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9 Attorneys for Plaintiff
10 JENNIFER GONZALEZ

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO**

13 JENNIFER GONZALEZ, an individual, for the
14 real party in interest, the State of California,

15 Plaintiff,

16 vs.

17 NADINE HADDAD MD A MEDICAL
CORPORAT DBA B MEDICAL SPA AND
18 WELLNESS CENTER; and DOES 1 through 50,

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20 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/21/2023 at 12:59:21 PM

Clerk of the Superior Court
By Gabriel Lopez, Deputy Clerk

Case No. 37-2023-00025804-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 *et seq.*)**

1 Plaintiff JENNIFER GONZALEZ (“Plaintiff”), in her capacity as the State of California’s
2 designated proxy under the Private Attorneys General Act (“PAGA”), and on behalf of other current
3 and former California non-exempt employees alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the PAGA, incorporated in Labor Code sections 2698, 2699 *et seq.*,
6 Plaintiff brings this representative action against Defendants NADINE HADDAD MD A MEDICAL
7 CORPORAT DBA B MEDICAL SPA AND WELLNESS CENTER (“B MEDICAL”) and DOES 1
8 through 50 (all defendants are hereinafter collectively referred to as “Defendants”) for wage and hour
9 violations of the California Labor Code and the applicable Industrial Welfare Commission Wage
10 Order (the “IWC Wage Order”).

11 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
12 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
13 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
14 for violation of the code may, as an alternative, be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
16 to the procedures specified in Labor Code section 2699.3.

17 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
18 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

19 **JURISDICTION AND VENUE**

20 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
21 jurisdiction is proper in the Superior Court of California, County of San Diego, State of California
22 because Plaintiff alleges claims arising under California law.

23 5. This Court has jurisdiction over Defendants because each is believed to be an
24 association, corporation, business entity, or individual that conducts substantial business in the State
25 of California, County of San Diego.

26 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

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7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the Superior Court of California for the County of San Diego because this is where the wrongful misconduct alleged herein occurred.

THE PARTIES

8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

9. Plaintiff worked for Defendants during which time she was paid hourly and was considered non-exempt.

10. Plaintiff is an “aggrieved employee” because she was employed by Defendants and had one or more of the alleged violations committed against her, and therefore is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the current and former employees, who are also aggrieved employees as defined by Labor Code section 2699(c).

11. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

12. Plaintiff is informed and believes, and based thereon alleges, that at all times, each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the other defendants and each were co-conspirators with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other defendants.

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1 13. At all material times, Defendants were and/or are employers or persons acting on
2 behalf of employers, under California law, the IWC Wage Order, and the Labor Code, including Labor
3 Code sections 558 and 558.1 and thus are jointly and severally liable for the violations alleged herein
4 and any amounts awarded and/or recoverable as a result of this action.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 14. On March 13, 2023, Plaintiff, via counsel, provided the statutorily required notice to
7 the LWDA (“PAGA Notice”), indicating that Plaintiff intends to pursue claims against Defendants
8 for violations of the Labor Code.

9 15. On March 13, 2023, Plaintiff, via counsel, sent a copy of the PAGA Notice to
10 Defendant B MEDICAL.

11 16. The statutory period expired since Plaintiff provided the PAGA Notice to the LWDA
12 and LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the applicable
13 penalty claims and did not provide notice as set forth in Labor Code section 2699.3(a)(2)(A). As
14 such, Plaintiff has exhausted the administrative requirements under the PAGA.

15 **PAGA REPRESENTATIVE ACTION CLAIMS**

16 17. California law provides that an aggrieved employee may file a representative action
17 under the PAGA against an employer for violations of the Labor Code and Wage Order.

18 18. On information and belief, and as alleged below, current and former non-exempt
19 employees of Defendants were subject to wage and hour violations by Defendants, specifically by
20 Defendants’ violation of Labor Code sections 201, 202, 203, 204, 226, 226(a), 226(a)(1), 226(a)(2),
21 226(a)(5), 226(a)(9), 226.7, 226.7(b), 226.7(c), 246, 246(b), 246(l), 510, 512, 1197, 1198, 2802, 2698
22 and 2699 et seq.

23 **FIRST CAUSE OF ACTION**

24 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
25 **Sections 246 and 246(l) against all Defendants)**

26 19. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
27 forth herein.

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1 20. Under Labor Code sections 246 and 246(l), employers in California must provide
2 employees with paid sick leave to be paid at a specified rate of pay which must factor in additional
3 earnings during a given pay period wherein such leave is used.

4 21. Upon information and belief, Defendants provided its employees additional
5 nondiscretionary payments, including but not limited to, bonuses and commissions.

6 22. Upon information and belief, Defendants paid sick leave at the incorrect rate of pay
7 resulting in the underpayment of wages. By way of one example, Defendants failed to appropriately
8 factor in additional payments and compensation for purposes of computing the appropriate rate of pay
9 for sick leave wages as required by Labor Code sections 246 and 246(l).

10 23. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
11 Labor Code sections 246 and 246(l).

12 24. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery*
13 *Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of*
14 *Alameda Cty.* (2020) 9 Cal.5th 279.)

15 25. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
16 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
17 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
18 all Labor Code provisions for which a civil penalty is not specifically provided.

19 26. Plaintiff is seeking civil penalties against Defendants under Labor Code section
20 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
21 amount to be shown according to proof.

22 27. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover
23 attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown
24 according to proof.

25 28. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute,
26 Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an
27 amount to be shown according to proof.

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1 **SECOND CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
3 **Sections 246 and 246(b) against all Defendants)**

4 29. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

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7 30. Under Labor Code section 246(b), an “employee shall accrue paid sick days at the rate
8 of not less than one hour per every 30 hours worked” if the employer elects to use the accrual method
9 under Labor Code section 246.

10 31. Upon information and belief, Defendants’ employees would either not accrue sick
11 leave hours at all or they would accrue sick leave hours at a rate lower than 1 hour per 30 hours
12 worked. As a result, employees received fewer sick days than what they were legally entitled to under
13 Labor Code sections 246 and 246(b).

14 32. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
15 Labor Code sections 246 and 246(b).

16 33. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery*
17 *Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of*
18 *Alameda Cty.* (2020) 9 Cal.5th 279.)

19 34. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
20 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
21 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
22 all Labor Code provisions for which a civil penalty is not specifically provided.

23 35. Plaintiff is seeking civil penalties against Defendants under Labor Code section
24 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
25 amount to be shown according to proof.

26 36. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover
27 attorneys’ fees, costs, equitable relief in the form of civil penalties, in an amount to be shown
28 according to proof.

37. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

THIRD CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code
Section 1197 against all Defendants)**

38. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

39. Under Labor Code section 1197, an employer is required to pay its employees the proper minimum wages for all hours worked.

40. Upon information and belief, Defendants failed to properly provide their employees with minimum wages for all hours worked. By way of example, Defendants' employees would work many hours without getting compensated for the hours worked and/or not paid the correct minimum wages for all hours worked in violation of Labor Code section 1197.

41. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 1197.

42. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

43. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

44. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

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1 **FOURTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Sections 512 and 226.7(b) against all Defendants)**

4 45. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 46. Under Labor Code section 512, an employer must provide a meal period of at least
7 thirty minutes if the employee works more than five hours. California Labor Code section 512
8 “requires a first meal period no later than the end of an employee’s fifth hour of work [...]” (*Brinker*
9 *Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

10 47. Labor Code section 226.7(b) prohibits an employer from requiring an employee to
11 work during a meal period.

12 48. Upon information and belief, during all times relevant to this action, Defendants failed
13 to provide their employees with compliant meal periods in violation of Labor Code sections 512,
14 226.7(b), and the IWC Wage Order.

15 49. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
16 Labor Code sections 512 and 226.7(b) and the IWC Wage Order.

17 50. Labor Code section 558 imposes upon Defendants, and each of them, civil penalties of
18 fifty dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred
19 dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

20 51. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
22 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
23 all Labor Code provisions for which a civil penalty is not specifically provided.

24 52. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
25 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil
26 penalties under the PAGA as alleged herein in an amount to be shown according to proof.

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53. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTH CAUSE OF ACTION

54. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

55. Rest periods under California labor law are required for non-exempt employees who work three and a half (3 1/2) or more hours in a day. Employees are entitled to ten (10) minutes of rest period for each four (4) hours, or a substantial fraction thereof, that they work in a day.

56. Labor Code section 226.7(b) prohibits an employer to require an employee to work during a rest period and provides that an employee must be paid a wage for doing so.

57. Upon information and belief, Defendants failed to provide their employees with proper rest periods in violation of Labor Code section 226.7(b) and the IWC Wage Order.

58. The PAGA imposes upon Defendants, and each of them, civil penalties for violating the rest break provision in Labor Code section 226.7(b) and the IWC Wage Order.

59. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

60. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

61. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

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1 **SIXTH CAUSE OF ACTION**

2 **Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**

3 **Section 226.7(c) against all Defendants**

4 62. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 63. Under Labor Code section 226.7(c), if an employer fails to provide an employee with
7 a proper meal or rest period, the employer shall pay the employee one hour of pay at the employee's
8 regular rate of compensation for each workday that the meal/rest period is not provided.

9 64. Upon information and belief, Defendants failed to issue meal and/or rest premiums at
10 the regular rate of pay in violation of Labor Code section 226.7(c). (*Ferra v. Loews Hollywood Hotel,*
11 *LLC* (2021) 11 Cal. 5th 858.) By way of one example, Defendants failed to include bonuses and/or
12 commissions earned during a given period when determining the regular rate of pay, resulting in the
13 underpayment of meal and/or rest premiums.

14 65. PAGA imposes upon Defendants, and each of them, penalties for violating Labor Code
15 section 226.7(c) and the IWC Wage Order.

16 66. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
17 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
18 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
19 all Labor Code provisions for which a civil penalty is not specifically provided.

20 67. Plaintiff is seeking civil penalties against Defendants under Labor Code section
21 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties
22 under the PAGA as alleged herein in an amount to be shown according to proof.

23 68. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
24 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
25 according to proof.

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1 **SEVENTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Sections 510 and 1198 against all Defendants)**

4 69. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 70. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1
7 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on
8 the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-
9 and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
10 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor
11 Code § 510 and IWC Wage Order.)

12 71. Upon information and belief, Defendants failed to properly provide its employees with
13 overtime pay for hours worked in excess of eight hours in a workday and/or hours worked in excess
14 of 40 hours in one workweek.

15 72. Upon information and belief, Defendants failed to provide its employees with overtime
16 pay at the regular rate of pay. By way of one example, Defendants failed to include all compensation
17 earned (e.g. bonuses and/or commissions) during a given period when determining the regular rate of
18 pay, resulting in the underpayment of overtime wages.

19 73. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
20 Labor Code sections 510, 1198, and the IWC Wage Order.

21 74. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
22 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
23 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
24 all Labor Code provisions for which a civil penalty is not specifically provided.

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75. Pursuant to Labor Code section 558, any employer or other person acting on behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them, penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

76. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

77. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

EIGHTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(1) against all Defendants)**

78. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

79. Labor Code section 226(a)(1) requires wage statements that an employer issues to its employees accurately state the gross wages earned.

80. Defendants failed to accurately state the proper gross on the wage statements in violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to their employees failed to include the accurate amount of gross wages because they failed to include the proper amount of wages, including, but not limited to, sick pay wages, meal/rest premium wages, and regular and/or overtime wages.

81. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(1).

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82. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

83. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

84. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

85. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

NINTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(2) against all Defendants)**

86. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

87. Labor Code section 226(a)(2) requires wage statements that an employer issues to its employees accurately state the total hours worked.

88. Defendants' wage statements issues to their employees failed to accurately state the total hours worked in violation of Labor Code section 226(a)(2).

89. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(2).

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90. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

91. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

92. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

93. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(5) against all Defendants)**

94. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

95. Labor Code section 226(a)(5) requires wage statements that an employer issues to its employees accurately state the net wages earned.

96. Defendants failed to accurately state the proper net on the wage statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements issued to their employees failed to include the accurate amount of net wages because they failed to include the proper amount of wages, including, but not limited to, sick pay wages, meal/rest premium wages, and regular and/or overtime wages.

97. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(5).

98. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

99. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

100. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

101. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

ELEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(9) against all Defendants)**

102. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

103. Labor Code section 226(a)(9) requires wage statements that an employer issues to its employees accurately state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

104. Defendants failed to provide the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of Labor Code section 226(a)(9). By way of one example, the rates/hours for sick pay, meal/rest premiums, regular time, and overtime are inaccurately itemized.

105. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(9).

106. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

107. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

108. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

109. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TWELFTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a) against all Defendants)**

110. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

111. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage statement provided to an employee or a computer-generated record that accurately shows all of the information required under 226(a)(1) through (a)(9).

112. Upon information and belief, during all times relevant to this action, Defendants failed to keep records required under Labor Code section 226(a). By way of example, the copies of the records kept do not include the accurate gross and net wages, total hours worked, and applicable hourly rates and corresponding hours worked.

113. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a).

1 114. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
2 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
3 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
4 all Labor Code provisions for which a civil penalty is not specifically provided.

5 115. With respect to violations of Labor Code section 226, Labor Code section 226.3
6 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
7 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
8 employee for each pay period.

9 116. Plaintiff is seeking civil penalties against Defendants under Labor Code section
10 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
11 PAGA in an amount to be shown according to proof.

12 117. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
13 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
14 according to proof.

15 **THIRTEENTH CAUSE OF ACTION**

16 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
17 **Section 204 against all Defendants)**

18 118. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
19 set forth herein.

20 119. Labor Code section 204 imposes an obligation of timely payment of wages upon
21 California employers.

22 120. Defendants violated Labor Code section 204 because they failed to timely pay their
23 employees all earned wages during an applicable pay period. By way of one example, Defendants
24 failed to pay all earned wages, including, but not limited to, sick pay wages, meal/rest premium wages,
25 and regular/overtime wages in a timely manner as required under Labor Code section 204.

26 121. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
27 Labor Code section 204.

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122. Labor Code section 210 imposes upon Defendants, and each of them, civil penalties 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.

123. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

124. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 210, 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

125. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 201, 202, and 203 against all Defendants)**

126. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

127. Under Labor Code section 201, if an employee is discharged by his/her employer, the wages earned and unpaid at the time of discharge are due and payable immediately.

128. Under Labor Code section 202, if on the other hand, “an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

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129. Labor Code section 203 provides, in pertinent part: “If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. ...”

130. Upon information and belief, employees did not receive all wages upon termination or separation of employment. By way of one example, employees were owed wages, including, but not limited to, sick pay wages, meal/rest premium wages, and regular/overtime wages. To this date, Defendants have not paid all wages upon termination or separation of employment.

131. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 201, 202, and 203.

132. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties 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.

133. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

134. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 2802 Against all Defendants)**

135. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

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1 136. Labor Code section 2802(a) states that an employer must reimburse employees “for all
2 necessary expenditures” incurred by the employee in “direct consequence of the discharge of his or
3 her duties.”

4 137. Defendants violated Labor Code section 2802. By way of one example, Defendants’
5 employees were required to use their cellular phone for employment related matters. However,
6 Defendants failed to adequately reimburse such employees for use of their personal cell phones.
7 Defendants’ employees should have received proper reimbursement for cell phone usage/charges.

8 138. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
9 Labor Code section 2802.

10 139. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
11 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
12 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
13 all Labor Code provisions for which a civil penalty is not specifically provided.

14 140. Plaintiff is seeking civil penalties against Defendants under Labor Code section
15 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in
16 an amount to be shown according to proof.

17 141. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
18 reasonable attorneys’ fees, costs, and filing fees paid to the LWDA in an amount to be shown
19 according to proof.

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1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
3. Post-judgment interest as provided by law; and
4. Such other and further relief that the Court may deem just and proper.

MASHIRI LAW FIRM, APC

By: 
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Attorney for Plaintiff
JENNIFER GONZALEZ