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Attorneys for PLAINTIFF **CLAUDIA RAMIREZ**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE**

CLAUDIA RAMIREZ,

Plaintiff,

vs.

SUN-MAR HEALTH CARE, INC., a  
California corporation;  
F&B HEALTH CARE, INC., a California  
corporation;  
SUN-MAR REHABILITATION SERVICES,  
LLC, a California limited liability company;  
and DOES 1 THROUGH 100, inclusive,

Defendants.

) Case No.: **CVRI 2303781**

) **COMPLAINT FOR DAMAGES:**

) **(1) FAILURE TO PAY MINIMUM WAGE,  
VIOLATION OF CALIFORNIA *LABOR*  
CODE § 1197;**

) **(2) FAILURE TO PAY OVERTIME WAGES,  
VIOLATION OF CALIFORNIA *LABOR*  
CODE § 510 & WAGE ORDER NO. 5;**

) **(3) FAILURE TO TIMELY PAY FINAL  
WAGES, VIOLATION OF CALIFORNIA  
LABOR CODE § 201;**

) **(4) FAILURE TO PROVIDE MEAL & REST  
PERIODS, VIOLATION OF  
CALIFORNIA *LABOR CODE* §§ 226.7,  
512, & WAGE ORDER NO. 5;**

) **(5) FAILURE TO INDEMNIFY FOR WORK-  
RELATED EXPENSES, VIOLATION OF  
CALIFORNIA *LABOR CODE* § 2802;**

) **(6) VIOLATION OF CALIFORNIA *BUS. &*  
*PROF. CODE* §§ 17200 ET SEQ. FOR  
UNFAIR BUSINESS PRACTICES;**

1 ) (7) FAILURE TO PROVIDE EMPLOYEE  
2 ) PERSONNEL FILES, VIOLATION OF  
3 ) CALIFORNIA *LABOR CODE* §§ 432,  
4 ) 1198.5;  
5 )  
6 ) (8) FAILURE TO PROVIDE ACCURATE  
7 ) ITEMIZED WAGE STATEMENTS,  
8 ) VIOLATION OF CALIFORNIA *LABOR*  
9 ) *CODE* § 226;  
10 )  
11 ) (9) PRIVATE ATTORNEYS GENERAL  
12 ) ACT (“PAGA”).  
13 )  
14 ) **JURY TRIAL DEMANDED**

15 COMES NOW PLAINTIFF CLAUDIA RAMIREZ (hereinafter referred to as “RAMIREZ”  
16 or “Plaintiff”) and complains against the above-named Defendants and for causes of action against  
17 the Defendants, and each of them, as follows:

18 **THE PARTIES**

19 1. At all times mentioned herein, Plaintiff was, and now is, an individual residing and/or  
20 domiciled in the County of Riverside, State of California.

21 2. Plaintiff is informed and believes, and thereon alleges that at all times relevant herein,  
22 Defendants SUN-MAR HEALTH CARE, INC., a California corporation, F&B HEALTH CARE,  
23 INC., a California corporation, and SUN-MAR REHABILITATION SERVICES, LLC, a California  
24 limited liability company (hereinafter collectively referred to as “Sun-Mar” and collectively with all  
25 other Defendants as “Defendants”) were, and now are, valid businesses of forms unknown, duly  
26 organized and existing under the laws of the State of California, having their principal places of  
27 business in the County of Riverside, State of California.

3. Plaintiff is informed and believes, and thereon alleges that the abovenamed Defendants are  
an “integrated enterprise” under the law, thereby making them jointly liable for the conduct alleged  
herein. Plaintiff is informed and believes, and thereon further alleges that there is centralized control  
of labor relations between Defendants and an interrelation of operations.

1 4. Plaintiff is ignorant of the true names and capacities, whether corporate, associate, individual,  
2 or otherwise, of Defendants sued herein as DOES 1 through 100, inclusive, and therefore sues said  
3 Defendants by such fictitious names. Plaintiff will seek leave of Court to amend this Complaint to  
4 assert the true names and capacities of the fictitiously named Defendants when the same have been  
5 ascertained. Plaintiff is informed and believes, and thereon alleges, that each Defendant designated  
6 as “DOES” herein is legally responsible for the events, happenings, acts, occurrences, indebtedness,  
7 damages, and liabilities hereinafter alleged and caused injuries and damages proximately thereby to  
8 the Plaintiff, as hereinafter alleged.

9 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants named  
10 herein has, at all times relevant herein, been the officer, agent, employee, and/or representative of  
11 the remaining Defendants and has acted within the course and scope of such agency and  
12 employment, and with the permission and consent of the co-Defendants.

### 13 **JURISDICTION AND VENUE**

14 6. This Court has jurisdiction over the claims alleged herein. The relief requested is within the  
15 jurisdiction of this Court.

16 7. Venue is proper in the County of Riverside. Defendants conduct business in the County of  
17 Riverside and all of Plaintiff’s employment was carried out in the County of Riverside. All of the  
18 claims alleged herein arose in the County of Riverside.

19 8. The amount in controversy in this matter exceeds the sum of \$25,000.00, exclusive of  
20 attorney’s fees, interest, and costs.

### 21 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

22 9. Plaintiff started working for Defendant Sun-Mar beginning in or around October 2007. Her  
23 employment ended in or around April 2023 at which time she held the position of Activity Director.  
24 Plaintiff was considered an hourly, non-exempt employee and her last rate of pay was approximately  
25 \$28.50 per hour.

26 10. The “Aggrieved Employees” are all current and former California employees who worked  
27 for Defendant Sun-Mar during the relevant time period pursuant to California *Labor Code* §§ 2698

et seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

11. It is Plaintiff’s position that Defendant Sun-Mar committed the following Labor Code violations against Plaintiff and other similarly situated aggrieved employees.

12. Defendant Sun-Mar did not compensate Plaintiff and other similarly situated aggrieved employees with the minimum wages to which they were entitled for work performed and, as such, did not compensate Plaintiff and other similarly situated aggrieved employees for all hours worked at the minimum wage rate pursuant to California *Labor Code* §§ 1194, 1197 and 1197.1.

13. This is so because Plaintiff and other similarly situated aggrieved employees either did not receive their daily, legally mandated thirty-minute meal periods, did not receive them timely, and/or were not completely relieved and/or were routinely interrupted during their daily, legally mandated meal periods. Plaintiff and other similarly situated aggrieved employees were required to continue performing their duties even during their meal periods, thereby resulting in Plaintiff and other similarly situated aggrieved employees not taking their meal periods, not taking them timely, and/or said meal periods being interrupted. For example, on many occasions, while Plaintiff was on her legally mandated meal break, she was required to answer phone calls or help residents in the event they fell or required assistance. Since Plaintiff was not duly compensated for the time she spent working during her meal periods, Defendant Sun-Mar violated California’s minimum wage laws.

14. Additionally, in further violation of California’s minimum wage laws, Defendant Sun-Mar routinely required Plaintiff to perform her work duties while she was off the clock. For example, among the other tasks she was required to perform while she was off the clock, Plaintiff was required to help residents in the event they fell or required assistance. However, despite requiring Plaintiff to perform such off-the-clock work, Defendant Sun-Mar did not pay Plaintiff the legally mandated minimum wage for the time she spent working off the clock. It is believed other similarly situated aggrieved employees were similarly asked and/or required to perform work off the clock without being duly compensated for the same.

15. As a further result of its failure to provide Plaintiff and other similarly situated aggrieved employees uninterrupted meal periods and its practice of requiring them to perform work duties

1 while they were off the clock, Defendant Sun-Mar violated California *Labor Code* § 510, because  
2 it failed to compensate Plaintiff and other similarly situated aggrieved employees overtime  
3 compensation, even though they worked more than 8 hours per day, 12 hours per day, and/or 40  
4 hours per week throughout their employment. Plaintiff and other similarly situated aggrieved  
5 employees' actual work hours entitled them to overtime compensation (both daily and weekly),  
6 especially due to the off-the-clock work described above. However, they were not paid accurately  
7 and fully for their overtime hours worked. Moreover, any incentive and/or bonus payments were  
8 not included in calculating Plaintiff and others' regular rate of pay for purposes of determining their  
9 correct overtime rate of pay.

10 16. Defendant Sun-Mar also violated California *Labor Code* § 226.7 and Industrial Welfare  
11 Commission Wage Order No. 5 because it failed to provide Plaintiff and other similarly situated  
12 aggrieved employees with ten-minute rest periods for every four hours of work, or majority portion  
13 thereof, throughout their employment. Defendant Sun-Mar did not relieve Plaintiff and other  
14 similarly situated aggrieved employees of all their duties during said rest periods, instead directing  
15 them to continue working. Defendant Sun-Mar did not pay Plaintiff and other similarly situated  
16 aggrieved employees one additional hour of pay at the regular rate of compensation for each  
17 workday when one or more statutory rest periods was not provided. It was not company policy  
18 and/or not part of the company culture for employees such as Plaintiff and other similarly situated  
19 aggrieved employees to take their daily rest breaks. Given the heavy workload and expectation for  
20 Plaintiff and other similarly situated aggrieved employees to timely complete their tasks, the culture  
21 at Defendant Sun-Mar did not lend itself to employees receiving statutory rest periods at which time  
22 they were relieved of all work duties. It was the normal practice and custom of Defendant Sun-Mar  
23 not to authorize, permit, and/or enforce statutory rest periods. As such, the work environment and  
24 culture at Defendant Sun-Mar was not conducive to receiving statutory rest breaks under California  
25 law.

17. Defendant Sun-Mar violated California *Labor Code* §§ 226.7 and 512 along with Industrial Welfare Commission Wage Order No. 5 because it failed to provide Plaintiff and other similarly situated aggrieved employees the requisite thirty-minute, uninterrupted meal periods for every five (5) hours of work throughout their employment. As described above, Defendant Sun-Mar either failed to provide a meal period timely or entirely, or it did not completely relieve Plaintiff and other similarly situated aggrieved employees of all duty during said meal periods. Defendant Sun-Mar did not duly compensate Plaintiff and other similarly situated aggrieved employees one additional hour of pay at the regular rate of compensation for each workday when one or more statutory meal periods was not provided or was interrupted. In addition, meal periods were not consistently taken before the fifth hour worked, in further contravention of California law.

18. Furthermore, during the relevant time period, as a result of the above violations, Defendant Sun-Mar failed to pay Plaintiff and other similarly situated aggrieved employees all wages due to them within any time period specified by California *Labor Code* § 204.

19. Defendant Sun-Mar was also in violation of California *Labor Code* § 226(a) by failing to timely provide and/or include pertinent information on Plaintiff and other similarly situated aggrieved employees' wage statements including, but not limited to the name and address of the legal entity that is the employer, all hours worked (minimum wage and overtime), gross wages earned, net wages earned, all applicable hourly rates, all deductions, and premium pay for the missed meal and rest periods, among others.

20. During the relevant time period, Defendant Sun-Mar also failed to keep accurate and complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff and other similarly situated aggrieved employees pursuant to California *Labor Code* § 1174(d).

21. Defendant Sun-Mar also violated California *Labor Code* § 203 because it willfully failed to pay to Plaintiff and other similarly situated aggrieved employees earned and due wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. These earned but unpaid wages include, but are not limited to minimum wages,

overtime compensation, premium pay for missed meal and rest periods, and reimbursement for the work-related expenses incurred.

22. Additionally, Plaintiff and other similarly situated aggrieved employees incurred necessary, business-related expenses and costs that were not reimbursed by Defendant Sun-Mar. These costs include, but are not limited to the requirement to use a personal cellular phone and computer, as well as the requirement to drive and incur mileage on personal vehicles for the benefit of Defendant Sun-Mar. Despite requiring Plaintiff and other similarly situated aggrieved employees to incur business-related costs and expenses, Defendant Sun-Mar did not duly reimburse them. Defendant Sun-Mar was therefore in violation of California *Labor Code* §§ 2800 and 2802.

**I.**

**FIRST CAUSE OF ACTION**

**Failure to Pay Minimum Wage**

**[Violation of California *Labor Code* § 1197 and IWC Wage Order No. 5]**

**Against All Defendants & DOES 1 Through 100, Inclusive**

23. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

24. At all times relevant herein, Plaintiff was a non-exempt, hourly employee entitled to the legally mandated minimum wage for each regular hour she worked.

25. However, as herein alleged, Defendant Sun-Mar failed to compensate her with the true, full, and/or correct minimum wage set forth and required by California *Labor Code* § 1197 and the Industrial Welfare Commission (“IWC”) Wage Order (No. 5) for each regular hour she worked.

26. As herein alleged, Plaintiff was required to continue performing her duties even during her meal periods, thereby resulting in Plaintiff not taking her meal periods, not taking them timely, and/or said meal periods being interrupted.

27. For example, on many occasions, while Plaintiff was on her legally mandated meal break, she was required to answer phone calls or help residents in the event they fell or required assistance. Since Plaintiff was not duly compensated for the time she spent working during her meal periods,

1 Defendant Sun-Mar violated California's minimum wage laws.

2 28. Additionally, in further violation of California's minimum wage laws, Defendant Sun-Mar  
3 routinely required Plaintiff to perform her work duties while she was off the clock. For example,  
4 among the other tasks she was required to perform while she was off the clock, Plaintiff was required  
5 to help residents in the event they fell or required assistance. However, despite requiring Plaintiff to  
6 perform such off-the-clock work, Defendant Sun-Mar did not pay Plaintiff the legally mandated  
7 minimum wage for the time she spent working off the clock.

8 29. At all times herein relevant, the public policy of the State of California, as codified,  
9 expressed, and mandated by IWC Wage Order No. 5, Section 11(A), declares unless the employee  
10 is relieved of all duty during his or her thirty minute meal period, the meal period shall be considered  
11 an "on duty" meal period and counted as hours worked, which must be compensated at the  
12 employee's regular rate of pay.

13 30. Since Plaintiff was not compensated for the time she spent working during her meal periods  
14 and while she was off the clock, Defendant Sun-Mar was in violation of California *Labor Code* §  
15 1197, which declares, "The minimum wage for employees fixed by the commission is the minimum  
16 wage to be paid to employees, and the payment of a less wage than the minimum so fixed is  
17 unlawful."

18 31. As a result of Defendant Sun-Mar's failure to compensate Plaintiff with the legally required  
19 minimum wage, Plaintiff is entitled to recover in a civil action the unpaid balance of the full amount  
20 of minimum wage, including interest, reasonable attorney's fees, and costs of suit pursuant to  
21 California *Labor Code* § 1194, which declares:

22 Notwithstanding any agreement to work for a lesser wage, any employee receiving  
23 less than the legal minimum wage or the legal overtime compensation applicable to  
24 the employee is entitled to recover in a civil action the unpaid balance of the full  
amount of this minimum wage or overtime compensation, including interest,  
reasonable attorney's fees, and costs of suit.

25 32. Plaintiff is also entitled to liquidated damages pursuant to California *Labor Code* §  
26 1194.2(a).

33. Plaintiff is also entitled to the remedies provides by California *Labor Code* § 218.5, which in relevant part declares, “In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action.”

34. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

## II.

### **SECOND CAUSE OF ACTION**

#### **Failure to Pay Overtime Wages**

#### **[California *Labor Code* § 510 and IWC Wage Order No. 5]**

#### **Against All Defendants & DOES 1 Through 100, Inclusive**

35. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

36. Defendant Sun-Mar failed to compensate Plaintiff with the true, full, and/or correct overtime compensation she was entitled to pursuant to California *Labor Code* § 510 and IWC Wage Order No. 5.

37. Due to the “off-the-clock” work performed by Plaintiff, as herein alleged, Defendant Sun-Mar violated California *Labor Code* § 510 because it failed to compensate Plaintiff her earned overtime wages even though she worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week.

38. At all times herein relevant, the public policy of the State of California, as codified, expressed, and mandated by California *Labor Code* § 510 and IWC Wage Order No. 5, Section 3(A), declares, “Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

39. As a result of Defendant Sun-Mar's failure to compensate Plaintiff with the true, full, and/or correct amount of her earned overtime wages, Plaintiff is entitled to recover in a civil action the unpaid balance of the overtime compensation, including interest, reasonable attorney's fees, and costs of suit pursuant to Cal. *Labor Code* § 1194, which declares:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest, reasonable attorney's fees, and costs of suit.

40. Plaintiff is also entitled to the remedies provides by California *Labor Code* § 218.5, which in relevant part declares, "In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action."

41. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

### III.

#### **THIRD CAUSE OF ACTION**

##### **Failure to Timely Pay Final Wages**

##### **[Violation of California *Labor Code* § 201]**

##### **Against All Defendants & DOES 1 Through 100, Inclusive**

42. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

43. As herein alleged, Plaintiff's employment ended in or around April 2023. However, Defendant Sun-Mar failed to compensate Plaintiff with the true, full, and/or correct amount of her earned wages in accordance with California *Labor Code* § 201(a), which declares, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

44. As a result of Defendant Sun-Mar's failure to compensate Plaintiff with the true, full, and/or correct amount her earned wages at the time of her separation, Plaintiff is entitled to the remedies provided for by California *Labor Code* § 203(a), which declares, "If an employer willfully fails to pay, without abatement or reduction, in accordance with [Section 201], any wages of an employee who is discharged..., 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 therefor is commenced; but the wages shall not continue for more than 30 days."

45. Plaintiff is also entitled to the remedies provides by California *Labor Code* § 218.5, which in relevant part declares, "In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action."

46. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

#### IV.

#### **FOURTH CAUSE OF ACTION**

##### **Failure to Provide Meal and Rest Periods**

**[California *Labor Code* § 226.7, 512, and IWC Wage Order No. 5]**

**Against All Defendants & DOES 1 Through 100, Inclusive**

47. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

48. Defendant Sun-Mar failed to provide Plaintiff with her legally mandated rest periods throughout her employment. As herein alleged, Defendant Sun-Mar did not relieve Plaintiff during said rest periods, instead directing and/or requiring her to continue working.

49. Defendant Sun-Mar further failed to provide Plaintiff daily, timely, and/or uninterrupted meal periods. As herein alleged, Plaintiff was routinely interrupted during her daily, legally mandated thirty-minute meal periods.

1 50. On other occasions, Plaintiff was unable to take her legally mandated meal period entirely  
2 due to understaffing.

3 51. At all times herein relevant, the public policy of the State of California, as codified,  
4 expressed, and mandated by California *Labor Code* § 226.7(a), declares that no employer shall  
5 require any employee to work during any meal or rest period mandated by an applicable order of the  
6 IWC.

7 52. At all times herein, the public policy of the State of California, as codified, expressed, and  
8 mandated by IWC Wage Order No. 5, Section 12(a), requires that every employer shall authorize  
9 and permit all employees to take rest periods, which insofar as practicable shall be in the middle of  
10 each work period. The authorized rest period time shall be based on the total hours worked daily at  
11 the rate of ten minutes net rest time per four hours or major fraction thereof. Authorized rest period  
12 time shall be counted as hours worked for which there shall be no deduction from wages.

13 53. At all times herein relevant, the public policy of the State of California, as codified,  
14 expressed, and mandated by Cal. *Labor Code* § 512(a) and IWC Wage Order No. 5, Section 11(A),  
15 declares that an employer may not employ an employee for a work period of more than five hours  
16 per day without providing the employee with a meal period of not less than 30 minutes, except that  
17 if the total work period per day of the employee is no more than six hours, the period may be waived  
18 by mutual consent of both the employer and employee.

19 54. At all times herein relevant, the public policy of the State of California, as codified,  
20 expressed, and mandated by IWC Wage Order No. 5, Section 11(A), also declares unless the  
21 employee is relieved of all duty during his or her thirty minute meal period, the meal period shall be  
22 considered an “on duty” meal period and counted as hours worked, which must be compensated at  
23 the employee's regular rate of pay. An “on duty” meal period shall be permitted only when the nature  
24 of the work prevents an employee from being relieved of all duty and when by written agreement  
25 between the employer and employee an on-the-job paid meal period is agreed to.

1 55. Moreover, at all times herein relevant, the public policy of the State of California declares  
2 that when an employee works for a work period of more than five hours, a meal period must be  
3 provided no later than the end of the employee's fifth hour of work, i.e., no later than the start of the  
4 employee's sixth hour of work.

5 56. California *Labor Code* § 226.7(b) and IWC Wage Order No. 5, Sections 11(B) and 12(B)  
6 declare that if an employer fails to provide an employee a meal period or rest period in accordance  
7 with an applicable order of the IWC, the employer shall pay the employee one additional hour of  
8 pay at the employee's regular rate of compensation for each work day that the meal or rest period is  
9 not provided.

10 57. As such, Plaintiff is entitled to one additional hour of pay at her regular rate of compensation  
11 for each work day when a meal or rest period was not provided or was either interrupted and/or  
12 untimely.

13 58. As a result of the acts of Defendant Sun-Mar and DOES 1 through 100, and each of them,  
14 Plaintiff is also entitled to compensation for each meal period where she was "on duty."

15 59. Plaintiff is also entitled to the remedies provides by California *Labor Code* § 218.5, which  
16 in relevant part declares, "In any action brought for the nonpayment of wages, fringe benefits, or  
17 health and welfare or pension fund contributions, the court shall award reasonable attorney's fees  
18 and costs to the prevailing party if any party to the action requests attorney's fees and costs upon  
19 the initiation of the action."

20 60. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

21 V.

22 **FIFTH CAUSE OF ACTION**

23 **Failure to Reimburse and Indemnify**

24 **[Violation of California *Labor Code* § 2802]**

25 **Against All Defendants & DOES 1 Through 100, Inclusive**

26 61. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this  
27 Complaint as though duly set forth in full herein.

62. Throughout her employment, Plaintiff incurred necessary, business-related expenses and costs that were not reimbursed by Defendant Sun-Mar. These costs include, but are not limited to the requirement to use a personal cellular phone and computer, as well as the requirement to drive and incur mileage on personal vehicles for the benefit of Defendant Sun-Mar.

63. However, despite Plaintiff incurring necessary costs and/or charges for the direct consequence of the discharge of her duties and Defendant Sun-Mar's resultant duty to duly reimburse and/or indemnify her, Defendant Sun-Mar failed and/or refused to reimburse Plaintiff for these work-related expenses, expenditures, and/or losses.

64. As such, Defendant Sun-Mar was in violation of California *Labor Code* § 2802(a), which declares, "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."

65. As a result of Defendant Sun-Mar failure to indemnify Plaintiff for all necessary expenditures or losses incurred by her in direct consequence of the discharge of her duties, Plaintiff is entitled to attorney's fees, damages, and awards, with interest, pursuant to Cal. *Labor Code* §§ 2802(b) and (c), which declare:

(b) All awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.

(c) For purposes of this section, the term "necessary expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section.

66. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

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1 VI.

2 **SIXTH CAUSE OF ACTION**

3 **Violation of California *Business & Professions Code* §§ 17200 et seq.**

4 **Against All Defendants & DOES 1 Through 100, Inclusive**

5 67. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this  
6 Complaint as though duly set forth in full herein.

7 68. Defendant Sun-Mar engaged in unfair, unlawful, fraudulent, deceptive, untrue, and/or  
8 misleading business practices through the following, among others:

- 9 a) Defendant Sun-Mar failed to compensate Plaintiff with the true, full, and/or correct  
10 minimum wage for the regular hours she worked, in violation of Cal. *Labor Code* § 1197;  
11 b) Defendant Sun-Mar failed to compensate Plaintiff with the true, full, and/or correct  
12 amount of her earned overtime wages, in violation of Cal. *Labor Code* § 510;  
13 c) Defendant Sun-Mar failed to compensate Plaintiff with the true, full, and/or correct  
14 amount of her earned wages at the time of her separation, in violation of Cal. *Labor Code* §  
15 201;  
16 d) Defendant Sun-Mar failed to provide Plaintiff with the full allotment of her daily  
17 meal and rest periods, failed to provide said meal and rest periods in accordance with  
18 applicable timing requirements, and/or failed to provide uninterrupted meal and rest periods,  
19 in violation of Cal. *Labor Code* §§ 226.7 and 512 and IWC Wage Order No. 5;  
20 e) Defendant Sun-Mar failed to reimburse Plaintiff for expenses she incurred in the  
21 direct consequence of the discharge of her duties, in violation of Cal. *Labor Code* § 2802;  
22 f) Defendant Sun-Mar failed to provide Plaintiff with accurate itemized wage  
23 statements, in violation of Cal. *Labor Code* § 226.

24 69. Through its alleged acts and/or omissions, Defendant Sun-Mar engaged in unfair, unlawful,  
25 fraudulent, deceptive, untrue, and/or misleading business practices in direct violation of Cal. *Bus.*  
26 *& Prof. Code* §§ 17200 et seq., which prohibits conducting such business.  
27

1 70. Defendant Sun-Mar's willful and/or reckless conduct constituted unfair business practices  
2 and acts as the harm to the general public outweighs any utility that its conduct may have produced.

3 71. As a direct result of the conduct, acts, and omissions of Defendant Sun-Mar and DOES 1  
4 through 100, and each of them, Plaintiff has been harmed and damaged in an amount to be shown  
5 at the time of trial, together with prejudgment interest thereon from the time owed until paid, all  
6 within an amount within the jurisdictional limits of this Court.

7 72. California *Bus. & Prof. Code* § 17205 provides, unless otherwise expressly provided, the  
8 remedies or penalties provided by this chapter are cumulative to each other and to the remedies or  
9 penalties available under all other laws of this state.

10 73. The acts of Defendant Sun-Mar and DOES 1 through 100, and each of them, were willful,  
11 wanton, malicious, intentional, oppressive, and/or despicable and were done in willful and conscious  
12 disregard of the rights, welfare, and/or safety of Plaintiff, and were done by managerial agents and  
13 employees of Defendant Sun-Mar and DOES 1 through 100, and/or with their express knowledge,  
14 consent, and ratification, thereby justifying the awarding of punitive and exemplary damages in an  
15 amount to be determined at the time of trial pursuant to Cal. *Civil Code* § 3294(a) and (b).

16 74. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

17 **VII.**

18 **SEVENTH CAUSE OF ACTION**

19 **Failure to Provide Employee Personnel Files**

20 **[California *Labor Code* §§ 432 and 1198.5]**

21 **Against All Defendants & DOES 1 Through 100, Inclusive**

22 75. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this  
23 Complaint as though duly set forth in full herein.

24 76. On or about May 18, 2023, and again on or about June 28, 2023, through her counsel of  
25 record, Plaintiff sent Defendant Sun-Mar a written request to receive a copy of her employee  
26 personnel files and any instruments she signed during his employment with Defendant Sun-Mar.

1 77. California *Labor Code* § 432 declares that if an employee or applicant signs any instrument  
2 relating to the obtaining or holding of employment, he or she shall be given a copy of the instrument  
3 upon request.

4 78. Further, California *Labor Code* § 1198.5(a) declares that every employee has the right to  
5 inspect the personnel records that the employer maintains relating to the employee's performance or  
6 to any grievance concerning the employee.

7 79. Defendant Sun-Mar failed to abide by Section 1198.5(a) as it failed to provide Plaintiff with  
8 the opportunity to inspect her personnel records after she made a request.

9 80. Defendant Sun-Mar also failed to abide by Section 432 as it failed to provide Plaintiff with  
10 a copy of any instruments she signed relating to the obtaining or holding of employment.

11 81. As such, Plaintiff is entitled to the remedies and penalties provided by Cal. *Labor Code* §  
12 1198.5(k), which declares:

13 If an employer fails to permit a current or former employee, or his or her  
14 representative, to inspect or copy personnel records within the times specified in this  
15 section, or times agreed to by mutual agreement as provided in this section, the  
16 current or former employee or the Labor Commissioner may recover a penalty of  
17 seven hundred fifty dollars (\$750) from the employer.

18 82. Plaintiff is also entitled to costs and attorney's fees for instituting this action pursuant to Cal.  
19 *Labor Code* § 1198.5(l).

20 83. Plaintiff also prays for damages and remedies as this Court deems appropriate.

## 21 **VIII.**

### 22 **EIGHTH CAUSE OF ACTION**

#### 23 **Failure to Provide Wage & Hour Statements**

24 **[California *Labor Code* § 226 et seq.]**

#### 25 **Against All Defendants & DOES 1 Through 100, Inclusive**

26 84. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this  
27 Complaint as though duly set forth in full herein.

85. On or about May 18, 2023, and again on or about June 28, 2023, through her counsel of record, Plaintiff sent Defendant Sun-Mar a written request to inspect her wage statements.

86. At all times herein mentioned, the public policy of the State of California, as codified, expressed, and mandated in California *Labor Code* § 226(b) declares that an employer that is required by this code to keep the information required by subdivision (a) – including the hours worked and wages earned – shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer.

87. At all times herein mentioned, the public policy of the State of California, as codified, expressed, and mandated in California *Labor Code* § 226(c) declares that an employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.

88. Defendant Sun-Mar failed to abide by Section 226 as it failed to provide Plaintiff with the opportunity to inspect said files after she made a written request.

89. As such, Plaintiff is entitled to the remedies and penalties provided by Cal. *Labor Code* § 226(f), which declares:

A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

90. Additionally, by virtue of its alleged failure to compensate Plaintiff her earned and due wages, including at the time of her termination, and its failure to duly pay Plaintiff the meal and rest period premiums to which she was entitled, Defendant Sun-Mar failed to provide Plaintiff with accurate itemized wage statements, in direct violation of California *Labor Code* § 226(a).

91. At all times relevant herein, California *Labor Code* § 226(a) in relevant part declares:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number

of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

92. As a result of Defendant Sun-Mar's failure to provide and/or maintain proper and/or accurate records as required by subdivision (a), Plaintiff is entitled to all the remedies, including costs and reasonable attorney's fees, as provided for by California *Labor Code* § 226(e)(1), which declares, "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees."

93. Plaintiff also prays for damages and remedies as this Court deems appropriate.

## IX.

### NINTH CAUSE OF ACTION

#### **Violation of the Private Attorneys General Act**

#### **[California Labor Code §§ 2698 et seq.]**

#### **Against All Defendants & DOES 1 through 100, Inclusive**

94. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

95. Plaintiff provided the required written notice to the Labor & Workforce Development Agency ("LWDA") and Defendants of the specific violations of the California Labor Code that Defendants and DOES 1-100 are alleged to have violated and continue to violate.

96. Pursuant to California *Labor Code* § 2699.3, no response was received from the LWDA within 65 days of the postmark date of the notice to the LWDA.

1 97. Plaintiff has therefore exhausted all administrative remedies required of her under California  
2 *Labor Code* §§ 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and  
3 pursue penalties in a representative action for Defendants’ violations of the Labor Code.

4 98. Pursuant to California *Labor Code* § 2699, any provisions of the Labor Code that provides  
5 for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,  
6 commissions, boards, agencies, or employees for violation of the code may, as an alternative, be  
7 recovered through a civil action brought by an aggrieved employee on behalf of himself or herself  
8 and other current or former employees pursuant to the procedures specified in Section 2699.3.

9 99. Plaintiff is an “aggrieved employee” because she was employed by the alleged violators and  
10 had the alleged violations committed against her and is therefore properly suited to represent the  
11 interests of other current and former employees who worked for Defendants in the State of California  
12 during the PAGA period.

13 100. Based on the acts alleged above, Plaintiff, on behalf of herself and other similarly situated  
14 aggrieved employees, seeks penalties under California *Labor Code* §§ 2698 and 2699 because of  
15 Defendants’ violations of the California Labor Code, as alleged herein.

16 101. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by law,  
17 but only those penalties that are required to be shared with the LWDA as Plaintiff is not seeking  
18 individual/victim-specific relief under this cause of action.

19 102. Specifically, Plaintiff seeks penalties under California *Labor Code* § 2699 for the following:  
20 violations of California Labor Code Sections 201, 202, 203, 204 and/or 204b, 210, 221, 226, 226.3,  
21 226.7, 226.8, 510, 512, 558, 1174, 1174.5, 1194, 1197, and 1198, via 2698 and 2699, any other  
22 Labor Codes and Wage Orders violated on the facts alleged in this Complaint.

23 103. Pursuant to California *Labor Code* §§ 2698 et seq., Plaintiff seeks to recover attorney’s fees,  
24 costs, and civil penalties on behalf of Plaintiff and other current and former similarly situated  
25 aggrieved employees as alleged herein in an amount to be shown according to proof at trial and  
26 within the jurisdictional limits of this Court.

1 WHEREFORE, PLAINTIFF CLAUDIA RAMIREZ prays for judgment against Defendants and  
2 DOES 1-100, and each of them, as follows:

3 1. For damages, penalties, reasonable attorney's fees, and/or costs of suit against Defendants as  
4 provided for by California *Labor Code* §§ 1194 et seq.;

5 2. For all remedies, including attorney's fees and costs, against Defendants as provided for by  
6 California *Labor Code* § 218.5;

7 3. For all remedies against Defendants as provided for by California *Labor Code* § 203;

8 4. For all penalties against Defendants as provided for by California *Labor Code* § 226.7;

9 5. For damages, penalties, attorney's fees, and/or any other damages against Defendants as  
10 provided for by California *Labor Code* § 2802;

11 6. For such relief against Defendants as the Court deems appropriate pursuant to Cal. *Bus. &*  
12 *Prof. Code* §§ 17200 et seq.;

13 7. For damages, penalties, reasonable attorney's fees, and costs of suit against Defendants as  
14 provided for by Cal. *Labor Code* §§ 226(e), (f);

15 8. For damages, penalties, and/or reasonable attorney's fees, and costs of suit against  
16 Defendants as provided for by Cal. *Labor Code* §§ 1198.5(k), (l);

17 9. For punitive and exemplary damages against Defendants, according to proof, as provided for  
18 by California *Civil Code* § 3294(a) and (b);

19 10. For the imposition of civil penalties against Defendants;

20 11. For maximum civil penalties against Defendants available under California *Labor Code* §  
21 2699 in a manner and amount authorized by that statute, as described more particularly herein and  
22 representative PAGA claims;

23 12. For all costs and disbursements incurred in this suit;

24 13. For reasonable attorney's fees against Defendants where available by law, including but not  
25 limited to those pursuant to California *Labor Code* §§ 2698 et seq., California *Code of Civil*  
26 *Procedure* § 1021.5, and/or other applicable laws; and  
27

1 14. For such other and further relief as this Court may deem proper.  
2

3 Dated: July 24, 2023

**SEZGIN KHOUSADIAN LLP**

4 By: Arthur Sezgin  
5 ARTHUR SEZGIN, ESQ.  
6 Attorneys for PLAINTIFF  
7 CLAUDIA RAMIREZ  
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