, the
12 LWDA did not provide notice to Plaintiffs that it intends to investigate the alleged violations.
13 Therefore, Plaintiffs have complied with all of the requirements set forth in California Labor
14 Code § 2699.3 to commence a representative action under PAGA.

15 76. California Labor Code § 2699(f) provides that for all California Labor Code
16 violations for which a civil penalty is not specifically provided, the following civil penalties are
17 established: one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
18 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
19 subsequent violation.

20 77. Plaintiffs seek to recover such civil penalties under California Labor Code §
21 2699(f) for Defendant's violations of California Labor Code provisions for which a civil penalty
22 is not specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203,
23 204, 226.7, 1197, and for the violations of the applicable IWC Wage Order alleged above.

24 78. All civil penalties sought and recovered under this action will be allocated as
25 follows: seventy-five (75) percent to the State of California and twenty-five (25) percent to
26 Plaintiffs and the other aggrieved employees.

27 79. Plaintiffs additionally seek reasonable attorneys' fees and costs pursuant to
28 California Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs, individually and on behalf of all other persons similarly
3 situated, respectfully prays for relief against Defendant and DOES 1 through 50, inclusive, and
4 each of them, as follows:

- 5 1. For compensatory damages in an amount to be ascertained at trial;
 - 6 2. For restitution of all monies due to Plaintiffs and Class members, as well as
7 disgorged profits from the unfair and unlawful business practices of Defendant;
 - 8 3. For meal and rest break compensation pursuant to California Labor Code § 226.7
9 and IWC Wage Order No. 5-2001;
 - 10 4. For liquidated damages pursuant to California Labor Code § 1194.2;
 - 11 5. For preliminary and permanent injunctive relief enjoining Defendant from
12 violating the relevant provisions of the California Labor Code and the IWC Wager Orders, and
13 from engaging in the unlawful business practices complained of herein;
 - 14 6. For waiting time penalties pursuant to California Labor Code § 203;
 - 15 7. For statutory penalties according to proof, including but not limited to, all
16 penalties authorized by the California Labor Code §§ 210, 225.5, 226(e), 226.3, 354, 1174.5,
17 1775, 1197.1 and 2699;
 - 18 8. An award of actual, statutory, and/or punitive damages to Plaintiffs and the Class
19 pursuant to California Civil Code §§ 1785.31 and 1786.50, in an amount subject to proof at trial;
 - 20 9. For interest on the unpaid wages at 10 percent per annum pursuant to California
21 Labor Code §§ 218.6, 1194, 2802 and California Civil Code §§ 3287, 3288, and/or any other
22 applicable provision providing for pre-judgment interest;
 - 23 10. For reasonable attorneys' fees and costs pursuant to California Labor Code §§
24 218.5, 226, 1194, 2802, 2699 and California Code of Civil Procedure § 1021.5, California Civil
25 Code § 1786.50(a)(2), California Civil Code § 1785.31(a), and/or any other applicable provisions
26 providing for attorneys' fees and costs;
 - 27 11. For declaratory relief;
- 28

1 12. For an order requiring and certifying the First through Tenth Causes of Action as a
2 class action;

3 13. For an order appointing Plaintiffs as Class representatives and Plaintiffs' counsel
4 as Class counsel; and

5 14. For such further relief that the Court may deem just and proper.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiffs, on behalf of themselves and all others similarly situated, hereby demands a jury
8 trial with respect to all issues triable of right by jury.

9 DATED: April 14, 2023

THE LAW OFFICE OF SCOTT E. WHEELER

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12 Scott E. Wheeler
Justin A. Wheeler

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14 *Attorneys for Plaintiffs and the Putative Class*
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