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Attorneys for Plaintiff,
ARIANNA MEJIA on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ARIANNA MEJIA, an individual, on behalf of) Case No.: **23STCV11580**
herself, all aggrieved employees, and the State)
of California as a Private Attorneys General,)

Plaintiff,

vs.

REPRESENTATIVE ACTION

MEMORIALCARE MEDICAL
FOUNDATION, a California non-profit
corporation and DOES 1-50, inclusive,

Defendant.

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 et seq.**

Plaintiff ARIANNA MEJIA brings this PAGA representative action complaint on behalf
of herself, all aggrieved employees, and the State of California as a Private Attorneys General, and
alleges as follows:

NATURE OF THE ACTION

1. Plaintiff ARIANNA MEJIA works as an employee for Defendant MEMORIALCARE
MEDICAL FOUNDATION and Does 1-50 (collectively “Defendant”). Defendant is a healthcare
organization. Plaintiff ARIANNA MEJIA is a current employee for Defendant, working as a

1 Medical Assistant since October of 2022. Plaintiff brings this action pursuant to the Private
2 Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a representative
3 basis. All current and former employees of Defendant within one year of serving notice on the
4 LWDA to the present are aggrieved employees.

5 2. Defendant failed to comply with California Labor Code requirements due to erroneous,
6 willful and intentional employment practices and policies. Plaintiff brings this representative
7 action on behalf of herself, all other similarly situated aggrieved employees, and the State of
8 California, based upon the claims articulated below. Plaintiff provided notice of her claims
9 pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as
10 illustrated by the attached Exhibit, the content of which is expressly incorporated herein. The
11 LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice
12 period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil
13 penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

14 3. Defendant has had a consistent policy and/or practice of: (1) failing to pay for all hours
15 worked, including overtime hours worked; (2) failing to provide rest breaks; (3) failing to provide
16 uninterrupted meal breaks and second meal breaks; (4) failing to reimburse for required business
17 expenses; (5) failing to pay wages due upon termination; (6) failing to provide accurate itemized
18 wage statements. Defendant is therefore liable for civil penalties under the Cal. Labor Code,
19 including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, as described
20 more fully herein.

21 THE PARTIES

22 4. Plaintiff ARIANNA MEJIA is a resident of the State of California and started working
23 for Defendant a Medical Assistant from October of 2022.

24 5. Defendant MEMORIALCARE MEDICAL FOUNDATION is a California non-profit
25 authorized to do business and doing business in California with the capacity to sue and to be sued,
26 and doing business, in the county of Los Angeles, State of California.

27 6. Plaintiff is unaware of the true names, capacities, relationships, and extent of
28 participation in the conduct alleged herein, of the Defendant sued as DOES 1 through 50, but is

1 informed and believes and thereon alleges that said Defendant is legally responsible for the
2 wrongful conduct alleged herein and therefore sues Defendant by such fictitious names, Plaintiff
3 will amend this complaint when their true names and capabilities are ascertained.

4 7. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
5 indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees
6 of the representative class, and exercised control over their wages, hours, and working conditions.
7 Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects
8 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
9 plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable
10 to the other Defendants.

11 **JURISDICTION AND VENUE**

12 8. Venue is proper in this judicial district because Defendant conducts business in this
13 county and each Defendant has legal obligations to Plaintiff and many of the aggrieved employees
14 in this case that arose in this county.

15 9. The statutory penalties sought by Plaintiff exceeds the minimal jurisdictional limits of
16 the Superior Court and will be established according to proof at trial. Based on information,
17 investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for
18 monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars
19 (\$25,000).

20 10. The California Superior Court has jurisdiction in this matter because Plaintiff is a
21 resident of California and Defendant is qualified to do business in California and regularly conduct
22 business in California. Further, there is no federal question at issue as the claims herein are based
23 solely on California law.

24 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

25 11. During the relevant time-period, Defendant committed various violations of the
26 California Labor Code as alleged below in more detail. Defendant enforces multiple policies that
27 violate state law, which are intended to increase profits to the detriment of aggrieved employees.
28

1 12. This representative action represents over one hundred current and former aggrieved
2 employees.

3 13. For at least one (1) year prior to the date of service notice on the LWDA, and continuing
4 to the present, Defendant engaged in unlawful employment practices that resulted in violations of
5 numerous Labor Code sections, as set forth more fully below.

6 14. Plaintiff and all current and former employees within one year of filing this action to
7 the present are aggrieved employees within the meaning of Labor Code 2699, *et seq.* (See Labor
8 code §2699(c).)

9 15. Defendant, and each of them, has committed the following violations of the California
10 Labor Code:

11 **Failure to Pay For All Hours Worked, Including Overtime Hours Worked**

12 (Cal. Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 510, 511, 558, 1194,
13 1197, 1197.1, 1198, 2698 *et seq.*, Wage Order 5)

14 16. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
15 incorporate said paragraphs herein by reference.

16 17. Section 2(K) of Wage Orders 4 and 5 define “hours worked” as “the time during which
17 an employee is subject to the control of an including all the time the employee is suffered or
18 permitted to work, whether or not required to do so.” Defendant has been engaged in many
19 unlawful employment practices which resulted in underpayment for hours worked each pay period.

20 18. Plaintiff and aggrieved employees frequently worked off the clock and were routinely
21 subjected to periods wherein they were under the Defendant’s control but not compensated for
22 their time. Plaintiff and aggrieved employees have been required to provide patient care and
23 perform other work duties while off the clock. They have also been required to attend company
24 celebrations hosted at the employer’s job site off the clock. Plaintiff and aggrieved employees were
25 also required to work during unpaid, interrupted meal periods.

26 19. Defendant’s conduct described herein violates Labor Code §§ 200, 223, 226, 500, 1197
27 and 1198, and the Applicable Wage Orders. Therefore, pursuant to Labor Code §§ 203, 218.5,
28 226, 558, 1194 and 1194.2, Plaintiff and other Aggrieved Employees are entitled to recover

1 damages for the nonpayment of wages of all their worked hours in addition to penalties, attorneys'
2 fees, expenses, and costs of suit. As a result of these ongoing violations, Defendant is liable for,
3 among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 et seq.

4 20. Failure to Pay Wages- Required Minimum Wage. Pursuant to Labor Code §§ 1194,
5 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work
6 without paying wages at the proper minimum wage for all time worked as required by the
7 Applicable Wage Orders. Pursuant to the Applicable Wage Orders “hours worked” include “the
8 time during which an employee is subject to the control of an employer, and includes all the time
9 the employee is suffered or permitted to work, whether or not required to do so.” During the
10 applicable recovery period, Aggrieved Employees were suffered, permitted, and required to
11 perform work by Defendant for which they received no pay. The aforementioned acts by
12 Defendant were undertaken with the intention of depriving Aggrieved Employees of their earned
13 wages. As a result of these ongoing violations, Defendant is liable for, among other things, civil
14 penalties pursuant to Labor Code §§ 558 & 2698 et seq.

15 21. Failure to Pay All Wages Owed Twice Per Month. Defendant was required to pay
16 Plaintiff and aggrieved employees all wages earned twice during each calendar month pursuant to
17 Labor Code §204(a). Defendant failed to pay all wages earned to employees as a result of the
18 unlawful employment policies and practices discussed herein. As a result of these practices,
19 Plaintiff and aggrieved employees were underpaid for hours worked, including overtime and
20 penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.
21 Due to this failure, Defendant is liable under Labor Code §210 for failure to pay wages as required
22 by law

23 **Failure to Provide Rest Breaks**

24 (Cal. Lab. Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

25 22. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
26 incorporate said paragraphs herein by reference.

27 23. Defendant has failed to maintain a compliant rest period policy and practice that
28 provides its employees with off-duty rest periods as required by California law. Plaintiff reports

1 that she and her coworkers were frequently not provided with rest periods and she rarely received
2 one while working for Defendant. For example, employees are often assigned a specific time to
3 take the break but if they were in the middle of patient care, such as performing a patient intake,
4 taking blood pressure, etc., they are unable to simply leave the patient/exam room to take their
5 break. If they are busy with a patient at the time their assigned break time occurs, they were not
6 permitted to make up the break.

7 24. Rest periods were often either less than ten minutes, not provided, interrupted or late,
8 “on duty”, or not scheduled before and after a meal period for shifts greater than six hours, as
9 prescribed by California law because Defendant: (1) did not account for all hours worked that were
10 unaccounted for on their timecard; (2) did not adequately inform and train employees about their
11 rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately
12 inform and train employees about when, where and how to take timely and uninterrupted ten-
13 minute rest breaks; (4) because Defendant did not staff enough people to schedule all timely and
14 uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting
15 all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest
16 break policy.

17 25. Defendant did not authorize or permit all of its hourly employees to take at least a ten
18 minute rest period in which they were relieved of all duties, for every 4 hours of work, or major
19 fraction thereof, as required by Cal. Lab. Code §226.7, §512 and Wage Order 4-2001 11(A). When
20 breaks were missed Defendant failed to pay the 1-hour penalty, as required. Because Defendant
21 violated the Wage Order, Defendant is liable under Labor Code §1198. As a result of these
22 violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq*

23 **Failure to Provide Timely, Uninterrupted Meal Breaks and Second Meal Breaks**

24 (Cal. Lab. Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

25 26. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
26 incorporate said paragraphs herein by reference.

27 27. During Plaintiff’s employment, Defendant failed to maintain a compliant meal period
28 policy and practice. Defendant failed to provide all of its hourly employees with their right to take

1 an off-duty unpaid 30-minute meal period. Labor Code §512 provides, “[a]n employer may not
2 employ an employee for a work period of more than five hours per day without providing the
3 employee with a meal period of not less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o
4 employer shall require an employee to work during any meal... period mandated by an applicable
5 order of the Industrial Welfare Commission.” Paragraph 11(A) of the Wage Orders provides, in
6 pertinent part, “[u]nless an employee is relieved of all duty during a 30-minute meal period, the
7 meal period shall be considered an ‘on duty’ meal period and counted as time worked.” Labor
8 Code 1198 states that any violation of a wage order is a violation of the Labor Code.

9 28. Plaintiff and aggrieved employees often received late, short, and interrupted meal
10 periods. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because
11 Defendant: (1) did not account for all hours worked that were unaccounted for on their timecard;
12 (2) did not adequately inform and train employees about their rights to meal periods and premium
13 payments for non-compliant meal periods; (3) did not adequately inform and train employees about
14 when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because
15 Defendant did not staff enough people to schedule all timely and uninterrupted thirty-minute meal
16 periods; and/or (5) because management at various levels, affecting all hourly, non-exempt
17 employees, refused to offer, permit, or enforce a lawfully compliant meal period policy. Plaintiff
18 and aggrieved employees were not paid a premium payment, paid as an hour’s wage when meal
19 periods were not given to them in compliance with California law.

20 **Failure to Reimburse For Required Business Expenses**

21 (Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

22 29. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
23 incorporate said paragraphs herein by reference.

24 30. Labor Code §2802 requires employers to indemnify employees for necessary
25 expenditures or losses incurred by employees in direct consequence of discharge of duties. Here,
26 Plaintiff and aggrieved employees were required to use their personal cell phones and also required
27 to purchase mandatory uniform apparel, and employees were not compensated for the use of their
28 devices and resources. Plaintiff and aggrieved employees were also required to drive from one

1 location to another while on the clock yet were not paid mileage for the cost associated with using
2 their vehicles for work purposes. Plaintiff and aggrieved employees were also sent to training at
3 far-away locations and not paid for required travel time or associated mileage.

4 **Failure to Pay Wages Due Upon Termination**

5 (Cal. Labor Code §§201, 202, 203, 256 and 2698 *et seq.*)

6 31. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
7 incorporate said paragraphs herein by reference.

8 32. An employee who is discharged must be paid all of his or her wages immediately at
9 the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Defendant
10 knowingly and willfully failed to pay all compensation due and owing to aggrieved employees at
11 the time employment terminated. Defendant willfully failed to pay employees who are no longer
12 employed by it all compensation due upon termination of employment as required by Cal. Lab.
13 Code §§201 and 202. Separated aggrieved employees are now entitled to recover up to thirty (30)
14 days pay as waiting time under the terms of §203. Moreover, Defendant is liable for civil penalties
15 pursuant to Cal. Lab. Code § 2698 *et. seq.*

16 **Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Records**

17 (Cal. Labor Code §§ 226, 1174, 1199, 2699 *et seq.*)

18 33. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
19 incorporate said paragraphs herein by reference.

20 34. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
21 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
22 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and
23 aggrieved employees, and the records maintained by Defendant, have not accurately reflected
24 actual gross wages earned, including pay for all hours worked, and overtime pay, and pay for meal
25 and rest period penalty wages.

26 35. Such failures caused injury to Plaintiff and others, by, among other things, impeding
27 them from knowing the total hours worked and the amount of wages to which they are and were
28 entitled. Defendant knowingly and intentionally failed to itemize the gross wages earned, net

1 wages earned, and total hours worked. Defendant is liable for civil penalties pursuant to Labor
2 Code § 2698 *et seq.*

3 36. Finally, Defendant has violated Labor Code §432.5 for forcing Plaintiff and aggrieved
4 employees to sign employment related contracts and documents that contained unlawful terms of
5 employment.

6 **FIRST CAUSE OF ACTION**

7 **Against Defendant for Violation of the Private Attorneys General Act (“PAGA”)**

8 **(California Labor Code §2698 *et seq.*)**

9 37. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
10 incorporate said paragraphs herein by reference.

11 38. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by Defendant
12 during the applicable statutory period and suffered one or more of the Labor Code violations set
13 forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and
14 former aggrieved employees of Defendant, the civil penalties provided by PAGA, plus reasonable
15 attorneys’ fees and costs.

16 39. Plaintiff seeks to recover the PAGA civil penalties through a representative action
17 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
18 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

19 40. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
20 Code provisions:

- 21 a. Failure to Pay for All Hours Worked, Including Overtime Hours Worked (Cal.
22 Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 510, 511, 558,
23 1194, 1197, 1197.1, 1198, 2698 *et seq.*);
- 24 b. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198,
25 2698 *et seq.*)
- 26 c. Failure to Provide Timely, Uninterrupted Meal Breaks and Second Meal Breaks
27 (Cal. Lab. Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*)
28

- d. Failure to Reimburse Required Business Expenses (Cal. Labor Code §§1198, 2802, 2699 *et seq.*);
- e. Failure to Timely Pay Wages Due Upon Termination (Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*);
- f. Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Records (Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*).

41. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §226(a).

42. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid.

43. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

44. Plaintiff and the other current and former employees of Defendant are aggrieved employees. They were or are employed by Defendant, and each of them, and the violations alleged herein were committed against them. Plaintiff brings this action on behalf of herself and all other current and former aggrieved employees.

45. At the time of each violation, Defendant employed one or more employees.

46. As a result of the aforesaid wrongful and illegal conduct of Defendant, and each of them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be determined at trial, pre-judgment interest, costs and attorneys' fees.

1 47. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior
2 to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and
3 Workforce Development Agency (“LWDA”) and served by certified mail upon Defendant,
4 Plaintiff through counsel notified the LWDA and Defendant of the specific Labor Code provisions
5 that Defendant has violated. The LWDA did not respond to Plaintiff’s Notice within the statutory
6 timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code
7 §2699.3, Plaintiff may now pursue her PAGA claims in this action on behalf of aggrieved
8 employees and the State of California.

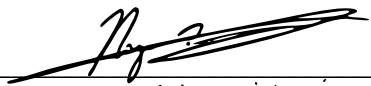
9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for
11 judgement against Defendant as follows:

- 12 1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be
13 determined at trial, but at least the jurisdictional amount of this Court;
- 14 2. An award of reasonable attorneys’ fees and costs pursuant to California Labor Code §2699(g)
15 and/or other applicable law;
- 16 3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable
17 law;
- 18 4. Pre-judgement and post-judgement interest as provided by law; and
- 19 5. Such other and further relief that the Court may deem just and proper.
- 20

21 DATED: May 22, 2023

KOUL LAW FIRM

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25 BY: Nazo Koulloukian, Esq.

26 Attorneys for Plaintiff ARIANNA MEJIA, and all
27 aggrieved employees
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EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

March 16, 2023

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

MemorialCare Medical Foundation
17360 Brookhurst Street
Fountain Valley, CA 92708

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimants: Arianna Mejia
Employer: MemorialCare Medical Foundation

Dear Sir or Madam:

Claimant and aggrieved employee Arianna Mejia has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM to represent her, and all other aggrieved employees, for wage and hour claims against her former employer, MemorialCare Medical Foundation (hereafter referred to as “Employer”). Employer hired, assigned and paid Claimant to work as a Medical Assistant in October of 2022. Claimant is a current employee of Employer.

Employer violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Labor Code § 2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code § 2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Labor Code § 2699.3.

As alleged below, Claimant personally suffered some of the Labor Code violations committed by Employer, while other violations, though not personally suffered by her, were suffered by other Aggrieved Employees. As held in *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 758, “[b]y the plain language of the statute, an aggrieved employee need only suffer one of the Labor Code violations alleged against his or her employer to be able to bring a PAGA claim on behalf of himself or herself and current or former employees who suffered any Labor Code violation at the hands of the employer. Plaintiff need not have actually

suffered all of the Labor Code violations that she alleges to have taken place for purposes of seeking PAGA penalties." (citation omitted). Accordingly, Claimant plans to pursue penalties for all the violations committed by Employer against the Aggrieved Employees, including those she did not personally suffer.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 510, 511, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, Wage Order 5)

Section 2(K) of Wage Orders 4 and 5 define "hours worked" as "the time during which an employee is subject to the control of an including all the time the employee is suffered or permitted to work, whether or not required to do so." Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period.

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer's control but not compensated for their time. Claimant and aggrieved employees have been required to provide patient care and perform other work duties while off the clock. They have also been required to attend company celebrations hosted at the employer's job site off the clock. Employees were also required to work during unpaid, interrupted meal periods.

Employer's conduct described herein violates Labor Code §§ 200, 223, 226, 500, 1197 and 1198, and the Applicable Wage Orders. Therefore, pursuant to Labor Code §§ 203, 218.5, 226, 558, 1194 and 1194.2, Claimant and other Aggrieved Employees are entitled to recover damages for the nonpayment of wages of all their worked hours in addition to penalties, attorneys' fees, expenses, and costs of suit. As a result of these ongoing violations, Employer is liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

Failure to Pay Wages- Required Minimum Wage

Pursuant to Labor Code §§ 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the Applicable Wage Orders. Pursuant to the Applicable Wage Orders "hours worked" include "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

During the applicable recovery period, Aggrieved Employees were suffered, permitted, and required to perform work by Employer for which they received no pay. The aforementioned acts by Employer were undertaken with the intention of depriving Aggrieved Employees of their earned wages. As a result of these ongoing violations, Employer is liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Employer is liable under Labor Code §210 for failure to pay wages as required by law.

Failure to Provide Rest Breaks

Cal. Labor Code §§226.7, 512, 558, 1198, 2698 *et seq.*

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law. Claimant reports that she and her coworkers were frequently not provided with rest periods and she rarely received one while working for Employer. For example, employees are often assigned a specific time to take the break but if they were in the middle of patient care, such as performing a patient intake, taking blood pressure, etc., they are unable to simply leave the patient/exam room to take their break. If they are busy with a patient at the time their assigned break time occurs, they were not permitted to make up the break.

Rest periods were often either less than ten minutes, not provided, interrupted or late, “on duty”, or not scheduled before and after a meal period for shifts greater than six hours, as prescribed by California law because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employer did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

Employer did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and Wage Order 4-2001 11(A). When breaks were missed Employer failed to pay the 1-hour penalty, as required. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks & Second Meal Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*

During Claimant's employment, Employer failed to maintain a compliant meal period policy and practice. Employer failed to provide all of its hourly employees with their right to take an off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

Claimant and aggrieved employees often received late, short, and interrupted meal periods. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy. Employees were not paid a premium payment, paid as an hour's wage when meal periods were not given to them in compliance with California law.

Failure to Reimburse For Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Claimant and aggrieved employees were required to use their personal cell phones and also required to purchase mandatory uniform apparel, and employees were not compensated for the use of their devices and resources. Employees were also required to drive from one location to another while on the clock yet were not paid mileage for the cost associated with using their vehicles for work purposes. Employees were also sent to training at far-away locations and not paid for required travel time or associated mileage.

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to aggrieved employees at the time employment terminated. Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Separated aggrieved employees are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d). The statements provided to Claimant and aggrieved employees, and the records maintained by Employer, have not accurately reflected actual gross wages earned, including pay for all hours worked, and overtime pay, and pay for meal and rest period penalty wages.

Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled. Employer knowingly and intentionally failed to itemize the gross wages earned, net wages earned, and total hours worked. Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment related contracts and documents that contained unlawful terms of employment.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a stylized flourish at the end.

Nazo Koulloukian, Esq.
Attorneys for Claimant