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JUDITH CHAVEZ
on behalf of herself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JUDITH CHAVEZ, an individual on behalf
of herself and others similarly situated,

Plaintiff,

vs.

HOMELIVING HEALTH PROVIDERS,
INC, a California Corporation; and DOES 1
to 100, inclusive,

Defendants.

) Case No.: 23STCV06915

) **CLASS ACTION**

) **FIRST AMENDED COMPLAINT FOR:**

) **1. FAILURE TO PAY OVERTIME;**

) **2. FAILURE TO PROVIDE MEAL
PERIODS;**

) **3. FAILURE TO AUTHORIZE AND
PERMIT REST PERIODS;**

) **4. WAITING TIME PENALTIES;**

) **5. FAILURE TO PROVIDE ACCURATE
WAGE STATEMENTS;**

) **6. FAILURE TO REIMBURSE BUSINESS
EXPENSES;**

) **7. UNFAIR COMPETITION;**

) **8. DECLARATORY RELIEF; and**

) **9. VIOLATION OF CALIFORNIA
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2699, et seq.)**

) **DEMAND FOR JURY TRIAL**

) Complaint Filed: March 29, 2023

1 Plaintiff JUDITH CHAVEZ ("CHAVEZ" or "PLAINTIFF") on behalf of herself and all
2 others similarly situated, for her causes of action against Defendants HOMELIVING HEALTH
3 PROVIDERS, INC. ("HOMELIVING" or "DEFENDANT") and DOES 1 through 100
4 (hereinafter HOMELIVING and DOES 1 through 100 are sometimes collectively referred to
5 herein as "Defendants"), hereby complains and alleges as follows:

6 **I. INTRODUCTION**

7 1. This is a class action, under Code of Civil Procedure § 382, seeking recovery for
8 Defendants' violations of California Labor Code §§ 201-203, 226, 226.7, 510, 512, 1194, 2802,
9 and Business & Professions Code §17200, and all applicable Industrial Welfare Commission
10 (IWC) Wage Orders, among other things.

11 2. Plaintiff's action seeks, among other things, monetary damages, penalties,
12 restitution from Defendants as a result of Defendants' unlawful, fraudulent, and/or unfair
13 business practices, declaratory relief, and injunctive relief.

14 3. This action is brought as a class action on behalf of all current and former
15 employees of Defendants who are California citizens and who worked for Defendants in
16 California during the relevant time period.

17 4. The acts complained of herein occurred, occur and will occur, at least in part,
18 within the time period from four (4) years preceding the filing of this Complaint, up to and
19 through the time of trial for this matter.

20 **II. THE PARTIES**

21 5. Plaintiff CHAVEZ was, and at all relevant times mentioned herein, has been an
22 individual residing within the State of California. Plaintiff CHAVEZ has worked for Defendants
23 from January 2023 to present.

24 6. Defendant HOMELIVING operates a healthcare business that provides in-home
25 care for patients. Plaintiff is informed and believes, and based thereon alleges, that Defendant
26 HOMELIVING is a California Corporation doing business in the State of California.

27 7. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
28 each of them, were at all times mentioned herein the agents, servants, and/or employees of each
of the remaining Defendants, and in doing the things alleged herein, were acting within the
course and scope of their authority and acted with the knowledge, consent and permission of the

1 other Defendants, and each of them. Each and every one of the acts and omissions alleged herein
2 were performed by and/or attributable to, all Defendants, each acting under the direction and
3 control of each of the other Defendants and said acts and failures to act were within the course
4 and scope of said agency, employment and/or direction and control, and were committed
5 willfully, oppressively, and fraudulently.

6 8. Defendants DOES 1 through 100, inclusive, are sued herein under fictitious
7 names. Their true names and capacities are unknown to Plaintiff. When their true names and
8 capacities are ascertained, Plaintiff will amend the complaint by inserting their true names and
9 capacities herein. Plaintiff is informed and believes, and based thereon alleges, that each of the
10 fictitiously named Defendants are responsible in some manner for the occurrences herein alleged
11 and that Plaintiff's damages as herein alleged were proximately caused by the Defendants. Each
12 reference in this complaint to "Defendant," "Defendants," or a specifically named Defendant
13 refers also to all Defendants sued under fictitious names.

14 9. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
15 herein Defendants maintained offices, employed persons, conducted business in, and/or engaged
16 in illegal employment practices and policies in the State of California.

17 **III. JURISDICTION**

18 10. The California Superior Court has jurisdiction in this matter due to Defendants'
19 violations of California statutes and related industrial welfare commission wage orders.

20 11. The California Superior Court also has jurisdiction in this matter because both the
21 individual and aggregate monetary damages, restitution, and other relief sought herein exceed the
22 jurisdiction limits of the Superior Court and will be established at trial, according to proof.

23 **IV. VENUE**

24 12. Venue in Los Angeles County is proper because Defendants conduct business in
25 Los Angeles County as well as throughout the State of California, and the acts and liabilities
26 complained of herein arose in Los Angeles County and throughout the State of California.

27 **V. COMMON FACTUAL ALLEGATIONS**

28 13. Plaintiff was hired by Defendants as a licensed vocational nurse in January 2023.
Plaintiff's job duties include providing skilled nursing services to patients at their residences.

1 14. Defendants own and operate a healthcare business in Los Angeles County
2 California. Defendants hire skilled medical professionals such as nurses, physical therapists,
3 speech therapists, occupational therapists and mental health counselors. Defendants business
4 operates primarily on a referral basis, wherein Defendants receive a referral for patient care from
5 a doctor, hospital, board care facility, or insurance company. Defendants thereafter assign one of
6 their skilled medical professional employees to provide patient care on an as needed basis.

7 15. Plaintiff regularly worked in excess of 8 hours per day, and in excess of 40 hours
8 per week, and was paid an hourly wage.

9 16. Plaintiff and the class members have and continue to work overtime, without
10 premium compensation.

11 17. Defendants have failed to provide proper meal breaks to Plaintiff and the class
12 members. Plaintiff's workload prevents her from taking regular duty free meal breaks and/or
13 taking them in a timely manner. Often Plaintiff is interrupted or has to respond to various
14 communications in order to respond to patient needs. Plaintiff is always "on call" during her
15 shift. Plaintiff is not provided proper, timely meal breaks, nor has she received penalties for
16 missed meal breaks.

17 18. Defendants have also failed to authorize and permit proper rest breaks. Plaintiff's
18 workload prevents her from taking regular, duty free rest breaks. In fact, Plaintiff does not recall
19 receiving duty free rest breaks while working for Defendants, nor has she received penalties for
20 missed rest breaks.

21 19. Defendants have also failed to properly reimburse Plaintiff, and the class
22 members, for necessary business expenses incurred while performing their duties for Defendants,
23 including, but not limited to, the use of personal cell phones for business purposes, mileage on
24 her personal vehicle, and related expenses. Defendants did not reimburse their employees for
25 these costs.

26 **VI. PRIVATE ATTORNEYS GENERAL ACT OF 2004**

27 20. On or about March 30, 2023, Plaintiff Chavez provided written notice via online
28 submission and certified mail to the Labor and Workforce Development Agency ("LWDA") and
Defendants of the specific provisions of the Labor Code alleged to have been violated, including
the facts and theories to support the alleged violations.

1 21. After 65 days from the service of the LWDA letter described above, the LWDA
2 failed to respond to Plaintiff's correspondence notifying the LWDA of the Labor Code violations
3 committed by Defendants. Plaintiff has fully complied with the notice requirements set forth in
4 California Labor Code § 2699.3 in order to commence a civil action against an employer
5 pursuant to Labor Code § 2699.

6 22. Defendants' failure to pay Plaintiff and other aggrieved current and former
7 employees for all hours worked, minimum wages, overtime compensation, failure to authorize
8 and permit meal and rest periods, failure to provide accurate itemized wage statements, failure to
9 reimburse business expenditures, and waiting time penalties will subject Defendants to civil
10 penalties pursuant to, without limitation, Labor Code §§ 201-203, 226, 226.7, 510, 512, 1194,
11 and 2802.

12 **VII. CLASS ACTION ALLEGATIONS**

13 23. Plaintiff brings this class action on behalf of herself and all others similarly
14 situated pursuant to California CCP § 382. The class is specifically defined as follows:
15 All persons who, within four years of the filing date of Plaintiff's Complaint, worked for
16 Defendants in the state of California as patient care employees (excluding medical doctors),
17 including registered nurses, skilled nurses, licensed vocational nurses, license practical nurses,
18 certified home health aides, physical therapists, occupational therapists, speech therapists, and
19 respiratory therapists.

20 24. The members of the class described above will hereinafter collectively be referred
21 to as the "Class Members."

22 25. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or
23 necessary to amend the definition of the Class. In any event, Plaintiff will formally define and
24 designate a class definition at such time when Plaintiff seeks to certify the Class alleged herein.

25 26. Numerosity (Code of Civil Procedure (CCP) § 382):

- 26 a. The potential quantity of members of the Class as defined is so numerous
- 27 that joinder of all members is unfeasible or impractical;
- 28 b. The disposition of the claims of the members of the Class through this
- class action will benefit both the parties and this Court;

- 1 c. The quantity and identity of such membership of the Class is readily
2 ascertainable via inspection of Defendants' records.

3 27. Superiority (CCP § 382): The nature of this action and the nature of the laws
4 available to Plaintiff makes the use of the class action format particularly efficient and the
5 appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein, as follows:

- 6 a. California public policy encourages the use of the class action device;
7 b. By establishing a technique whereby the claims of many individuals can
8 be resolved at the same time, the class suit both eliminates the possibility
9 of repetitious litigation and provides claimants with a method of obtaining
10 redress for claims that may be too small to warrant individual litigation;
11 c. This case involves large corporate Defendants and numerous individual
12 Class Members with small claims and common issues of law and fact;
13 d. If each individual member of the Class was required to file an individual
14 lawsuit, the corporate Defendants would necessarily gain an
15 unconscionable advantage because Defendants would be able to exploit
16 and overwhelm the limited resources of each individual member of the
17 Class with Defendants' vastly superior financial and legal resources;
18 e. Requiring each individual member of the Class to pursue an individual
19 remedy would also discourage the assertion of lawful claims by the
20 members of the Class who would be disinclined to pursue an action
21 against Defendants because of an appreciable and justifiable fear of
22 retaliation and permanent damage to their lives, careers and well-being;
23 f. Proof of a common business practice or factual pattern, of which the
24 members of the Class experienced, is representative of the Class herein
25 and will establish the right of each of the members of the Class to recover
26 on the causes of action alleged herein;
27 g. Absent class treatment, the prosecution of separate actions by the
28 individual members of the Class, even if possible, would likely create:

- (i) a substantial risk of each individual Plaintiff presenting in separate, duplicative proceedings the same or essentially similar arguments and evidence, including expert testimony;
 - (ii) a multiplicity of trials conducted at enormous expense to both the judicial system and the litigants;
 - (iii) inconsistent or varying verdicts or adjudications with respect to the individual members of the Class against Defendants;
 - (iv) potentially incompatible standards of conduct for Defendants; and
 - (v) potentially incompatible legal determinations with respect to individual members of the Class which may be dispositive of the interest of the other members of the Class who are not parties to the adjudications, or which would substantially impair or impede the ability of the members of the Class to protect their interests.
- h. The claims of the individual Class Members are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attendant thereto;
 - i. Courts seeking to preserve the efficiency and other benefits of class actions routinely fashion methods to manage any individual questions; and
 - j. The Supreme Court of California urges trial courts to consider the use of innovative procedural tools to manage class actions.

28. Well-defined Community of Interest: Plaintiff also meets the established standards for class certification as follows:

- a. Typicality: The claims of Plaintiff are typical of all members of the Class she seeks to represent because all members of the Class sustained injuries and damages arising out of Defendants' common course of conduct in violation of California law, as alleged herein.
- b. Adequacy: Plaintiff CHAVEZ
 - (i) is an adequate representative of the Class she seeks to represent;
 - (ii) will fairly protect the interests of the members of the Class;
 - (iii) has no interests antagonistic to the members of the Class; and

(iv) will vigorously pursue this suit via attorneys who are competent, skilled, and experienced in litigating matters of this type.

c. Predominant Common Questions of Law or Fact: There are common questions of law and fact that predominate over questions affecting only individual members. For instance, Defendants have adopted unlawful wage and hour policies and practices that apply to each and every California employee. Additional questions that should be decided on a class-wide basis, include, without limitation:

- (i) Whether Defendants violated California Labor Code § 510, 1194, the UCL, and applicable IWC Wage Orders by failing to pay overtime to Class Members;
- (ii) Whether Defendants violated California Labor Code § 2802 by failing to reimburse Class Members for reasonable business expenses they incurred;
- (iii) Whether class members were provided proper meal breaks;
- (iv) Whether class members were provided proper rest breaks;
- (v) Whether Defendants violated California Labor Code §§ 226(a), 1174.5, and applicable IWC Wage Orders by failing to furnish to Class Members proper itemized wage statements as alleged herein;
- (vi) Whether Defendants violated §§ 201-203 by failing to timely pay Class Members all wages due at the conclusion of their employment relationship;
- (vii) Whether Defendants engaged in unfair business practices;
- (ix) Whether Defendants' conduct was willful or reckless;
- (x) Whether Plaintiff and the members of the Class are entitled to seek recovery of penalties for the Labor Code and IWC Wage Order violations alleged herein;
- (xi) Whether the members of the Class are entitled to compensatory damages, and if so, the means of measuring such damages;
- (xii) Whether the members of the Class are entitled to injunctive relief;

- (xiii) Whether the members of the Class are entitled to restitution;
(xiv) Whether Defendants are liable for attorneys' fees and costs;
(xv) Whether Defendants violated California Business and Professions Code § 17200

29. The members of the Class are commonly entitled to declaratory relief, injunctive relief, damages, and restitution. This action is brought for the benefit of all members of the Class. Whether each member of the Class might be required to ultimately justify an individual claim does not preclude maintenance of a class action.

FIRST CAUSE OF ACTION

Failure To Pay Overtime

(Labor Code §§ 510, 1194)

30. Plaintiff incorporates by reference Paragraphs 1-29 as if fully set forth herein.

31. California Labor Code 510(a) and the IWC Wage Orders regulating payment of wages in California, provide that eight (8) hours of labor constitutes a day's work and any work in excess of eight (8) hours in one (1) workday and any work in excess of forty (40) hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for each employee and any work in excess of twelve (12) hours in any one workday shall be compensated at the rate of no less than twice the regular rate of pay for each employee.

32. California Labor Code § 1194 states that any employee receiving less than the legal overtime compensation due is entitled to recover the unpaid balance of the full amount of this overtime compensation, including interest, reasonable attorney's fees, and costs of suit.

33. Plaintiff and the Class Members regularly work in excess of 8 hours per day at patients' homes without proper compensation. Defendants pay Plaintiff and Class Members overtime compensation only after working over 40 hours in one work week.

34. Plaintiff and the Class Members are legally entitled to overtime compensation for all hours worked in excess of eight hours per day and all hours worked in excess of forty hours per week pursuant to the California Labor Code and the applicable Wage Orders.

35. As a direct and proximate result of Defendants' conduct, Plaintiff and the class members have suffered substantial losses and they have been deprived of compensation to which

1 they were entitled, according to proof, including monetary damages, pre-judgment interest, costs,
2 and attorneys' fees for the prosecution of this action.

3 36. Plaintiff and the Class Members request that the Court award them interest on all
4 unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from the
5 date the wages were due and payable pursuant to Labor Code § 218.6. Plaintiff and Class
6 Members further request that this Court award reasonable attorneys' fees and costs incurred in
7 this action pursuant to Labor Code §§ 218.5, 1194(a), and pursuant to the common fund doctrine.

8 **SECOND CAUSE OF ACTION**

9 **Failure To Provide Meal Periods**

10 **(Violation of Labor Code §§ 226.7 and 512)**

11 37. Plaintiff incorporates by reference Paragraphs 1-36 as if fully set forth herein.

12 38. California Labor Code § 512 and applicable IWC Wage Orders state that an
13 employer may not employ an employee for a work period of more than five (5) hours per day
14 without providing the employee a meal period of not less than 30 minutes, and an employer may
15 not employ an employee for a work period of more than 10 hours per day without providing the
16 employee with a second meal period of not less than 30 minutes.

17 39. Unless the employee is relieved of all duty during a 30-minute meal period, the
18 meal period shall be considered an "on duty" meal period and counted as time worked.
19 California Labor Code § 226.7(a) further states that no employer shall require any employee to
20 work during any meal mandated by an applicable order of the IWC.

21 40. Employers are prohibited from exerting coercion against the taking of, creating
22 incentives to forego, or otherwise encouraging the skipping of legally protected breaks.

23 41. Plaintiff's duties and workload do not permit Plaintiff to take proper, timely meal
24 periods. Often Plaintiff attempts to take her meal period but is interrupted by patients and their
25 caregivers. Other times she starts her meal period later than required by the Labor Code and
26 applicable IWC Wage Orders. Plaintiff is always "on call" during her work shifts.

27 42. Plaintiff and members of the Class are not provided with requisite meal periods
28 before the end of the first 5 hours of work. Defendants encourage the skipping of meal periods
by scheduling work to coincide with the meal periods, among other things. In addition, the pace
of the job requires Class Members to eat while working in order to keep up with their job duties.

1 43. Pursuant to California Labor Code § 226.7(c) and applicable IWC Wage Orders,
2 if an employer fails to provide an employee a meal period in accordance with the applicable
3 provisions of the IWC Wage Orders, the employer shall pay the employee one (1) hour of pay at
4 the employee's regular rate of pay for each workday that the meal period is not provided. As
5 such, Plaintiff and members of the Class are entitled to an additional one hour's pay for each day
6 in which Plaintiff and members of the Class were not provided a proper meal break.

7 44. Plaintiff and the members of the Class request that the Court award interest on all
8 unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from the
9 date the wages were due and payable pursuant to Labor Code § 218.6.

10 **THIRD CAUSE OF ACTION**

11 **Failure To Authorize Or Permit Rest Periods**

12 **(Violation of Labor Code § 226.7)**

13 45. Plaintiff incorporates by reference Paragraphs 1-44 as if fully set forth herein.

14 46. The applicable IWC Wage Orders state that every employer shall authorize and
15 permit all employees to take rest periods. The authorized rest period time shall be based on the
16 total hours worked daily at the rate of ten (10) minutes net rest time per four hours of work, or
17 major fraction thereof. An employer must provide employees with 10 minutes' rest for shifts
18 from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to
19 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.

20 47. Plaintiff's duties and workload do not permit Plaintiff to take proper rest periods.
21 In fact, Plaintiff does not recall ever receiving proper rest periods.

22 48. Pursuant to California Labor Code § 226.7(c) and the applicable IWC Wage
23 Orders, if an employer fails to provide an employee a rest period in accordance with the
24 applicable IWC Wage Orders, the employer shall pay the employee one (1) hour of pay at the
25 employee's regular rate of compensation for each workday that the rest period is not provided.

26 49. As such, Plaintiff and the Class members are entitled to an additional one hour's
27 pay for each day in which they were not provided a proper rest period.

28 50. Plaintiff and the members of the Class request that the Court award interest on all
unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from the
date the wages were due and payable pursuant to Labor Code § 218.6.

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FOURTH CAUSE OF ACTION

Failure To Provide Accurate Wage Statements

(Labor Code §§ 226, 1174.5)

51. Plaintiff incorporates by reference Paragraphs 1-50 as if fully set forth herein.

52. Labor Code § 226(a) provides that every employer shall, semi-monthly or at the time of each payment of wages, furnish each its employees, an accurate, itemized statement in writing, showing (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned if applicable, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee was paid, (7) the name of the employee and last 4 digits of the social security number, (8) the name of the employer and (9) all applicable daily rates in effect during the pay period and corresponding number of hours worked.

53. Defendants fail to provide Plaintiff and the Class Members with accurate wage statements as is required by Labor Code § 226.

54. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class Members have suffered substantial losses and they have been deprived of compensation to which they were entitled, according to proof, including monetary damages, pre-judgment interest, costs, and attorneys' fees for the prosecution of this action.

55. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class Members are each entitled to recover \$50 for the initial pay period in which a violation of Labor Code § 226 occurred, and \$100 per class member for each violation in a subsequent pay period, not to exceed \$4000 per class member, pursuant to Labor Code §226(e).

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FIFTH CAUSE OF ACTION

Failure to Reimburse Business Expenses

(Labor Code § 2802)

56. Plaintiff incorporates by reference Paragraphs 1-55 as if fully set forth herein.

57. California Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

58. As a matter of policy and/or practice, Defendants adopted, implemented, and enforced policies and procedures whereby Plaintiff and the class members are required to incur

1 expenditures in carrying out their duties for Defendants, including but not limited to expenses for
2 cell phones charges, mileage for using personal vehicles, and related expenses.

3 59. As a matter of policy, Defendants failed to indemnify or reimburse Plaintiff and
4 the class members for these expenditures. Defendants have violated and continue to violate
5 California Labor Code Section 2802.

6 60. As a direct and proximate result of Defendants' conduct, Plaintiff and the class
7 members have suffered substantial losses according to proof, including pre-judgment interest,
8 costs, and attorneys' fees for the prosecution of this action.

9 **SIXTH CAUSE OF ACTION**

10 **Unfair Competition**

11 **(Violation of Business & Professions Code § 17200)**

12 61. Plaintiff incorporates by reference Paragraphs 1-60 as if fully set forth herein.

13 62. California Business & Professions Code §17200 prohibits unfair competition in
14 the form of any unlawful, deceptive, or fraudulent business practice. The acts and practices
15 described within this Complaint constitute unlawful, unfair and fraudulent business practices,
16 and unfair competition within the meaning of Business & Professions Code §17200.

17 63. Plaintiff and the Class Members have suffered monetary loss and damages due to
18 Defendants' unlawful wage and hour policies.

19 64. Beginning at an exact date unknown to Plaintiff, Defendants committed unlawful
20 acts as described above, including: failing to pay overtime compensation to its employees,
21 failing to provide proper meal and rest breaks, failing to timely pay Plaintiffs and members of the
22 Class all wages due and owing, failing to reimburse class members for necessary business
23 expenses, and failing to properly maintain and submit itemized wage statements.

24 65. The violations of these laws serve as unlawful business practices for purposes of
25 Business and Professions Code § 17200 and remedies are provided therein under Business and
26 Professions Code § 17203.

27 66. As a proximate result of the aforementioned acts, the Defendants received and
28 continue to hold ill-gotten gains belonging to Plaintiff and all Class Members in that Defendants
have profited from their unlawful practices.

67. Business and Professions Code § 17203 provides that the Court may restore to

1 any person in interest any money or property that may have been acquired by means of such
2 unfair competition and order restitutionary damages to Defendants by operation of the practices
3 alleged therein. Plaintiff and all Class Members are entitled to restitution pursuant to Business
4 and Professions Code §§ 17203 and 17208 for all wages and civil penalties unlawfully withheld
5 from them during the four (4) years prior to the filing date of this complaint.

6 68. Plaintiff and all Class Members are entitled to unpaid wages, unpaid overtime,
7 injunctive relief, statutory and civil penalties, and any other remedy owing to them.

8 69. Injunctive relief is necessary and proper to prevent Defendants from repeating
9 their wrongful practices as alleged above.

10 70. In order to prevent Defendants from profiting and benefitting from their wrongful
11 and illegal acts, an order requiring Defendants to pay restitutionary damages to Plaintiff and all
12 Class Members is also appropriate and necessary.

13 71. Plaintiff has taken it upon herself to enforce these claims. There is a financial
14 burden incurred in pursuing this action and it would be against the interests of justice to penalize
15 Plaintiff by forcing her to pay attorneys' fees in this action. Therefore, attorneys' fees are
16 appropriate pursuant to Code of Civil Procedure Section 1021.5.

17 **SEVENTH CAUSE OF ACTION**

18 **(Declaratory Relief)**

19 72. Plaintiff incorporates by reference Paragraphs 1-71 as if fully set forth herein.

20 73. California Code of Civil Procedure §1060 provides that any person who desires a
21 declaration of his or her rights or duties with respect to another, in cases of actual controversy
22 relating to the legal rights and duties of the respective parties, may ask the Court for a declaration
23 of rights or duties, and the Court may make a binding declaration of these rights or duties,
24 whether or not further relief is or could be claimed at the time; any such declaration by the Court
25 shall have the force of a final judgment.

26 74. Defendants continue to engage in some or all of the unlawful and unfair conduct
27 as described herein.

28 75. An actual controversy exists in that Defendants assert they have the legal right to
perform the acts as described herein.

1 76. Plaintiff desires a declaration as to the rights of Plaintiff and all others similarly
2 situated with respect to Defendants' unlawful and unfair conduct, as described herein.

3 77. It is therefore necessary that the Court declare the rights and duties of the parties
4 hereto.

5 **NINTH CAUSE OF ACTION**
6 **(Violation of California Labor Code §§ 2699 et seq.,**
7 **the Private Attorney General Act)**

8 78. Plaintiff incorporates by reference Paragraphs 1-77 as if fully set forth herein.

9 79. Plaintiff is an aggrieved employee as defined in Labor Code § 2699(c) and related
10 Labor Code provisions. Plaintiff brings this cause of action on behalf of herself and all other
11 aggrieved current and former employees affected by the labor law violations alleged herein.

12 80. Defendants committed numerous violations of the California Labor Code and IWC
13 Wage Orders against the Plaintiff, and on information and belief, other aggrieved current and
14 former employees while they were employed by Defendants, including but not limited to:

15 a. Defendants violated Labor Code §§ 510, 1194 and/or applicable wage
16 orders by failing to pay Plaintiff and all other aggrieved current and former employees all overtime
17 wages owed in compliance with California law;

18 b. Defendants violated Labor Code §§ 226.7, 510, 1194, 1197 and/or
19 applicable wage orders by failing to pay Plaintiff and all other aggrieved current and former
20 employees for a missed meal or rest period at the regular rate of pay;

21 c. Defendants violated Labor Code §§ 1194, 1197 and/or applicable wage
22 orders by failing to pay Plaintiff and all other aggrieved current and former employees all
23 minimum wages owed in compliance with California law;

24 d. Defendants violated Labor Code § 226.7, 512, and /or applicable wage
25 orders by failing to provide Plaintiff and all other aggrieved current and former employees the
26 opportunity to take the requisite meal periods in compliance with California law;

27 e. Defendants violated Labor Code § 226.7 and/or applicable wage orders by
28 failing to authorize and permit Plaintiff and all other aggrieved current and former employees the
opportunity to take the requisite rest periods in compliance with California law;

1 f. Defendants violated Labor Code §§ 226, 1174 and/or applicable wage
2 orders by failing to properly maintain and/or submit accurate itemized wage statements on behalf
3 of Plaintiff and all other aggrieved current and former employees as described herein;

4 g. Defendants violated Labor Code §§ 201, 202 and/or applicable wage
5 orders by failing to timely pay Plaintiff and all other aggrieved current and former employees, as
6 described herein;

7 h. Defendants violated Labor Code § 2802 and/or applicable wage orders by
8 failing to indemnify or reimburse Plaintiff and all other aggrieved current and former employees
9 for expenditures incurred in carrying out their duties for Defendant; and

10 81. Pursuant to Labor Code § 2699, Plaintiff and all other aggrieved current and
11 former employees seek to recover civil penalties, as otherwise provided by statute and wage
12 order, for which Defendants are liable as a result of their violations of the California Labor Code
13 and applicable wage order(s) in an amount to be proven at trial. These penalties include, but are
14 not limited to, those provided by Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1 and 2699.
15 Plaintiff and aggrieved current and former employees further seek and award of reasonable
16 attorneys' fees and costs pursuant to Labor Code § 2699, et seq.

17 **WHEREFORE**, Plaintiff prays:

18 1. That the Court issue an Order certifying the Class herein, appointing the named
19 Plaintiff as representative of all others similarly situated, and appointing the law firm
20 representing the named Plaintiff as counsel for members of the Class;

21 2. For an Order requiring Defendants to identify each of the members of the Class
22 by name, home address, e-mail addresses, and home telephone number;

23 3. For the creation of an administrative process wherein each injured member of the
24 Class may submit a claim in order to receive his or her money;

25 4. For general and compensatory damages according to proof at trial;

26 5. For damages as authorized by each and every California Labor Code statute as
27 referenced herein, including recovery of all unpaid wages due and owing;

28 6. For preliminary, permanent, and mandatory injunctive relief prohibiting the
Defendants and their agents from committing any future violations of the law as herein alleged;

- 1 7. For an order imposing all statutory and/or civil penalties provided by law;
- 2 8. For an award of restitution, according to proof, under the Business and
- 3 Professions Code §17200 et seq. and applicable California Labor Code provisions;
- 4 9. For a declaration from the Court determining the rights of Plaintiff and all others
- 5 similarly situated regarding Defendants' unlawful and unfair conduct as described herein; .
- 6 10. Costs of suit, including attorney's fees pursuant to California Labor Code § 1194,
- 7 218.5, 226, the common fund doctrine, and all applicable labor code provisions;
- 8 11. For interest at the legal rate of 10% per annum;
- 9 12. Liquidated damages pursuant to Labor Code § 1194.2;
- 10 13. That the Court declare, adjudge and decree that Defendant violated California
- 11 Private Attorneys General Act, Labor Code § 2699 et seq and order the imposition of civil
- 12 penalties;
- 13 14. Such further relief as the Court deems just and proper.

14 Dated: June 7, 2023

SHANBERG STAFFORD LLP

15 

16 By: _____

17 ROSS E. SHANBERG

18 SHANE C. STAFFORD

19 Attorneys for Plaintiff

20 JUDITH CHAVEZ, on behalf of

21 herself and all others similarly situated

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DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all others similarly situated, hereby demands a Trial by Jury for all triable issues.

Dated: June 7, 2023

SHANBERG STAFFORD LLP

By:  _____
ROSS E. SHANBERG
SHANE C. STAFFORD
Attorneys for Plaintiff
JUDITH CHAVEZ, on behalf of
herself and all others similarly situated

