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LA LASER CENTER, PC, CALIFORNIA
PROFESSIONAL MEDICAL
CORPORATION, a California professional
corporation

Plaintiff,

1 Cross-Complainant Plaintiff Drew Lakey, individually and on behalf of others similarly
2 situated, by and through her attorneys, brings the following allegations against Defendant LA
3 Laser Center, PC, d/b/a The Skin and Cancer Institute (“LA Laser Center”).

4 **INTRODUCTION**

5 1. Cross-Defendant LA Laser Center is a chain of dermatology clinics across the West
6 with approximately 30 locations in California. The medical care at LA Laser Center is primarily
7 provided by Physician Assistants (“PAs”), who work under the supervision of a physician to
8 evaluate, diagnose, and treat patients with conditions such as eczema, psoriasis, acne, rosacea,
9 rashes, and skin cancers.

10 2. Although the PAs LA Laser Center hires all have advanced degrees and board
11 certifications in order to be eligible for hire, LA Laser Center requires them to undergo training
12 for the first few months of employment. Much of this training involves working with a more senior
13 PA to observe and then perform medical procedures with increasing independence.

14 3. This form of training via supervision by a more experienced practitioner is
15 relatively common throughout the medical industry and beyond. It does not provide PAs with any
16 additional licensing or credentials. To the contrary, PAs are required to come to LA Laser Center
17 with all of the licensing they need to practice medicine.

18 4. Throughout the training period, LA Laser Center pays PAs a reduced salary of
19 approximately \$75,000, which is \$60,000 less than the salary they will earn once the training
20 period is over.

21 5. But that is not all. In addition to the reduced pay, LA Laser Center requires PAs to
22 sign a Training Repayment Agreement Provision (“TRAP”) that values the training at \$50,000,
23 and requires them to “repay” that amount if they leave their employment within one year, \$38,000
24 if they leave within two years, and \$25,000 if they leave within three years.

25 6. TRAPs like the one LA Laser Center uses turn the basic principle that employees
26 should be paid to work—not pay to work—on its head, and they are illegal and unenforceable
27 under California law.

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7. Furthermore, LA Laser Center uses its TRAP, and the threat of six-figure lawsuits like the one filed against Cross-Complainant Lakey, to threaten PAs with financial ruin if they try to leave their jobs before their three-year contracts are up. This keeps PAs stuck in untenable and even unsafe working conditions, and violates laws against forced labor.

8. Cross-Complainant brings this Cross-Complaint to bring a stop to this practice on behalf of herself and a class of similarly-situated PAs who are subject to these unlawful practices at LA Laser Center locations across the state, and to recover damages for their unfair and unlawful treatment.

PARTIES

9. Cross-Complainant Drew Lakey is a natural person and resident of the State of Oregon.

10. Cross-Defendant LA Laser Center, PC, d/b/a/ Skin and Cancer Institute, is a California corporation with its principal place of business in Los Angeles, California.

FACTUAL ALLEGATIONS

Cross-Complainant Lakey's Educational Background and Licensing

11. Cross-Complainant Drew Lakey graduated from Radford University Carilion in Roanoke, Virginia, in December 2021 with a Master of Science in Physician Assistant (“PA”) Studies.

12. Also in December 2021, Lakey took and passed the Physician Assistant National Certifying Examination (“PANCE”), which is the board exam for PAs.

13. In approximately January 2022, Lakey applied for and received her PA license from the state of California. In order to be licensed as a PA in California, applicants must provide a Physician Assistant Training Program Certification, a PANCE score, a National Practitioner Data Bank Report, verification of any prior licensing information, and a criminal history background check.

14. Also in approximately January 2022, Lakey received her authorization to prescribe controlled substances from the Drug Enforcement Administration.

1 15. At the time Lakey began working at LA Laser Center in March 2022, she was fully
2 licensed to work in California as a PA.

3 **Employment Agreement**

4 16. Lakey entered into an employment agreement (“Agreement”) with LA Laser Center
5 on February 4, 2022, with a start date of March 7, 2022. The Agreement was for employment as a
6 PA in LA Laser Center’s Bakersfield and Delano, CA offices.

7 17. The chief dermatologist at LA Laser Center presently and at the time Lakey was
8 employed there is Dr. Daniel Taheri, who is also the CEO of the company.

9 18. Upon information and belief, all PAs employed with LA Laser Center are required
10 to sign an Agreement that is similar as to all material terms.

11 19. PAs are required to already be licensed to practice medicine in California in order
12 to enter into the Agreement.

13 20. The Agreement specified that it would remain in effect for three years and
14 automatically renew for 12-month periods unless either party provided written notice of intent not
15 to renew within 60 days of the end of the initial three-year employment term. The Agreement
16 allowed employees (referred to in the agreement as “Providers”) to terminate the Agreement in
17 less than three years with 30 days’ notice in the case of any material breach, failure to pay required
18 compensation, or acts or omissions on the part of LA Laser Center that would endanger patients,
19 violate a rule or regulation or ethical standard of the state of California, or threaten the employee’s
20 medical license or reputation. The Agreement required that LA Laser Center receive the
21 opportunity to cure any such breach.

22 21. The Agreement also included a Training Repayment Agreement Provision
23 (“TRAP”) which stated that LA Laser Center would provide “specialized, hands-on training
24 specific to Provider’s role,” which it valued at \$50,000. The Agreement required that if the
25 Provider terminated the agreement without cause, or if LA Laser Center terminated the agreement
26 with cause, then the Provider would have to pay between \$25,000 and \$50,000, depending on
27 when they left.

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1 22. The Agreement required that all TRAP costs be paid within 15 days of termination
2 of the Agreement.

3 23. The Agreement stated that the repayment amount was intended to “consider the
4 actual or anticipated harm caused for early termination of this Agreement.”

5 24. The Agreement provided that the Provider would receive an annual salary of
6 \$75,000 for the first two to four months of employment, “depending on the Provider’s ability to
7 demonstrate knowledge and competency as well as pass the physician examinations provided by
8 the company.” The Agreement referred to this period as the “Initial Training Period.”

9 25. Following the Initial Training Period, the Agreement provided that the Provider
10 would receive an annual base salary of \$135,000. In addition, the Agreement provided that the
11 Provider would receive additional compensation in the amount of 20% of her net receipts once the
12 amount of those receipts was higher than her salary in any given quarter.

13 26. The Agreement included a “Cooperation and Non-Disparagement” provision that
14 purported to prohibit both LA Laser Center and the Provider from “mak[ing] any disparaging or
15 negative comment to any other person or entity regarding the other party . . . Employee’s work
16 conditions or circumstances surrounding Employee’s separation . . . or otherwise impugn or
17 criticize the name or reputation of the other party.”

18 27. The Agreement included a confidentiality provision stating that each party agreed
19 not to disclose the agreement or any of its terms. It also included a confidentiality provision that
20 prohibited the disclosure of all “Confidential Information,” which was defined as information
21 “which (i) derives economic value, actual or potential, from not being generally known to, and not
22 being readily ascertainable by proper means by, other persons who can obtain economic value
23 from its disclosure or use, and (ii) is the subject of efforts by the Corporation or any of its Affiliates
24 that are reasonable under the circumstances to maintain its secrecy.”

25 28. The Agreement did not include any statements clarifying that confidentiality and
26 non-disparagement provisions cannot stop employees from speaking out about unlawful acts at
27 work.

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1 29. The Agreement included a non-compete provision that purported to restrict
2 Providers from, *inter alia*, providing dermatology services or engaging in any business which
3 competes directly with LA Laser Center within five miles of any LA Laser Center office; soliciting
4 any business from LA Laser Center's clients within the City of San Luis Obispo, Arroyo Grande,
5 and Templeton; or inducing patients, insurance companies, vendors, suppliers and others from
6 withdrawing their business with LA Laser Center.

7 30. Upon information and belief, PAs are provided with the Agreement on a take-it-or-
8 leave-it basis and do not have the opportunity to negotiate its terms.

9 31. Lakey was provided with the Agreement on a take-it-or-leave-it basis and did not
10 have the opportunity to negotiate its terms.

11 **Employment at Bakersfield Office of LA Laser Center**

12 32. Lakey began working as a PA at the LA Laser Center in Bakersfield, California in
13 March 2022.

14 33. Lakey was initially assigned to shadow a more senior PA, which is the standard
15 training required of newly hired PAs by LA Laser Center, whether or not they have prior work
16 experience as a PA. Shadowing entails accompanying another PA as they perform their job duties,
17 allowing PAs to learn about LA Laser Center's business practices procedures as well as learn from
18 a more experienced medical provider.

19 34. When Lakey first started, she was the only PA shadowing the more senior PA.
20 However, by the end of the first month, another new PA had joined them. Lakey and the other PA
21 shadowed the more senior PA together while he evaluated and treated approximately 40-60
22 patients per day.

23 35. At first, Lakey primarily observed the more senior PA she was shadowing, and
24 asked him any questions that arose, either during or between patient examinations.

25 36. Within approximately a month of beginning work, Lakey began to perform some
26 of the medical procedures herself, either with or without the supervision of the more experienced
27 PA. For example, the more senior PA would evaluate a patient and determine that a mole needed
28

1 to be biopsied. At that point, the more senior PA would move on to the next patient's room while
2 Lakey remained behind and performed the biopsy.

3 37. Approximately partway through her second month of training, Lakey would
4 sometimes see patients by herself, with no supervision from the more senior PA.

5 38. Upon information and belief, this progression was standard for PA training at LA
6 Laser Center. Although the training began with PAs shadowing a more experienced PA, within
7 several weeks PAs performed work for paying patients with increasing independence.

8 39. Throughout training, Lakey's hours of work were Monday through Thursday from
9 7 a.m. to 5 p.m.

10 40. Training at LA Laser Center was supposed to follow a centralized "syllabus" that
11 set forth a training schedule. However, training was generally dictated by patient needs, and the
12 schedule was rarely followed.

13 41. The syllabus also included reading assignments from a textbook that PAs were
14 required to purchase with their own funds. PAs had to complete the reading assignments on their
15 own time, and were not paid for this work, which took approximately 4 to 8 hours a week in
16 addition to the approximately 40 hours per week in the office.

17 42. In addition, LA Laser Center required PAs to participate in an online fellowship for
18 dermatology PAs, called the Society of Dermatology PA Diplomate Fellowship. The fellowship,
19 which provides additional training in dermatology through a series of 22 online course modules,
20 cost Lakey approximately \$500 out of pocket and took approximately 60 hours to complete. Lakey
21 was not paid for this time.

22 43. The training LA Laser Center provided was standard on-the-job training. LA Laser
23 required all new PAs to undergo the training, regardless of whether they had prior work experience
24 as a PA. It was primarily for the benefit of LA Laser Center and did not provide PAs with any
25 transferrable license or credential. To the contrary, PAs were required to obtain their own licensure
26 before starting work at the company.

27 44. Lakey formally completed her training period in June 2022. The final step in the
28 training was to take a test that LA Laser developed and administered. A significant portion of the

test was specific to work at LA Laser Center rather than dermatology in general, and passing the test did not provide PAs with any transferrable credential or licensing.

Employment at LA Laser Center's Delano Office

45. Although Lakey received her training at Bakersfield, she was assigned to work full-time at LA Laser Center's Delano office beginning in June 2022. Lakey had rented an apartment in Bakersfield based on an understanding that she would primarily be working there, and as a result had a long commute to and from work.

46. Lakey was the sole provider at the Delano office. The office also had a front office assistant, and either one or two medical assistants at various points during Lakey's employment.

47. Lakey saw approximately 20-35 patients per day.

48. Lakey's working hours were from approximately 8 a.m. to 5 pm, Monday through Friday.

49. On Fridays, Lakey's supervising physician would come into the Bakersfield office to perform Mohs surgeries, a type of surgery to treat skin cancer lesions that Lakey was not qualified to perform on her own.

50. Throughout her employment, Lakey experienced several concerns about her employment conditions, which she raised repeatedly to management to no avail.

51. For example, during her training period, Lakey was encouraged to include diagnoses she believed were incorrect or unnecessary to patients' charts in order to increase the potential recovery from insurance companies. These included being told to diagnose benign skin tags, whose removal is generally not covered by insurance, as "irritated or inflamed seborrheic keratosis," whose removal insurance will generally cover.

52. Lakey refused to include these diagnoses despite being trained to do so. However, she soon found that medical assistants were trained to add additional diagnoses into patients' charts. On several occasions Lakey saw that patients she had treated received additional diagnoses without her knowledge or consent.

1 53. For example, on November 3, 2022, Lakey had to send a text message to the office
2 manager telling her that she had removed additional diagnosis codes that had been added to her
3 patient notes without her knowledge or consent.

4 54. Lakey also frequently experienced supply issues that limited her ability to
5 appropriately treat patients. For example, for the first several months of her employment, she had
6 to pick up liquid nitrogen from the Bakersfield office and transport it herself to the Delano office.
7 Liquid nitrogen, which is used for treating warts, precancerous growths, and other benign lesions,
8 is a hazardous substance and this presents a potential safety risk. Even after the Delano office
9 received its own liquid nitrogen cannister, Lakey had frequent issues with supply.

10 55. LA Laser Center did not provide Lakey or other PAs with access to a telephone in
11 their personal offices that they could use to call patients or other medical providers. As a result,
12 Lakey was forced to use her personal cell phone. LA Laser Center was aware that its employees
13 did not have access to telephones in their offices but did not reimburse them for use of their
14 personal phones.

15 56. Until November 2022, Lakey also did not have a desktop computer in her office,
16 and was forced to bring her personal laptop to work.

17 57. In addition, there were days when Lakey did not have enough clean tools or supplies
18 to perform routine procedures because the medical assistants did not sterilize them or because no
19 one ordered replacement supplies when they ran low.

20 58. The medical assistants at Lakey's office were frequently late arriving in the
21 morning and returning from lunch. Lakey did not have a key to the office, but the medical assistants
22 did, meaning that when the medical assistants were late in the morning Lakey was locked out of
23 her own office. This also led to delays in checking patients in.

24 59. Many of the patients Lakey saw spoke only Spanish. Because Lakey does not speak
25 Spanish, a medical assistant would provide informal translation. However, the medical assistants
26 did not provide a full translation of what Lakey told the patients, meaning that the patients
27 sometimes received incomplete or inaccurate medical advice. Lakey was dependent on these
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1 translations to communicate with her patients, as LA Laser Center did not make professional
2 medical translation services available.

3 **Resignation**

4 60. Lakey gave notice of her resignation on November 7, 2022 via an e-mail to Chief
5 Operating Officer Michelle Springer. In her resignation e-mail, Lakey noted that she was
6 terminating her contract for cause, as she had repeatedly raised issues that LA Laser Center refused
7 to address, including the issues with coding, translations, and supplies.

8 61. Lakey provided over four months' notice of her resignation, and proposed a last
9 day of employment of March 10, 2023.

10 62. On November 9, 2022, Lakey sent a second e-mail because she had not received a
11 response to her first.

12 63. On November 10, 2022, Lakey received an email from Taheri cc-ing Jodi Pleitez,
13 Tara Bechtle, and Alyssa Skophammer. The email informed her that Springer was on leave, and
14 stated that neither Springer nor Taheri had been aware of any of the complaints Lakey raised in
15 her resignation letter.

16 64. This was not true, as Lakey had raised these complaints repeatedly.

17 65. On November 17, 2022, a lawyer retained by Lakey sent a letter to Taheri providing
18 more information as to Lakey's reasons for resigning. The letter set forth that Lakey believed that
19 LA Laser Center had breached her employment agreement, including via acts or omissions that
20 were reasonably likely to have a material effect on Lakey's reputation or medical license.
21 Therefore, Lakey set forth, she did not owe the training or breach fees that LA Laser Center
22 charged to PAs departing within three years of starting employment.

23 66. On November 22, 2022, counsel for Lakey sent Defendants another letter repeating
24 the claims in the first letter, including that LA Laser Center had breached the employment
25 agreement.

26 67. LA Laser Center and Lakey were unable to resolve their dispute over whether
27 Lakey or LA Laser Center had breached the Agreement. LA Laser Center maintained the position
28 that Lakey would have to pay in order to leave her job.

68. Lakey continued to work for LA Laser Center through March 10, 2023.

69. On July 31, 2023, LA Laser Center filed a lawsuit against Lakey for \$38,000 in contract damages and “the increased costs to Plaintiff and the loss of business caused by the inability to smoothly transition Lakey’s work to a new provider in an orderly fashion,” which the complaint purported was expected to exceed \$100,000 in damages.

70. This is not the first lawsuit LA Laser Center has filed against its own employees. For example, on April 7, 2021, it filed an action against employee Kasey Willson seeking in excess of \$138,000 in damages for her departure.

71. These lawsuits serve the dual purpose of punishing employees that leave their jobs and intimidating current employees into staying in their jobs despite low wages and difficult working conditions.

CLASS ACTION ALLEGATIONS

72. **Class Definition:** Cross-Complainant brings her class action claims under Code of Civ. Proc. § 382 on behalf of herself and a Class of similarly situated individuals defined as follows:

All individuals who are or have been employed as Physician Assistants by LA Laser Center and who are or have been subject to the TRAP within the relevant limitations period (“TRAP Class”).

73. **Numerosity:** Class Members are so numerous that joinder of all of them is impracticable. Upon information and belief, there are approximately 30 LA Laser Center offices throughout California, each of which employs at least one PA at any given time. The precise number of Class Members is unknown at this time, but is believed to be greater than 60.

74. **Commonality and Predominance:** There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. Common questions include, among others, (1) whether LA Laser Center unlawfully fails to indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer; (2) whether LA Laser Center takes unlawful kickbacks on employee wages under the Fair Labor Standards Act; (3) whether LA Laser Center fails to pay wages free and clear under

1 the Fair Labor Standards Act; (4) whether LA Laser Center requires employees to work off-the-
2 clock and without paying required overtime; (5) whether LA Laser Center's business practices
3 violate the law; (6) whether LA Laser Center engages in unfair and fraudulent business practices;
4 (7) whether LA Laser Center owes the Class damages and, if so, in what amount; and (8) whether
5 Cross-Complainant and the Class are entitled to a resulting permanent injunction, and, if so, the
6 scope of such injunction.

7 **75. Typicality:** The claims of Cross-Complainant are typical of the claims of the Class
8 Members. Cross-Complainant was a Physician Assistant for LA Laser Center who was subject to
9 the TRAP and was harmed by LA Laser Center's unlawful and anticompetitive practices.

10 **76. Adequate Representation:** Cross-Complainant will fairly and adequately
11 represent and protect the interests of the Class and has retained counsel competent and experienced
12 in complex litigation and class actions, including TRAP claims. Cross-Complainant's claims are
13 representative of the claims of the other members of the Class. Cross-Complainant and the Class
14 sustained damages as a result of Cross-Defendant's conduct. Cross-Complainant also has no
15 interests antagonistic to those of the Class, and Cross-Defendant has no defenses unique to Cross-
16 Complainant. Cross-Complainant and her counsel are committed to vigorously prosecuting this
17 action on behalf of the members of the Class and have the financial resources to do so. Neither
18 Cross-Complainant nor her counsel have any interest adverse to the Class.

19 **77. Predominance and Superiority:** A class action is superior to other available
20 methods for the fair and efficient adjudication of this controversy, as joinder of all members of
21 the Class is impracticable. Individual litigation would not be preferable to a class action because
22 individual litigation would increase the delay and expense to all parties due to the complex legal
23 and factual controversies presented in this Complaint. By contrast, a class action presents far
24 fewer management difficulties and provides the benefits of single adjudication, economy of
25 scale, and comprehensive supervision by a single court. Economies of time, effort, and expense
26 will be fostered and uniformity of decisions will be ensured.

27 **78.** Additionally, class certification is appropriate because LA Laser Center has acted
28 and/or refused to act on grounds generally applicable to the Class, making appropriate declaratory,

equitable, and injunctive relief with respect to Cross-Complainant and members of the Class as a whole.

COLLECTIVE ACTION ALLEGATIONS

79. Pursuant to the collective action provision of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 216(b), Cross-Complainant seeks to represent an FLSA Collective consisting of all individuals employed as Physician Assistants by LA Laser Center who are or have been subject to the TRAP within the relevant limitations period and file a Consent to Join in this action.

80. The proposed FLSA Collective members are similarly situated in that they have been subject to uniform policies and practices by Defendant that violated the FLSA, including Defendant's TRAP and the requirement that employees perform work off-the-clock and without receiving required overtime.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Illegal TRAP Under the Employment Laws

CAL. BUS. & PROF. CODE §§ 2802, 2804

(Cross-Complainant on behalf of herself and the Class)

81. Cross-Complainant incorporates by reference all previous paragraphs of this Complaint.

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

83. This right cannot be waived by contract. Cal. Labor Code § 2804.

84. Under California law, employers are responsible for the cost of employer-required training undertaken by the employee in direct consequence of the discharge of the employee's duties or due to the employee's obedience to the directions of the employer, that is incurred for the employer's benefit and is not required by statute or ordinance.

85. Cross-Defendant unlawfully charges its Physician Assistants, including Cross-Complainant and the TRAP Class, up to \$50,000 for completing employer-required training for

1 the benefit of LA Laser Center that is not required by California statute or ordinance, in violation
2 of California Labor Code § 2802.

3 86. Defendant has failed to indemnify Cross-Complainant and the Class for these
4 expenditures and losses. By requiring Cross-Complainant and the Class to pay expenses and cover
5 losses that they incurred in direct consequence of the discharge of their duties for Defendants
6 and/or in obedience to Defendants' direction, Defendants have violated and continue to violate
7 Cal. Labor Code § 2802.

8 87. Cross-Complainant and the Class have been harmed in an amount according to
9 proof at trial, and seek reimbursement of all necessary expenditures plus any available damages,
10 interest, penalties, fees, and costs.

11 88. In addition, Cross-Complainant and the Class seek a declaratory judgment that the
12 TRAP debt is unenforceable according to California law and an injunction to prevent LA Laser
13 Center from attempting to collect on the TRAP debt.

14
15 **SECOND CAUSE OF ACTION**
16 **Illegal Kickback under the Fair Labor Standards Act**
17 **29 U.S.C. § 216**
18 **(Cross-Complainant on behalf of herself and the Collective and/or Class)**

19 89. Cross-Complainant incorporates by reference all previous paragraphs of this
20 Complaint.

21 90. Cross-Defendant has engaged in a widespread pattern and practice of violating the
22 FLSA, as described in this Complaint.

23 91. At all relevant times, Cross-Complainant and other similarly situated current and
24 former employees were engaged in commerce and/or the production of goods for commerce within
25 the meaning of 29 U.S.C. §§ 206(a) and 207(a).

26 92. At all relevant times, Cross-Defendant employed Cross-Complainant and other
27 similarly situated current and former employees.

28 93. The minimum wage and overtime wage provisions set forth in §§ 201 et seq. of the
FLSA apply to Cross-Defendant.

1 94. At all relevant times, Cross-Defendant has been an employer engaged in commerce
2 and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and
3 207(a).

4 95. At all relevant times, Cross-Complainant and other similarly situated current and
5 former employees were employees within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

6 96. Repayment of alleged costs under the TRAP that Cross-Defendant has imposed on
7 Cross-Complainant and the other similarly situated current and former employees is an illegal
8 kickback of wages to Cross-Defendant, because these costs are primarily for Cross-Defendant's
9 benefit.

10 97. Kicking back these costs to Cross-Defendant takes employees' wages below
11 minimum wage, resulting in a minimum wage violation.

12 98. Cross-Complainant and other similarly situated current and former employees were
13 not paid at least the minimum wage for all hours worked, because they were required to kick back
14 those wages to Cross-Defendant under the TRAP.

15 99. Cross-Defendant's violations of the FLSA have been willful and intentional. Cross-
16 Defendant failed to make a good faith effort to comply with the FLSA with respect to its
17 compensation of Cross-Complainant and other similarly-situated current and former employees.

18 100. Because Defendant's violations of the FLSA have been willful, a three-year statute
19 of limitations applies, pursuant to 29 U.S.C. § 255.

20 101. Cross-Complainant and other similarly situated current and former employees are
21 entitled to recover unpaid minimum wages plus an additional equal amount in liquidated damages
22 and declaratory relief that the purported costs of the debt are not reimbursable pursuant to the
23 FLSA, costs of suit, and reasonable attorneys' fees pursuant to 29 U.S.C. § 216(b).

24
25 **THIRD CAUSE OF ACTION**
26 **Failure to Pay Wages Free and Clear under the Fair Labor Standards Act**
 29 U.S.C. § 216
 (Cross-Complainant on behalf of herself and the Collective and/or Class)

27 102. Cross-Complainant incorporates by reference all previous paragraphs of this
28 Complaint.

1 103. Defendant has engaged in a widespread pattern and practice of violating the FLSA,
2 as described in this Complaint.

3 104. At all relevant times, Cross-Complainant and other similarly situated current and
4 former employees were engaged in commerce and/or the production of goods for commerce within
5 the meaning of 29 U.S.C. §§ 206(a) and 207(a).

6 105. At all relevant times, Defendant employed Cross-Complainant and other similarly
7 situated current and former employees.

8 106. The minimum wage and overtime wage provisions set forth in §§ 201 et seq. of the
9 FLSA apply to Defendant.

10 107. At all relevant times, Defendant has been an employer engaged in commerce and/or
11 the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

12 108. At all relevant times, Cross-Complainant and other similarly situated current and
13 former employees were employees within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

14 109. Defendant violated 29 U.S.C. § 206 by unlawfully requiring Cross-Complainant
15 and other similarly situated current and former employees to repay their earned and taxed wages
16 to Defendant once their employment with Defendant ended (including under some circumstances
17 if Defendant chose to fire them).

18 110. Rather than paying Cross-Complainant and other similarly situated current and
19 former employees their wages “free and clear,” Defendant maintained and enforced a policy under
20 which the wages paid to employees during every pay period were paid conditionally, subject to
21 the requirement that they not leave their jobs. If they did leave their jobs, they would have to repay
22 all of the wages earned during the pending pay period, plus tens of thousands of additional dollars.

23 111. By requiring Cross-Complainant and other similarly situated employees to return
24 their wages to Defendant if they left their jobs, Defendant failed to pay wages “finally and
25 unconditionally,” as required by the FLSA.

26 112. Because Defendant failed to pay wages “finally and unconditionally,” Defendant
27 cannot be deemed to have met the wage requirements of the FLSA, which includes the requirement
28 to pay no less than the federal minimum wage for each hour worked free and clear.

1 113. Defendant's violations of the FLSA have been willful and intentional. Defendant
2 failed to make a good faith effort to comply with the FLSA with respect to its compensation of
3 Cross-Complainant and other similarly situated current and former employees.

4 114. Because Defendant's violations of the FLSA have been willful, a three-year statute
5 of limitations applies, pursuant to 29 U.S.C. § 255.

6 115. Cross-Complainant and others similarly situated are entitled to recover all unpaid
7 minimum wages plus an additional equal amount in liquidated damages, costs of suit, and
8 reasonable attorneys' fees pursuant to 29 U.S.C. § 216(b).

9
10 **FOURTH CAUSE OF ACTION**
11 **Off-the-Clock Work in Violation of the Fair Labor Standards Act**
12 **29 U.S.C. § 216**
13 **(Cross-Complainant on behalf of herself and the Collective and/or Class)**

14 116. Cross-Complainant incorporates by reference all previous paragraphs of this
15 Complaint.

16 117. Defendant has engaged in a widespread pattern and practice of violating the FLSA,
17 as described in this Complaint.

18 118. At all relevant times, Cross-Complainant and other similarly situated current and
19 former employees were engaged in commerce and/or the production of goods for commerce within
20 the meaning of 29 U.S.C. §§ 206(a) and 207(a).

21 119. At all relevant times, Defendant employed Cross-Complainant and other similarly
22 situated current and former employees.

23 120. The minimum wage and overtime wage provisions set forth in §§ 201 et seq. of the
24 FLSA apply to Defendant.

25 121. At all relevant times, Defendant has been an employer engaged in commerce and/or
26 the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

27 122. At all relevant times, Cross-Complainant and other similarly situated current and
28 former employees were employees within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

 123. Defendant violated the FLSA by failing to pay employees for all hours worked,

1 124. As a result of Defendant's violations of the FLSA, Cross-Complainant and other
2 similarly situated current and former employees have suffered damages by being denied wages for
3 all hours worked, including overtime wages for hours worked in excess of 40 hours per week, in
4 accordance with 29 U.S.C. §§ 201 *et seq.*

5 125. Cross-Complainant and others similarly situated are entitled to recover wages for
6 all hours worked plus an additional equal amount in liquidated damages, costs of suit, and
7 reasonable attorneys' fees pursuant to 29 U.S.C. § 216(b).

8
9 **FIFTH CAUSE OF ACTION**
10 **Failure to Reimburse Required Business Expenses**
11 **CAL. BUS. & PROF. CODE § 17200**
12 **(Cross-Complainant on behalf of herself and the Class)**

13 126. Cross-Complainant incorporates by reference all previous paragraphs of the
14 Complaint.

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

18 128. This right cannot be waived by contract. Cal. Labor Code § 2804.

19 129. Cross-Complainant and the Class incurred work-related expenses, including but not
20 limited to paying for training modules and using personal computers and cell phones, in direct
21 consequence of the discharge of their duties or due to their obedience to the directions of the
22 employer, which expenses were is incurred for the employer's benefit and were not required by
23 statute or ordinance.

24 130. Defendant has failed to indemnify or in any manner reimburse Cross-Complainant
25 and the Class for these expenditures and losses. By requiring Cross-Complainant and the Class to
26 pay expenses and cover losses that they incurred in direct consequence of the discharge of their
27 duties for Defendants and/or in obedience to Defendants' direction, Defendants have violated and
28 continue to violate Cal. Labor Code § 2802.

1 131. Cross-Complainant and the TRAP Class have been harmed in an amount according
2 to proof at trial, and seek reimbursement of all necessary expenditures plus any available damages,
3 interest, penalties, fees, and costs.

4
5 **SIXTH CAUSE OF ACTION**
6 **Labor Trafficking**
7 **CAL. CIV. CODE § 52.5**
8 **(Cross-Complainant on behalf of herself and the Class)**

9 132. Cross-Complainant incorporates by reference all previous paragraphs of this
10 Cross-Complaint.

11 133. Cal. Civ. Code § 52.5 provides that a victim of human trafficking as defined in
12 Section 236.1 of the Penal Code may bring a civil action for violation of that statute.

13 134. Section 236.1 provides that a person who deprives or violates the personal liberty
14 of another with the intent to obtain forced labor or services is guilty of human trafficking.

15 135. An unlawful deprivation or violation of the personal liberty of another includes
16 substantial and sustained restriction of another's liberty accomplished through force, fear, fraud,
17 deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another
18 person under circumstances where the person receiving or apprehending the threat reasonably
19 believes that it is likely that the person making the threat would carry it out.

20 136. Defendant obtained the labor of Cross-Complainant and the Class members through
21 unlawful deprivations or violations of their personal liberty through a scheme to make Cross-
22 Complainant and members of the Class believe they would suffer serious financial and legal
23 consequences for leaving their jobs and through the terms and administration of its contract with
24 employees.

25 137. Cross-Defendant kept Cross-Complainant and the Class working for it against their
26 will with contractual provisions that led employees to fear financial ruin and other isolating and
27 draconian employment terms, as described herein.

28 138. Cross-Defendant's use of such means to obtain the labor of Cross-Complainant and
the Class was knowing and intentional.

1 139. Cross-Complainant and the Class suffered damages because of Cross-Defendant's
2 conduct. Those damages include the penalty some members of the Class paid to Cross-Defendant,
3 as well as emotional distress and other damages.

4 140. Cross-Complainant and the Class are entitled to an injunction, actual, compensatory
5 and/or punitive damages, including treble damages and/or statutory damages, and restitution in
6 amounts to be determined at trial, together with reasonable attorneys' fees and the costs of this
7 action.

8
9 **SEVENTH CAUSE OF ACTION**
10 **Unfair Competition**
11 **CAL. BUS. & PROF. CODE § 17200**
12 **(Cross-Complainant on behalf of herself and the Class)**

13 141. Cross-Complainant incorporates by reference all previous paragraphs of this Cross-
14 Complaint.

15 142. Cross-Defendant's policies and practices violate several provisions of California
16 law.

17 143. These include California Labor Code § 432.5, which makes it unlawful for any
18 employer to knowingly require an employee to agree to a contract containing terms that are
19 prohibited by law.

20 144. Under California Government Code § 12964.5(a)(1)(B)(i) it is unlawful for an
21 employer to require an employee to sign a non-disparagement agreement or other document to the
22 extent it has the purpose or effect of denying the employee the right to disclose information about
23 unlawful acts in the workplace.

24 145. Any non-disparagement or other contractual provision that restricts an employee's
25 ability to disclose job-related information must include language substantially similar to the
26 following: "Nothing in this agreement prevents you from discussing or disclosing information
27 about unlawful acts in the workplace, such as harassment or discrimination or any other conduct
28 that you have reason to believe is unlawful." Cal. Gov't Code § 12964.5(a)(1)(B)(ii).

1 146. The LA Laser Center employment agreement for Physician Assistants contains
2 broad non-disparagement and confidentiality provisions that, if it were enforceable, would restrict
3 the rights of employees to disclose information about unlawful acts in the workplace.

4 147. The LA Laser Center employment agreement for Physician Assistants does not
5 contain the language required by Cal. Gov't Code § 12964.5(a)(1)(B)(ii).

6 148. The LA Laser Center employment agreement for Physician Assistants is contrary
7 to public policy and is unenforceable. Cal. Gov't Code § § 12964.5(a)(2).

8 149. Under California Government Code § 16600, non-competition agreements are
9 unlawful and invalid.

10 150. The LA Laser Center employment agreement for Physician Assistants includes an
11 unlawful non-competition agreement.

12 151. These policies and practices constitute unfair and unlawful business practices, in
13 violation of Cal. Bus. & Prof. Code § 17200. These unfair and unlawful business practices have
14 injured Cross-Complainant and the Class.

15 152. Cross-Complainant and the Class are entitled to restitution as well as injunctive and
16 other equitable relief against such unfair and unlawful practices in order to remedy past harms and
17 prevent future damages, for which there is no adequate remedy at law.

18
19 **EIGHTH CAUSE OF ACTION**
20 **Declaratory and Injunctive Relief**
21 **CAL. CODE CIV. PROC § 1060**
22 **(Plaintiff on behalf of herself and the Class)**

23 153. Cross-Complainant incorporates by reference all previous paragraphs of this
24 Cross-Complaint.

25 154. Cross-Complainant seeks a declaration pursuant to C.C.P. § 1060 that the TRAPs
26 and non-disparagement and confidentiality provisions entered into are void and unenforceable.

27 155. An actual, present, and justiciable controversy now exists with respect to the rights
28 of Cross-Complainant, the Class, and Cross-Defendant. Cross-Complainant contends that the
TRAP is void and unenforceable. Cross-Defendant, on the other hand, disputes this contention.

156. A judicial determination of the rights and obligations of Cross-Complainant and the Class, and Cross-Defendant is necessary and appropriate at this time under the circumstances.

PRAYER FOR RELIEF

Cross-Complainant and the Class respectfully request that the Court:

- a. Certify this case as a class and collective action and appoint Cross-Complainant as Class and Collective Representative and her counsel as Class and Collective Counsel;
- b. Declare that Cross-Defendant's conduct is illegal under the various statutes cited here;
- c. Preliminarily and permanently enjoin LA Laser Center and its officers, agents, successors, employees, representatives, and any and all persons acting in concert with them from engaging in the unlawful practices set forth in this Cross-Complaint;
- d. Award Cross-Complainant and the proposed Class all appropriate relief, including but not limited to restitution, disgorgement, and damages, including statutory and punitive damages as available, in amount subject to proof at trial;
- e. Award costs incurred herein, including reasonable attorneys' fees to the extent allowable by law;
- f. Award such other and further legal and equitable relief as this Court deems necessary, just, and proper.

JURY DEMAND

Cross-Complainant requests a trial by jury of all claims that can be so tried.

1 Dated: October 24, 2023

Respectfully submitted,

2
3 By: 

4 Rachel W. Dempsey (SBN 310424)
5 David H. Seligman (*pro hac vice* forthcoming)
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13 *Putative Class and Collective*
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1 **PROOF OF SERVICE**

2 I am employed in the County of Denver, State of Colorado. I am over the age of 18 years
3 and am not a party to the within action. My business address is 303 E. 17th Avenue, Ste. 400,
4 Denver, Colorado, 80203

5 On October 24, 2023, I caused to be served the following document(s) described as
6 CROSS-COMPLAINANT DREW LAKEY'S CROSS-COMPLAINT on the interested parties in
7 this action as follows:

8 David R. Krause-Leemon
9 BEAUDOIN & KRAUSE-LEEMON, LLP
10 1503 Ventura Boulevard, Building C, Suite 870
11 Sherman Oaks, California 91403
12 Telephone: 818-230-7469
13 Email: david@bk-llaw.com

14 ☒ **BY ELECTRONIC SERVICE:** I caused the above documents to be served via the Los
15 Angeles Superior Court's electronic service provider, Janney and Janney.

16 ☒ **BY MAIL:** I placed a true and correct copy of the document(s) in a sealed envelope and
17 deposited the sealed envelope with the United States Postal Service with the postage fully
18 prepaid.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.

21 Executed on October 24, 2023, at Denver, Colorado.

22 By: 

23 Rachel W. Dempsey
24
25
26
27
28