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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

DRAGUTIN RADIC, an individual, on behalf of himself and on behalf of all persons similarly situated, Plaintiff, v. STERIS CORPORATION, an Ohio Corporation; and DOES 1 through 50, inclusive, Defendants.	Case No. 37-2023-00008579-CU-OE-CTL **<u>CLASS ACTION</u>** **FIRST AMENDED COMPLAINT** 1. Failure to Pay Straight-Time and Overtime Wages 2. Failure to Provide Compliant Meal Periods 3. Failure to Reimburse Required Expenses 4. Failure to Provide Accurate Wage Statements 5. Failure to Pay All Wages Owed Upon Separation 6. Violation of the Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) 7. Violation of the Private Attorneys General Act **DEMAND FOR JURY TRIAL**

Plaintiff Dragutin Radic (hereinafter "Plaintiff" or "Radic"), an individual, on behalf of himself and all other similarly situated current and former employees, alleges on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following:

INTRODUCTION

1. This is a putative class action brought against Defendant STERIS CORPORATION (hereinafter "Defendant" or "Steris") for (i) failing to pay straight-time wages and overtime wages at the lawful regular rate of pay for all work performed; (ii) failing to provide all required, compliant uninterrupted, duty-free meal periods; (iii) failing to reimburse required expenses; (iv) failing to pay all owed wages each and every pay period; (v) failing to provide accurate, compliant, itemized wage statements; (vi) failing to pay all wages owed upon separation of employment, as mandated under the California Labor Code (hereinafter "Labor Code"); (vii) unlawfully deducting monies from wages; (viii) violation of California's Unfair Competition Law ("UCL"); and, (ix) violating the California Private Attorneys General Act (hereinafter "PAGA").

2. Plaintiff is a Member of and the named representative for the Class, the Separated Employee Subclass, and the Wage Statement Subclass, as defined in Paragraphs 18-20 below. The term "Class" includes Plaintiff and all other persons who are members of the "Class," and/or the "Separated Employee Subclass," and/or the "Wage Statement Subclass," as herein defined.

3. On behalf of himself and other Members of the Class, Plaintiff seeks: 1) all straight-time and overtime wages owed, under Labor Code §§ 510, 1194 and 1197; 2) an additional hour of premium pay owed under Labor Code § 226.7 and the applicable I.W.C. Wage Order for each day failing to provide all required, compliant meal breaks; 3) expense reimbursement, under Labor Code § 2802; 4) unpaid wages, due every pay period, under Labor Code § 204; 5) unpaid wages due at the time of resignation or termination under Labor Code § 201 and/or § 202 and penalties based on waiting to receive those wages under Labor Code § 203; 6) penalties for inaccurate and non-compliant itemized wage statements, under Labor Code § 226(e); 7) restitution under California Business & Professions Code (hereinafter "Cal. Bus. & Prof. Code") § 17203; 8) injunctive relief under Labor Code § 226(h) and Business and Professions Code § 17200, *et seq*,

requiring that Defendants provide compliant, itemized wage statements, consistent with Labor Code § 226(a); 9) repayment of the unlawfully deducted monies taken from wages under Labor Code § 221, and a cease and desist from their other unlawful and/or unfair employment practices.

4. The State of California Private Attorneys General Act of 2004 allows for a tolling of the limitations period during the period during which the California Labor and Workforce Development Agency (hereinafter "LWDA") is assessing, or the employer may be curing, the alleged violations. Cal. Labor Code § 2699.3(d). On March 1, 2023, pursuant to Cal. Labor Code § 2699.3(a)(1), counsel for Plaintiff, on behalf of Dragutin Radic, provided written notice via online filing with the LWDA and via certified mail, with return-receipt, to the employer / Defendant, alleging violations of the California Labor Code and the facts and theories that support the alleged violations. (*see* **Exhibit 1**, attached hereto and incorporated by this reference herein). Additionally, on March 1, 2023, pursuant to Cal. Labor Code §2699.3(a)(1)(B), counsel for Plaintiff, on behalf of Dragutin Radic, submitted the required filing fee of $75.00 to the LWDA. (*see* **Exhibit 1**).

JURISDICTION AND VENUE

5. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure (hereinafter "Cal. Code of Civ. Proc.") § 410.10 and Cal. Bus. & Prof. Code § 17203. This action is brought as a Class Action on behalf of Plaintiff and similarly situated employees of Defendant, pursuant to Cal. Code of Civ. Proc. § 382. Additionally, Plaintiff previously requested his employment file from Defendant and no arbitration agreement was produced therein. Therefore, Plaintiff may proceed with this action on a class-wide basis.

6. Venue is proper in this Court, pursuant to Cal. Code of Civ. Proc. §§ 395 and § 395.5, because Defendant employed Plaintiff to work in and around Escondido, California (County of San Diego) and Plaintiff, along with certain other Members of the Class, were required to perform work in the geographic area of San Diego County and throughout California.

THE PARTIES

A. Plaintiff and the Class

7. Plaintiff Dragutin Radic worked for Defendant in the State of California from approximately February 2021 through approximately October 2022, as a Surgical Representative,

primarily performing maintenance and repairs of medical equipment at client sites.

8. When Plaintiff was initially hired, he was offered a salary of approximately $58,000, annually. Defendant treated the position as salaried, but non-exempt from overtime. Overtime work was paid at a rate of $41.83 per hour and double-time work was paid at a rate of $55.77 per hour. Plaintiff regularly worked more than 8 hours daily and occasionally worked more than 12 hours daily. Plaintiff also earned commissions at times, which ought to have increased Plaintiff's regular rate of pay and therefore the overtime rates of pay at which he was compensated.

9. Plaintiff's work was based out of his home office, based on his job duties and the fact that Steris did not provide any other office location nor permit Plaintiff to perform his administrative job duties or receive parts at the customer locations. Plaintiff regularly performed duties from home, including preparing and responding to emails, scheduling appointments at client sites to perform maintenance and/or repairs, attending work meetings via Zoom or other videoconferencing technology, ordering and receiving parts (which had to be delivered to Plaintiff at his home office), taking inventory, loading parts into the company vehicle, and other administrative duties that could only be performed in the home office.

10. Plaintiff was also required to remain on call for several hours on most days, with significant restrictions on how that on-call time could be spent, given that he was required to respond to pager calls within 15 minutes. This on-call time was not counted towards work hours and was thus not compensated.

11. Typically, Plaintiff also travelled from his home office to client sites to perform maintenance and/or repairs. Plaintiff's primary duties were providing on-site preventative maintenance, troubleshooting, repair, equipment modifications, and installation support on medical equipment. Plaintiff was also expected and required to provide superior customer service by pro-actively interacting and communicating with Customers on a daily basis, and utilizing technology to complete administrative requirements, aid in troubleshooting issues and improve the overall customer experience. Plaintiff was required to perform work in the following geographic areas in California: Los Angeles County, San Diego County, Imperial County, and Riverside County.

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12. The Members of the Class are similarly situated persons who are presently employed or were formerly employed by Defendants as non-exempt employees working as Technicians, Repair Technicians, Repair Specialists, Equipment Service Specialists, Installers, Equipment Service Technicians, Medical Equipment Service Technicians, Field Service Technicians, Instrument Repair Technicians, Surgical Device Repair Technicians, Sterile Processing Technicians, Calibration Technicians, Integration Technicians, Surgical Service Representatives and/or similarly titled positions in the State of California who: 1) were not paid straight-time and overtime wages for all work time; 2) were not provided with all compliant, uninterrupted duty-free 30-minute meal breaks, as provided for under California law; 3) were not reimbursed for all incurred business expenses; 4) were not paid all wages due each and every pay period; 5) were not provided with all earned wages upon their separation of employment; 6) were not provided accurate itemized wage statements; and/or had unlawful deductions taken from wages.

B. Defendants

13. Defendant Steris Corporation has its domestic corporate offices located at 5960 Heisley Road in Mentor, Ohio. Defendant maintains facilities and employs individuals to service clients across the country and around the world. At all relevant times mentioned herein, Defendant conducted substantial business in the State of California, County of San Diego and throughout the State of California, as well as numerous other states. In addition to servicing customers in their locations throughout California and across the country, Steris maintains a manufacturing facility in Point Richmond, California. Steris currently employs approximately 16,000 Associates worldwide and operates in more than 100 countries.

14. Defendant is a leading global provider of products and services that support patient care with an emphasis on infection prevention. Defendant was the employer of Plaintiff during the course of his employment, which was based out of Plaintiff's California home-office, as Defendant directed. Steris Service Professionals install, maintain and repair critical equipment and instruments to provide an exceptional customer experience and ensure better patient outcomes. The website for Defendant is: https://www.steris.com/

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15. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendants sued here as DOES 1 through 50, inclusive, are presently unknown to Plaintiff, who therefore sues these Defendants by such fictitious names, pursuant to Cal. Civ. Proc. Code § 474. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names. To the extent required, Plaintiff will seek leave of Court to amend this Complaint to reflect the true names and capacities of these Defendants, when they have been ascertained and become known.

16. Plaintiff is informed and believes, and based thereon, alleges that each of the Defendants designated herein is legally responsible in some manner for the unlawful acts referred to herein and that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

17. The agents, servants and/or employees of Defendants and each of them, acting on behalf of the Defendants, acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally liable to Plaintiff and the other non-exempt hourly employees, for the loss sustained as a proximate result of the conduct of the Defendants' agents, servants and/or employees.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this action on behalf of himself and all other similarly situated persons as a class action pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class composed of and defined as follows:

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All individuals who have performed work in California for Defendants in its Service / Technical Services Department and/or Field Service, Installation, and/or Repair Team Job Positions including but not limited to Technician, Repair Technician, Repair Specialist, Equipment Service Specialist, Installer, Equipment Service Technician, Medical Equipment Service Technician, Field Service Technician, Instrument Repair Technician, Surgical Device Repair Technician, Sterile Processing Technician, Calibration Technician, Integration Technician, Surgical Service Representative and/or similarly titled job positions that required the employee to travel into the field from their home-office location at any time since March 1, 2019 through the date as determined by the Court ("Class Period") ("Class Members").

19. Plaintiff also seeks to bring this action on behalf of himself and all other similarly situated persons in a Subclass of the Plaintiff Class, which is composed of and defined as follows:

All Class Members whose work with Defendants ended at any time since March 1, 2020 ("Separated Subclass Members").

20. Plaintiff also seeks to bring this action on behalf of himself and all other similarly situated persons in a Subclass of the Plaintiff Class, which is composed of and defined as follows:

All Class Members who performed work for Defendants at any time since March 1, 2022 ("Wage Statement Subclass Members").

21. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure § 382, because there is a well-defined community of interest among many persons who comprise a readily ascertainable class.

a. The Class Members are so numerous that individual joinder of all of them as plaintiffs is impractical. Although the exact number of Class Members is unknown to Plaintiff at this time, Plaintiff is informed and believes and thereon alleges that there are not less than 90 Class Members.

b. The identity of Class Members can readily be determined from Defendants' records. Defendants' records include the name and address of every person who performed work for them in California during the Class Period.

c. Common questions of law and fact exist as to Class Members and predominate over any questions that may affect only individual Class Members. These common questions include, but are not limited to:

(1) Did Defendants, in violation of Labor Code §§ 510, 1194, and 1197 fail to pay Plaintiff and Class Members for all straight-time and overtime wages owed to them at the lawful rates of pay, including all requisite pay for travel time, on call time, and increased overtime compensation based on commissions earned?

(2) Did Defendants violate Labor Code §§ 226.7 and 512, and the applicable I.W.C. Wage Order by failing to provide all compliant duty-free uninterrupted 30-minute meal periods afforded under California law, including but not limited to second meal periods (when required), as alleged herein?

(3) Did Defendants, in violation of Labor Code § 2802, fail to indemnify and reimburse Class Members for all necessary expenditures or losses incurred in the course of their duties, including for the required usage of the internet and for printers / facsimile machines, which were not provided by Defendants?

(4) Did Defendants fail to provide Wage Statement Subclass Members with accurate, compliant, and itemized wage statements, as required by Labor Code §§ 226(a)?

(5) Are Defendants liable for civil penalties under Labor Code § 226?

(6) Did Defendants, in violation of Labor Code § 201 and/or § 202, fail to pay timely all wages owed to Separated Subclass Members upon separation?

(7) Did Defendants act willfully when they failed to pay timely all wages owed to Separated Subclass Members upon separation?

(8) Are Defendants liable for penalty wages under Labor Code § 203?

(9) Did Defendants violate the Unfair Competition Law, Business and

Professions Code § 17200, *et seq*., by their unlawful practices, as alleged herein?

(10) Did Defendants violate the Unfair Competition Law, Business and Professions Code § 17200, *et seq*., by failing to pay Plaintiff and Class Members all wages earned each pay period, in violation of Labor Code §204, as alleged herein?

(11) Are Defendants liable for restitution under Bus. & Prof. Code § 17203?

(12) Should Defendants be subjected to declaratory and/or injunctive relief measures, prohibiting the continuation of the unlawful business practices under the Unfair Competition Law, Business and Professions Code § 17200, *et seq*.?

(13) Did Defendants violate the California Labor Code by making unlawful deductions from wages for the employees' use of company vehicles?

(14) Are Defendants liable for pre-judgment interest?

(15) Are Defendants liable for attorney's fees and costs?

d. Plaintiff is a Member of the Class and the Subclasses, and his claims are typical of the claims of the other Class Members and Subclass Members. Plaintiff is informed and believes and thereon alleges that Defendants maintain policies or practices of: 1) failing to pay straight-time and overtime wages at the lawful rate of pay for all hours actually worked, including but not limited to by failing to pay for all time spent driving to client servicing locations; 2) failing to provide compliant meal periods, including second meal periods on days with ten or more hours of work; 3) failing to reimburse all necessarily incurred business expenses, including the cost of internet in the required home office location and/or printers and/or facsimile machines for work; 4) failing to pay employees for all wages earned during each pay period; 5) failing to pay employees all earned wages due upon separation of employment; 6) failing to provide employees with accurate, compliant itemized wage statements reflecting all required information, including the rate of pay in effect for all hours worked; and/or (7) making unlawful deductions from wages to subsidize the employer provided vehicles.

e. Plaintiff will adequately and fairly protect the interests of the Class Members and Subclass Members. Plaintiff has no interest adverse to the interests of absent Class Members and/or Subclass Members. Plaintiff is represented by legal counsel who has substantial class action experience in civil litigation and employment law.

22. A class action is superior to other available means for fair and efficient adjudication of the claims of the Class and would be beneficial for the parties and the court. Class action treatment will allow a large number of similarly situated persons to prosecute their common claims in a single forum, simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would require. The monetary amounts due to many individual Class Members are likely to be relatively small, and the burden and expense of individual litigation would make it difficult or impossible for individual members of the Class to seek and obtain relief. A class action will serve an important public interest by permitting such individuals to effectively pursue recovery of the sums owed to them. Further, class litigation prevents the potential for inconsistent or contradictory judgments raised by individual litigation.

FIRST CAUSE OF ACTION
Failure to Pay Straight-Time and Overtime Wages
(By Plaintiff and the Class Members against all Defendants)

23. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

24. At all relevant times, Plaintiff and the Class Members were employees of Defendants covered by Labor Code §§ 510, 1194, and 1197, and applicable I.W.C. Wage Orders.

25. By their failure to pay straight-time wages and overtime wages for all time worked, Defendants willfully breached their agreement to pay wages, in violation of Labor Code §§ 510, 1194 and 1197, and the applicable I.W.C. Wage Order(s).

26. Plaintiff is informed and believes, and thereon alleges, that at relevant times within the applicable limitations period including through at least October of 2022, Defendants maintained a policy and practice of failing to pay overtime wages for all hours worked in excess of forty (40) per week and/or eight (8) per day, at the applicable time-and-a-half and double-time rates.

27. Plaintiff is informed and believes, and thereon alleges, that at all relevant times within the applicable limitations period, Defendants maintained a policy and practice of failing to pay Plaintiff and the Class Members all straight-time and overtime wages when performing required travel to and from their home offices between their first and last on-site appointments to service, maintain, and/or repair customer machinery and/or equipment. Specifically, despite Plaintiff and the Class Members being required to travel to and from all on-site medical facility locations in the Company vehicle bringing with them required tools and/or parts and having no other option as to how to travel to such job sites other than in the Company vehicle from and to the home office, Defendant subtracted an hour of driving time each day from the Class Members' work hours, mistreating this time as non-compensable 'commute' time, even when the driving time to and from the home-office was less and one hour. As most days and weeks worked by Class Members included overtime work, these wrongfully deducted work hours ought to have been paid at an overtime rate of at least time-and-a-half and often double-time, but were not.

28. Defendants also required Plaintiff and the Class Members to be 'on-call' for multiple hours most working days, restricting their activities during this 'on-call' time by requiring, among other things, that the employees be available to take phone calls and to respond to pages within 15 minutes. Defendants failed to pay even minimum wage to Plaintiff and the Class Members for this time.

29. Defendants also paid Plaintiff and the Class Members commissions but did not incorporate this compensation into the regular rate of pay calculation for purposes of compensating correctly for all overtime work performed at the legal rate of pay.

30. As a result of Defendants' unlawful and willful conduct, employees have suffered damages in an amount, subject to proof, to the extent they were not paid all straight-time and overtime wages at the lawful regular rate of pay for all hours actually worked and owed to them under Labor Code §§ 510, 1194 and 1197, and the applicable I.W.C. Wage Order(s).

31. Pursuant to Labor Code §§ 1194, 1194.2 and 1194.3, Plaintiff and the Class Members are entitled to recover the full amount of unpaid wages, liquidated damages, pre-judgment interest, reasonable attorney's fees, and costs of suit.

SECOND CAUSE OF ACTION

Failure to Provide Required Meal Periods

(By Plaintiff and the Class Members against all Defendants)

32. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

33. At all relevant times, Plaintiff and the Class Members were employees of Defendants, covered by Labor Code §§ 226.7 and 512, and the applicable I.W.C. Wage Order(s).

34. Pursuant to Labor Code §§ 226.7 and 512, and the applicable I.W.C. Wage Order(s), Plaintiff and the Class Members were entitled to an uninterrupted, duty-free meal period of at least thirty (30) minutes for each workday that they worked more than five (5) hours, and a second uninterrupted, duty-free meal period of at least thirty (30) minutes for each workday they worked more than ten (10) hours, which occurred on a regular basis. For every day that all required, compliant meal periods were not provided, Plaintiff and the Class Members are entitled to one additional hour of pay.

35. Defendants failed to provide Plaintiff and the Class Members meal periods in accordance with Labor Code §§ 226.7 and 512, and the applicable I.W.C. Wage Order. Defendants failed to provide any mechanism to record meal breaks or to be free of all duties for an uninterrupted 30 minutes, Plaintiff and the Class Members were not provided with compliant duty-free meal breaks by Defendants, as mandated under the Labor Code.

36. Further, Defendants failed to provide a second duty-free thirty (30) minute meal break on shifts greater than ten (10) hours. Defendants also did not consistently provide meal periods within the first five (5) hours of work, in accordance with California law. Plaintiff and the Class Members were required to remain at client locations, wearing all required safety gear, until the necessary work was complete, without being provided with requisite meal periods, which would have required removing the protective gear and leaving the area where work was being performed in order to consume food appropriately, safely, and without exposure to machinery.

37. As a result, in accordance with Defendants’ strict corporate policy and practice, Plaintiff and the Class Members therefore were not provided meal periods, including but not limited to second meal periods when applicable, to which they were entitled, without receiving premium pay as required under California law.

38. Defendants failed to provide Plaintiff and the Members the additional hour of pay required by Labor Code § 226.7 and the applicable I.W.C. Wage Order. Plaintiff is informed and believes and thereon alleges that at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of not paying additional pay to employees for missed, short, late, and/or non-compliant meal periods at the lawful rate of pay.

39. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional wages owed for missed, short, late, and/or non-compliant meal periods and uncompensated work performed, at the lawful rate of pay.

40. Pursuant to Labor Code § 218, Plaintiff and the Class Members are entitled to recover the full amount of their unpaid additional wages for missed meal periods. Pursuant to Labor Code § 218.5, Plaintiff and the Class Members are entitled to recover their reasonable attorney's fees and costs of suit. Pursuant to Labor Code § 218.6 and/or Civil Code §3287(a), Plaintiff and the Class Members are entitled to recover prejudgment interest on the additional wages owed for missed meal periods at the lawful rate of pay.

<u>THIRD CAUSE OF ACTION</u>
Failure to Reimburse Required Expenses
(By Plaintiff and the Class Members against all Defendants)

41. Plaintiff and the other Class Members incorporate all preceding paragraphs as though fully set forth herein.

42. At all relevant times, Plaintiff and the other Members of the Class were employees of Defendants covered by Labor Code § 2802 which provides, in relevant part, that:

> An 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, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

43. At all relevant times herein, Defendants violated Labor Code § 2802 by failing to reimburse and indemnify the Plaintiff and the other Members of the Class for internet access and usage that they were required to utilize from their home offices, in addition to other necessary

home office expenditures, such as computer printers. Specifically, Plaintiff was required to use a home office to perform administrative duties such as scheduling appointments and ordering parts as well as attending meetings via Zoom or other video-conferencing interface. These duties required Plaintiff and other Members of the Class to access the internet using a high-speed, reliable connection, dedicated to providing streaming access to allow for video-conferencing from the home office. Defendants failed to reimburse Plaintiff and other Members of the Class for the costs they incurred to obtain and use internet from their home offices, as well as to obtain computer printers and/or facsimile machines for their work usage.

44. Labor Code § 2802(b) and (c) provides for interest at the statutory post judgment rate of ten percent (10%) simple interest per annum from the date of the expenditure, plus attorneys' fees to collect reimbursement.

45. Plaintiff therefore demands reimbursement for expenditures or losses incurred by him and the other Class Members in the discharge of their duties for Defendants, or their obedience to the directions of Defendants, with interest at the statutory rate and attorneys' fees and costs under Labor Code § 2802.

FOURTH CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements

(By Plaintiff and the Wage Statement Subclass Members against all Defendants)

46. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

47. At all relevant times, Plaintiff and the Wage Statement Subclass Members were employees of Defendants covered by Labor Code § 226.

48. Pursuant to Labor Code § 226(a), Plaintiff and the Wage Statement Subclass Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement showing gross wages earned; net wages earned; all applicable hourly rates in effect during the pay period; and the corresponding number of hours worked at each hourly rate by the employee.

49. Defendants failed to provide Plaintiff and the Wage Statement Subclass Members accurate, compliant itemized wage statements in accordance with Labor Code §§ 226(a) and 226.2. Plaintiff is informed and believes and thereon alleges that at relevant times since one (1) year

preceding the filing of the Complaint in this action (the "Penalty Period"), including at least through October 2022, Defendants maintained a policy or practice of paying Plaintiff and the Wage Statement Subclass Members a salary without providing the accurate total number of hours worked and applicable hourly pay rates on each wage statement, also failing to pay adequate wages for hours worked beyond 40 in a week and/or 8 in a day when such hours were subtracted from the actual total hours worked, including travel time to and from the home office location.

50. Additionally, Plaintiff and the Wage Statement Subclass Members failed to receive wages for all hours actually worked, including meal period premium payments and including unpaid off-the-clock and/or wrongfully deducted driving time and therefore provided wage statements that were inaccurate, as they did not accurately reflect all hours worked and did not accurately reflect all compensation earned or that should have been earned.

51. Defendants' practice resulted and continues to result in the issuance of non-compliant 'wage statements' to Class Members that do not show the correct amount of gross wages earned, the correct amount of net wages earned, the correct number of hours and overtime hours worked, the correct hourly rates of pay in effect for each hour worked, and the correct deductions made thereto for taxing authority purposes and also fail to comply with the requirements of Labor Code § 226.2(a)(2), in terms of detailing the hours, rates of compensation, and total wages for rest breaks and other non-productive time.

52. Defendants failed to provide Plaintiff and the Wage Statement Subclass Members accurate, compliant itemized wage statements in accordance with Labor Code §§ 226(a) and 226.2. Plaintiff is informed and believes and thereon alleges that at all relevant times since one (1) year preceding the filing of the Complaint in this action (the "Penalty Period"), Defendants maintained a policy or practice of failing to pay wages for all time actually worked, failing to accurately record all hours actually worked, failing to pay meal break premium payments, and failing to itemize accurately the applicable rates of compensation. Defendants' practice resulted and continues to result in the issuance to Class Members of non-compliant 'wage statements' that do not show the correct amount of gross wages earned, the correct amount of net wages earned, the correct number of hours worked, the correct hourly rates of pay in effect for each hour worked, and/or the correct

deductions made thereto for taxing authority purposes.

53. As a result of Defendants' conduct, Plaintiff and the Wage Statement Subclass Members have suffered injury. The absence of accurate and complete information on their wage statements has prevented timely challenges to Defendants' unlawful pay practices, required discovery and mathematical computations to determine the amount of wages owed and number of hours actually worked, caused difficulty and expense in attempting to reconstruct time and pay records, and led to the submission of inaccurate information about wages and deductions to state and federal government agencies.

54. Pursuant to Labor Code § 226(e), Plaintiff and the Wage Statement Subclass Members are entitled to recover fifty dollars ($50) for the initial pay period during the Penalty Period in which a violation of Labor Code § 226 occurred and one hundred dollars ($100) for each violation of Labor Code § 226 in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars ($4,000) per employee, in addition to civil penalties that may be imposed.

55. Pursuant to Labor Code § 226(h), Plaintiff and the Wage Statement Subclass Members are entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code § 226(a). Injunctive relief is warranted because Defendants continue to provide currently employed Wage Statement Subclass Members with inaccurate, deficient, non-compliant 'wage statements' in violation of Labor Code § 226(a) and currently employed Wage Statement Subclass Members have no adequate legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants' compliance with Labor Code § 226(a).

56. Pursuant to Labor Code §§ 226(e) and 226(h), Plaintiff and the Wage Statement Subclass Members are entitled to recover the full amount of penalties due under Labor Code § 226(e), reasonable attorney's fees and costs of suit.

<u>FIFTH CAUSE OF ACTION</u>
Failure to Pay All Wages Owed Upon Separation
(By Plaintiff and the Separated Subclass Members against all Defendants)

57. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

58. At all relevant times, Plaintiff and the Separated Subclass Members, were

employees of Defendants covered by Labor Code §§ 201 and/or 202.

59. Pursuant to Labor Code §§ 201 and/or 202, Plaintiff and the Separated Subclass Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged employees were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Employees who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid prior to resignation at the time of resignation.

60. Defendants failed to pay Plaintiff and the Separated Subclass Members all wages earned and unpaid prior to termination in accordance with Labor Code §§ 201 or 202. Plaintiff is informed and believes and thereon alleges that during the three (3) year limitations period applicable to this cause of action, Defendants maintained and continue to maintain a policy or practice of failing to pay all straight-time and overtime wages at the lawful rate of pay for all work performed, and all meal period premium payments.

61. Defendants' failure to pay Plaintiff and the Separated Subclass Members all wages earned prior to termination in accordance with Labor Code § 201 and/or § 202 was willful. Defendants had the ability to pay all wages earned by employees – including but not limited to straight-time and overtime wages, but intentionally adopted policies or practices incompatible with the requirements of Labor Code §§ 510, 1194, and 1197, and the applicable I.W.C. Wage Order(s). Defendants had the ability to pay all wages and meal period premium payments earned by employees, but intentionally adopted policies or practices incompatible with the requirements of Labor Code §§ 226.7 and 512, and the applicable I.W.C. Wage Order(s). When Defendants failed to pay upon termination all wages earned prior to termination, Defendants knew what they were doing and intended to do what they did.

62. Pursuant to Labor Code § 201 and/or § 202, Plaintiff and the Separated Subclass Members are entitled to all wages earned prior to termination that Defendants did not pay them.

63. Pursuant to Labor Code § 203, Plaintiff and the Separated Subclass Members are entitled to penalty wages, from the day their earned and unpaid wages were due upon termination

until paid, up to a maximum of 30 days.

64. As a result of Defendants' conduct, Plaintiff and the Separated Subclass Members have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages earned prior to termination in violation of Labor Code § 201 and/or § 202.

65. As a result of Defendants' conduct, Plaintiff and the Separated Subclass Members have suffered damages in an amount, subject to proof, to the extent they were not paid all penalty wages owed to them in violation of Labor Code § 203.

66. Pursuant to Labor Code §§ 218 and 218.5, Plaintiff and the Separated Subclass Members are entitled to recover the full amount of their unpaid wages, unpaid penalty wages, and reasonable attorney's fees and costs of suit. Plaintiff and the Separated Subclass Members are entitled to recover pre-judgment interest on all due and unpaid wages and penalty wages under Labor Code § 218.6 and/or Civil Code § 3287(a).

SIXTH CAUSE OF ACTION
Violation of California's Unfair Competition Law ("UCL")
[Cal. Bus. & Prof. Code § 17200, *et seq*.]
(By Plaintiff and the Class Members against all Defendants)

67. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

68. Plaintiff brings this claim on behalf of himself and all others similarly situated in his representative capacity against Defendants and Does 1 through 50, for their unlawful business acts and/or practices pursuant to California Business & Professions Code § 17200, *et seq.* (the "UCL"), which prohibits all unlawful business acts and/or practices.

69. Defendants are each a "person," as that term is defined under Cal. Bus. and Prof. Code § 17021.

70. The UCL defines unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

> Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may

> be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

Cal. Bus. & Prof. Code § 17203.

71. By the conduct alleged herein, Defendants have engaged and continue to engage in business practices that violate California law, including but not limited to, the applicable I.W.C. Wage Order(s), the California Code of Regulations and the California Labor Code including Sections 201-204, 221, 226, 226.7, 510, 512, 558, 1194, 1197, 1198, and 2802, for which this Court should issue declaratory and other equitable relief, pursuant to Cal. Bus. & Prof. Code §17203, as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages and premium pay wrongfully withheld.

72. By the conduct alleged herein, Defendants' practices were unlawful and unfair in that these practices violated public policy, were immoral, unethical, oppressive, unscrupulous or substantially injurious to employees, and were without valid justification or utility for which this Court should issue equitable and injunctive relief, pursuant to Cal. Bus. & Prof. Code § 17203, as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages and premium pay wrongfully withheld.

73. By the conduct alleged herein, Defendants' practices were deceptive and fraudulent in that Defendants' uniform policy and practice willfully failed to pay Plaintiff and the Class Members for all straight-time and overtime wages, failed to provide lawful, compliant, uninterrupted, timely, duty-free first and second meal periods, failed to reimburse all incurred business expenses (*i.e.* personal home internet and/or printers and/or facsimile machines for work), failed to pay wages earned each and every pay period, failed accurately to record all time worked and the applicable rate(s) of pay for all time worked, failed to maintain accurate time records, making unlawful deductions from wages for the employees' use of company vehicles for automobile, and failed to pay all wages owed upon separation from employment, pursuant to the applicable Labor Code, and I.W.C. requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages and premium pay wrongfully withheld.

74. By the conduct alleged herein, Defendants' practices were also unlawful, unfair and deceptive in that Defendants' employment practices caused Plaintiff and the Class Members to be underpaid, to face unlawful deductions, and to incur costs without adequate reimbursement during their employment with Defendants.

75. By the conduct alleged herein, Defendants' practices were also unfair and deceptive in that Defendants' uniform policies, practices and procedures failed to provide lawful first and second meal periods to Plaintiff and the Class Members.

76. By the conduct alleged herein, Defendants' practices were also unfair and deceptive in that Defendants' uniform policies, practices and procedures failed to provide Plaintiff and the Class Members with reimbursement for using their personal home internet and/or printers and/or facsimile machines for work.

77. By and through the unlawful and unfair business practices described herein, Defendants have obtained valuable property, money and services from Plaintiff and the Class Members, including earned wages for all time actually worked and meal period premium wages, and has deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of these employees and to the benefit of Defendants, so as to allow Defendants to unfairly compete against competitors who comply with the law.

78. All of the acts described herein as violations of, among other things, the I.W.C. Wage Orders, the California Code of Regulations and the California Labor Code were unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair, and/or deceptive business practices, in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq*.

79. Plaintiff and the Class Members are entitled to, and do, seek such relief as may be necessary to restore to them the money and property which Defendants have acquired, or of which Plaintiff and the Class Members have been deprived, by means of the above described unlawful and unfair business practices, including earned but unpaid wages for all time worked.

80. Plaintiff and the Class Members are further entitled to, and do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and that injunctive relief

should be issued restraining Defendants from engaging in any unlawful and unfair business practices in the future.

81. Plaintiff and the Class Members have no plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of Defendants. Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business practices described herein, Plaintiff and the Class Members have suffered and will continue to suffer irreparable legal and economic harm unless Defendants are restrained from continuing to engage in these unlawful and unfair business practices.

82. Wherefore, Plaintiff and the other Class Members are entitled to equitable relief, including restitution, attorney's fees and costs, declaratory relief, and a permanent injunction enjoining Defendants from their unlawful and/or unfair activity.

SEVENTH CAUSE OF ACTION

Violation of the Private Attorneys General Act

[Cal. Bus. & Prof. Code §§ 2698, *et seq*.]

(By Plaintiff on behalf of all Aggrieved Employees against all Defendants)

83. Plaintiff and all aggrieved employees of all Defendants incorporate all the preceding paragraphs as though fully set forth herein.

84. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to arbitration.

85. Plaintiff brings this Representative Action on behalf of the State of California with respect to himself and all other employees who were employed as non-exempt employees in the State of California since March 1, 2022, and who are Class Members (the "Aggrieved Employees").

86. On March 1, 2023, Counsel for Plaintiff on behalf of Dragutin Radic gave written notice by online filing to the LWDA and the employer via U.S. Certified Mail, Return-Receipt of the specific code provisions alleged to have been violated as required by Labor Code § 2699.3. (*See* **Exhibit 1**). The statutory waiting period to commence this action has expired. As a result, pursuant to § 2699.3, Plaintiff may now commence a representative civil action under PAGA pursuant to § 2699 as the proxy of the State of California with respect to all Aggrieved Employees as herein defined.

87. The policies, acts, and practices heretofore described were and are an unlawful business act or practice because of Defendants failure to pay all owed straight-time wages and overtime wages at the lawful regular rate of pay for all work performed, failure to provide compliant duty-free meal periods, failure to reimburse required expenses, failure to pay all wages each and every pay period, failure to provide accurate itemized wage statements, failure to provide all wages owed upon separation of employment, and making unlawful deductions to earned wages for automobile expenses in violation of the California Labor Code that gives rise to statutory penalties as a result of such conduct. Plaintiff hereby seeks recovery of civil penalties as prescribed by PAGA as the representatives of the State of California for the illegal conduct perpetrated on Plaintiff and the other Aggrieved Employees, against whom one or more of the violations of the California Labor Code was committed.

PRAYER FOR RELIEF

WHEREFORE, on behalf of himself and all others similarly situated, Plaintiff prays for judgment against Defendants as follows:

A. An order certifying this case as a class action;

B. An order appointing Plaintiff as representative for the Class;

C. An order appointing Plaintiff's counsel as counsel for the Class;

D. Damages for unpaid straight-time and overtime wages;

E. Damages for unpaid premium pay owed for meal period violations, pursuant to Labor Code § 226.7;

F. Reimbursement for expenditures and/or losses under Labor Code § 2802;

G. Civil Penalties under Labor Code § 226(e);

H. Damages for unpaid final wages under Labor Code § 201 or § 202;

I. Damages for penalty wages under Labor Code § 203;

J. Liquidated Damages for the failure to pay minimum wage, under Labor Code § 1194.2(a);

K. Restitution for unpaid wages and unlawful deductions under Business and Professions Code § 17203;

L. Injunctive relief under Labor Code § 226(h) and Business and Professions Code § 17200, *et seq*, requiring that Defendants provide compliant, itemized wage statements consistent with Labor Code §226(a) and cease and desist from their other unlawful and/or unfair employment practices;

M. Recovery of civil penalties as prescribed by PAGA;

N. An award of penalties, attorneys' fees, and costs of suit pursuant to Labor Code § 2699(g);

O. Prejudgment interest at the maximum legal rate;

P. Reasonable attorneys' fees;

Q. Costs of suit; and,

R. Such other relief as the Court may deem just and proper.

Dated: May 9, 2023 **DYCHTER LAW OFFICES, APC**

By: Alexander I. Dychter
Attorneys for Plaintiff Radic

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for himself and the Class on all claims so triable.

Dated: May 9, 2023 **DYCHTER LAW OFFICES, APC**

By: Alexander I. Dychter
Attorneys for Plaintiff Radic

EXHIBIT 1

DYCHTER
LAW OFFICES
A PROFESSIONAL CORPORATION

180 BROADWAY, SUITE 1835, SAN DIEGO, CALIFORNIA 92101
TEL 619.487.0777 | FAX 619.330.1827

March 1, 2023

VIA U.S. CERTIFIED MAIL
RETURN RECEIPT REQUESTED
[7019 1640 0001 9438 0366]

Steris Corporation
c/o: C T Corporation System
330 N. Brand Blvd., Ste. 700
Glendale, CA 91203

VIA ONLINE FILING ONLY
California Labor & Workforce Development Agency ("LWDA")

Re: Notice of Violation of California Labor Code Sections 201-204, 221, 226, 226.7, 510, 512, 558, 1194, 1197, 2802; Industrial Welfare Commission Wage Order(s), And Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam,

Our office represents Plaintiff Dragutin Radic (the "Plaintiff" or "Radic"), and other aggrieved employees in a class action lawsuit against STERIS CORPORATION, an Ohio Corporation (the "Defendant"). Plaintiff and other employees were employed as non-exempt employees in the State of California, primarily performing maintenance and repairs of medical equipment at client sites in California. Defendant has failed to pay straight-time wages, overtime wages at the lawful regular rate of pay for all work performed, failed to provide compliant duty-free meal periods, failed to reimburse required expenses, failed to pay all wages each and every pay period, failed to provide accurate, compliant, itemized wage statements, failed to pay all wages owed upon separation of employment, and made unlawful deductions to earned wages for automobile expenses in violation of the California Labor Code, and are therefore actionable under California Labor Code Section 2699.3.

A true and correct copy of the Complaint filed by Plaintiff on March 1, 2023 in the Superior Court of California – County of San Diego is attached hereto as **Exhibit 1**, which **(i)** identifies the alleged violations, **(ii)** details the facts and theories which support the alleged violations, **(iii)** details the specific work performed by Plaintiff, **(iv)** sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and **(v)** sets forth the illegal practices used by Defendant. This information provides notice to the Labor and Workforce Development Agency ("LWDA") of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint (**Exhibit 1**) into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask. Attachment of **Exhibit 1** herein is **<u>NOT</u>** meant to act as "service" of the Complaint on Defendants.

This Notice Letter is provided to enable the Plaintiff to proceed with the Complaint filed in the Superior Court of California – County of San Diego on March 1, 2023, against Defendant as authorized by California Labor Code Section 2699, *et seq.* The pending class action lawsuit consists of a class of other aggrieved employees who worked for STERIS CORPORATION in the State of California. As class counsel, our intention is to vigorously prosecute the class-wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorneys General Statute of 2004 on behalf of Plaintiff and all aggrieved Class Members.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully Submitted,

DYCHTER LAW OFFICES, APC

Alexander I. Dychter, Esq.
Attorneys for Plaintiff Dragutin Radic

*encl: **Exhibit 1*** = copy of Complaint filed on March 1, 2023

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
To: Alexander Dychter
Subject: Thank you for submission of your PAGA Case.
Date: Wednesday, March 1, 2023 6:23:59 PM

3/1/2023

LWDA Case No. LWDA-CM-939343-23
Law Firm : Dychter Law Offices, APC
Plaintiff Name : Dragutin Radic
Employer: Steris Corporation
Filing Fee : $75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

From:	noreply@salesforce.com on behalf of LWDA DO NOT REPLY
To:	Alexander Dychter
Subject:	State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation
Date:	Wednesday, March 1, 2023 6:24:18 PM

Thank you for your payment.

Order Information
Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-939343-23
Order Number: ORD-000211955
Total:$75.00
Card Type: Visa
Date: 3/1/2023

Billing Information
Name: Alexander Dychter
Email: alex@dychterlaw.com
Billing Address:
180 Broadway, Ste. 1835
San Diego, California
92101

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Steris Corporation
c/o: C T Corporation System
330 N. Brand Blvd., Ste. 700
Glendale, CA 91203

9590 9402 5497 9249 8745 45

2. Article Number *(Transfer from service label)*

7019 1640 0001 9438 0366

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by *(Printed Name)*

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

MAR 6 2023

Delivery Service

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ■ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Dragutin Radic v. Steris Corporation
Superior Court of California, County of San Diego
(*Case No.* 37-2023-00008579-CU-OE-CTL)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I, the undersigned, am over the age of 18 years and not a party to this action. My business address is 180 Broadway, Suite 1835, San Diego, California 92101.

On the date of execution hereof, I caused to be served the following attached documents:

FIRST AMENDED COMPLAINT

on the interested parties in this action, addressed as follows:

Defendant Steris Corporation
Mr. David G. Hoiles, Jr., Esq.
Ms. Lana B. Nassar, Esq.
Jackson Lewis P.C.
225 Broadway, Ste. 1800
San Diego, California 92101
Telephone: (619) 573-4900
Facsimile: (619) 573-4901
E-Mail: David.Hoiles@JacksonLewis.com
E-Mail: Lana.Nassar@JacksonLewis.com

(*via e-mail only*)

Using the following service method(s):

[X] **BY ELECTRONIC SERVICE:** Based upon an agreement between the parties to this action, the individuals listed above were served electronically with the document(s) listed above ***via e-mail only***. The transmission was reported as complete and without error. My electronic notification address is: Alex@DychterLaw.com

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

Executed on May 9, 2023, at San Diego, California.

Alexander I. Dychter