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Attorneys for Plaintiffs CARISSA ARNOLD
and SAMANTHA TANORI

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

CARISSA ARNOLD and SAMANTHA
TANORI, individually, and on behalf of all
others similarly situated, other aggrieved
employees, and the State of California

Plaintiff,

v.

LOMA LINDA UNIVERSITY MEDICAL
CENTER; LOMA LINDA UNIVERSITY
HEALTH; LOMA LINDA UNIVERSITY
HEALTH CARE; LOMA LINDA
UNIVERSITY BEHAVIORIAL
MEDICINE CENTER, INC.; LOMA
LINDA UNIVERSITY MEDICAL
CENTER - MURRIETA; LOMA LINDA
UNIVERSITY; LOMA LINDA
PHYSICIANS MEDICAL GROUP, INC.;
LOMA LINDA UNIVERSITY EYE
MEDICAL GROUP, INC.; LOMA LINDA
UNIVERSITY RADIATION MEDICINE;
LOMA LINDA UNIVERSITY
UROLOGY MEDICAL GROUP, INC.;
LOMA LINDA UNIVERSITY DENTAL
GROUP, INC.; LOMA LINDA
UNIVERSITY PATHOLOGY MEDICAL
GROUP, INC.; LOMA LINDA
UNIVERSITY SHARED SERVICES;
LOMA LINDA UNIVERSITY FAMILY

Case No.: CIVSB2313303

**Assigned for all purposes to:
Hon. David Cohn, Dept. S-26**

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

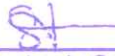
1. Failure to Pay All Wages;
2. Failure to Provide Meal Periods or Compensation in Lieu Thereof;
3. Failure to Permit Rest Periods or Provide Compensation in Lieu Thereof;
4. Knowing and Intentional Failure to Provide Accurate Itemized Wage Statements;
5. Waiting Time Penalties;
6. Failure to Pay Sick Pay at the Regular Rate;
7. Failure to Reimburse Business Expenses;
8. Violations of the Unfair Competition Law; and
9. Violation of the Private Attorneys General Act of 2004

JURY TRIAL DEMANDED

Action Filed: June 7, 2023
Trial Date: None set

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 11 2023


BY: Stephanie Garcia, Deputy

MEDICAL GROUP, INC.; LOMA LINDA
UNIVERSITY CHILDREN'S HOSPITAL
FOUNDATION; LOMA LINDA
UNIVERSITY CHILDREN'S
HOSPITAL; LOMA LINDA
UNIVERSITY – URGENT CARE, LLC;
and DOES 1 through 50, inclusive,

Defendants.

1 Plaintiffs CARISSA ARNOLD and SAMANTHA TANORI (collectively “Plaintiffs”), on
2 behalf of themselves and all others similarly situated, hereby bring this First Amended Class and
3 Representative Action Complaint (“Complaint”) against Defendants LOMA LINDA
4 UNIVERSITY MEDICAL CENTER; LOMA LINDA UNIVERSITY HEALTH; LOMA LINDA
5 UNIVERSITY HEALTH CARE; LOMA LINDA UNIVERSITY BEHAVIORIAL MEDICINE
6 CENTER, INC.; LOMA LINDA UNIVERSITY MEDICAL CENTER - MURRIETA; LOMA
7 LINDA UNIVERSITY; LOMA LINDA PHYSICIANS MEDICAL GROUP, INC.; LOMA
8 LINDA UNIVERSITY EYE MEDICAL GROUP, INC.; LOMA LINDA UNIVERSITY
9 RADIATION MEDICINE; LOMA LINDA UNIVERSITY UROLOGY MEDICAL GROUP,
10 INC.; LOMA LINDA UNIVERSITY DENTAL GROUP, INC.; LOMA LINDA UNIVERSITY
11 PATHOLOGY MEDICAL GROUP, INC.; LOMA LINDA UNIVERSITY SHARED SERVICES;
12 LOMA LINDA UNIVERSITY FAMILY MEDICAL GROUP, INC.; LOMA LINDA
13 UNIVERSITY CHILDREN’S HOSPITAL FOUNDATION; LOMA LINDA UNIVERSITY
14 CHILDREN’S HOSPITAL; LOMA LINDA UNIVERSITY - URGENT CARE, LLC; and DOES
15 1 through 50, inclusive (collectively “Defendants”), and alleges with knowledge with respect to
16 their own acts and on information and belief as to other matters as follows:

17 **INTRODUCTION**

18 1. This proposed class action, pursuant to California Code of Civil Procedure section
19 382, is brought by Plaintiffs individually and on behalf of all current and former non-exempt
20 employees employed by Defendants in California during the Class Period (collectively the “Class”
21 or “Class Members”). The term Class Period is defined as four (4) years prior to the filing of this
22 action to the date of class certification.

23 2. Plaintiffs also bring this representative action pursuant to the Private Attorneys
24 General Act of 2004, Labor Code sections 2698 *et seq.* (“PAGA”), against Defendants, on behalf
25 of himself individually and other aggrieved employees who are and were employed by Defendants
26 throughout California during the PAGA Period (the “aggrieved employees”). The term PAGA
27 Period is defined as one (1) year prior to Plaintiffs’ initial notice of Labor Code violations to the
28 Labor and Workforce Development Agency (“LWDA”) and Defendants until judgment.

3. This proposed class action and representative seeks, *inter alia*, unpaid wages (including minimum, regular, overtime, and double time wages during regular and on-call shifts), compensation for non-compliant meal periods and rest breaks, waiting time penalties, itemized wage statement penalties, civil penalties, business expense reimbursements, liquidated damages, interest, reasonable attorneys' fees, and costs. Plaintiffs' action is brought under, *inter alia*, the California Industrial Welfare Commission ("IWC") Wage Orders and applicable provisions of the California Code of Regulations, California Business & Professions Code sections 17200 *et seq.*, California Civil Code section 3289, California Code of Civil Procedure section 1021.5, and California Labor Code ("Labor Code") sections 200, 201, 202, 203, 204, 206, 210, 218, 221, 223, 224, 226, 226.3, 226.7, 227.3, 232.5(c), 233, 234, 246, 500, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, and 2802.

4. Under the California Unfair Competition Law, Business and Professions Code sections 17200 *et seq.*, 17200-17208 (“UCL”), and pursuant to the class action procedures provided for in this statute, Plaintiff, on behalf of himself and the proposed Class, seeks declaratory relief, injunctive relief, and restitution of all benefits Defendants have received from their employees due to their unlawful business practices, including but not limited to, their failure to timely provide minimum, regular, overtime, and double time compensation due for all hours worked during and upon separation of employment, failure to reimburse business expenses, failure to provide compliant meal periods and rest breaks to their employees or compensation in lieu thereof, and failure to provide accurate itemized wage statements.

JURISDICTION AND VENUE

5. This Court has jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article VI, section 10, which grants the Superior Court original jurisdiction in all cases except those given to other trial courts. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law. Further, this is a class action pursuant to California Code of Civil Procedure section 382 and representative action under PAGA. As such, the monetary damages, restitution, penalties, and other amounts sought by Plaintiffs exceeds the minimal jurisdictional limits of the Superior Court and will be established according to

1 proof at trial. The Court also has jurisdiction over certain causes of action pursuant to California
2 Business & Professions Code sections 17203 and 17204, which provide for exclusive jurisdiction
3 for enforcement of this statute in any court of competent jurisdiction.

4 6. This Court has jurisdiction over all Defendants because each Defendant is a citizen
5 of California, a corporation or association organized under the laws of the State of California, an
6 association authorized to do business in California and registered with the California Secretary of
7 State, does sufficient business in California, has sufficient minimum contacts with California,
8 and/or intentionally avails itself of the laws and markets of California through the promotion, sale,
9 marketing and distribution of its products and/or services in California to render the exercise of
10 jurisdiction by the California courts permissible.

11 7. Venue in San Bernardino County is proper under California Business & Professions
12 Code section 17203 and California Code of Civil Procedure section 395.5 because a substantial
13 part of Defendants' unlawful conduct, acts, and omissions alleged herein occurred in this County,
14 Defendants conduct substantial business in this County, Defendants' liability arose in this County,
15 and/or Defendants reside, transact business, maintain offices, and/or have an agent or agents in this
16 County. The relief requested is within the jurisdiction of this Court.

17 **PARTIES**

18 8. Plaintiff CARISSA ARNOLD ("ARNOLD") is an individual who resides in
19 California. In or around October 2020, Defendants hired Plaintiff ARNOLD as a non-exempt
20 hourly employee. Defendants still employ Plaintiff ARNOLD. Plaintiff ARNOLD is a Radiologic
21 Technologist and Cardiovascular Specialist whose job duties include, *inter alia*, assisting doctors
22 with medical procedures, controlling x-rays, and other diagnostic imaging examinations on
23 Defendant's clients, attending meetings, and checking and cleaning patient rooms, patients, and
24 equipment such as defibrillators.

25 9. Plaintiff SAMANTHA TANORI ("TANORI") is an individual who resides in
26 California. In or around February 2022, Defendants hired Plaintiff as a non-exempt hourly
27 employee. Defendants still employ Plaintiff TANORI. Plaintiff TANORI is a Radiologic
28 Technologist and Cardiovascular Specialist whose job duties include, *inter alia*, assisting doctors

1 with medical procedures, controlling x-rays, and other diagnostic imaging examinations on
2 Defendant's clients, attending meetings, and checking and cleaning patient rooms, patients, and
3 equipment such as defibrillators.

4 10. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
5 LINDA UNIVERSITY MEDICAL CENTER was and is a California corporation with its principal
6 place of business in San Bernardino County, California. LOMA LINDA UNIVERSITY MEDICAL
7 CENTER owns and/or operates six hospitals and numerous clinics in Southern California. Plaintiffs
8 are further informed, believe and thereon allege that, at all relevant times, LOMA LINDA
9 UNIVERSITY MEDICAL CENTER regularly conducted and conducts business within the State
10 of California and derives substantial revenues from services performed in California. In addition,
11 Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA LINDA
12 UNIVERSITY MEDICAL CENTER was and is an employer subject to California state wage and
13 hour laws.

14 11. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
15 LINDA UNIVERSITY HEALTH was and is a California corporation with its principal place of
16 business in San Bernardino County, California. LOMA LINDA UNIVERSITY HEALTH owns
17 and/or operates six hospitals and numerous clinics in Southern California. Plaintiffs are further
18 informed, believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY
19 HEALTH regularly conducted and conducts business within the State of California and derives
20 substantial revenues from services performed in California. In addition, Plaintiffs are informed,
21 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY HEALTH was
22 and is an employer subject to California state wage and hour laws.

23 12. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
24 LINDA UNIVERSITY HEALTH CARE was and is a California corporation with its principal
25 place of business in San Bernardino County, California. LOMA LINDA UNIVERSITY HEALTH
26 CARE owns and/or operates six hospitals and numerous clinics in Southern California. Plaintiffs
27 are further informed, believe and thereon allege that, at all relevant times, LOMA LINDA
28 UNIVERSITY HEALTH CARE regularly conducted and conducts business within the State of

1 California and derives substantial revenues from services performed in California. In addition,
2 Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA LINDA
3 UNIVERSITY HEALTH CARE was and is an employer subject to California state wage and hour
4 laws.

5 13. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
6 LINDA UNIVERSITY BEHAVIORAL MEDICINE CENTER, INC. was and is a California
7 corporation with its principal place of business in San Bernardino County, California. Plaintiffs are
8 further informed, believe and thereon allege that, at all relevant times, LOMA LINDA
9 UNIVERSITY BEHAVIORAL MEDICINE CENTER, INC. regularly conducted and conducts
10 business within the State of California and derives substantial revenues from services performed in
11 California. In addition, Plaintiffs are informed, believe and thereon allege that, at all relevant times,
12 LOMA LINDA UNIVERSITY BEHAVIORAL MEDICINE CENTER, INC. was and is an
13 employer subject to California state wage and hour laws.

14 14. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
15 LINDA UNIVERSITY MEDICAL CENTER – MURRIETA was and is a California corporation
16 with its principal place of business in Riverside County, California. Plaintiffs are further informed,
17 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY MEDICAL
18 CENTER – MURRIETA regularly conducted and conducts business within the State of California
19 and derives substantial revenues from services performed in California. In addition, Plaintiffs are
20 informed, believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY
21 MEDICAL CENTER – MURRIETA was and is an employer subject to California state wage and
22 hour laws.

23 15. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
24 LINDA UNIVERSITY was and is a California corporation with its principal place of business in
25 San Bernardino County, California. Plaintiffs are further informed, believe and thereon allege that,
26 at all relevant times, LOMA LINDA UNIVERSITY regularly conducted and conducts business
27 within the State of California and derives substantial revenues from services performed in
28 California. In addition, Plaintiffs are informed, believe and thereon allege that, at all relevant times,

1 LOMA LINDA UNIVERSITY was and is an employer subject to California state wage and hour
2 laws.

3 16. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
4 LINDA PHYSICIANS MEDICAL GROUP, INC. was and is a California corporation with its
5 principal place of business in San Bernardino County, California. Plaintiffs are further informed,
6 believe and thereon allege that, at all relevant times, LOMA LINDA PHYSICIANS MEDICAL
7 GROUP, INC. regularly conducted and conducts business within the State of California and derives
8 substantial revenues from services performed in California. In addition, Plaintiffs are informed,
9 believe and thereon allege that, at all relevant times, LOMA LINDA PHYSICIANS MEDICAL
10 GROUP, INC. was and is an employer subject to California state wage and hour laws.

11 17. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
12 LINDA UNIVERSITY EYE MEDICAL GROUP, INC. was and is a California corporation with
13 its principal place of business in San Bernardino County, California. Plaintiffs are further informed,
14 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY EYE
15 MEDICAL GROUP, INC. regularly conducted and conducts business within the State of California
16 and derives substantial revenues from services performed in California. In addition, Plaintiffs are
17 informed, believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY EYE
18 MEDICAL GROUP, INC. was and is an employer subject to California state wage and hour laws.

19 18. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
20 LINDA UNIVERSITY RADIATION MEDICINE was and is a California corporation with its
21 principal place of business in San Bernardino County, California. Plaintiffs are further informed,
22 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY RADIATION
23 MEDICINE regularly conducted and conducts business within the State of California and derives
24 substantial revenues from services performed in California. In addition, Plaintiffs are informed,
25 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY RADIATION
26 MEDICINE was and is an employer subject to California state wage and hour laws.

27 19. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
28 LINDA UNIVERSITY UROLOGY MEDICAL GROUP, INC. was and is a California corporation

1 with its principal place of business in San Bernardino County, California. Plaintiffs are further
2 informed, believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY
3 UROLOGY MEDICAL GROUP, INC. regularly conducted and conducts business within the State
4 of California and derives substantial revenues from services performed in California. In addition,
5 Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA LINDA
6 UNIVERSITY UROLOGY MEDICAL GROUP, INC. was and is an employer subject to
7 California state wage and hour laws.

8 20. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
9 LINDA UNIVERSITY DENTAL GROUP, INC. was and is a California corporation with its
10 principal place of business in San Bernardino County, California. Plaintiffs are further informed,
11 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY DENTAL
12 GROUP, INC. regularly conducted and conducts business within the State of California and derives
13 substantial revenues from services performed in California. In addition, Plaintiffs are informed,
14 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY DENTAL
15 GROUP, INC. was and is an employer subject to California state wage and hour laws.

16 21. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
17 LINDA UNIVERSITY PATHOLOGY MEDICAL GROUP, INC. was and is a California
18 corporation with its principal place of business in San Bernardino County, California. Plaintiffs are
19 further informed, believe and thereon allege that, at all relevant times, LOMA LINDA
20 UNIVERSITY PATHOLOGY MEDICAL GROUP, INC. regularly conducted and conducts
21 business within the State of California and derives substantial revenues from services performed in
22 California. In addition, Plaintiffs are informed, believe and thereon allege that, at all relevant times,
23 LOMA LINDA UNIVERSITY PATHOLOGY MEDICAL GROUP, INC. was and is an employer
24 subject to California state wage and hour laws.

25 22. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
26 LINDA UNIVERSITY SHARED SERVICES was and is a California corporation with its principal
27 place of business in San Bernardino County, California. Plaintiffs are further informed, believe and
28 thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY SHARED SERVICES

1 regularly conducted and conducts business within the State of California and derives substantial
2 revenues from services performed in California. In addition, Plaintiffs are informed, believe and
3 thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY SHARED SERVICES and
4 is an employer subject to California state wage and hour laws.

5 23. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
6 LINDA UNIVERSITY FAMILY MEDICAL GROUP, INC. was and is a California corporation
7 with its principal place of business in San Bernardino County, California. Plaintiffs are further
8 informed, believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY
9 FAMILY MEDICAL GROUP, INC. regularly conducted and conducts business within the State
10 of California and derives substantial revenues from services performed in California. In addition,
11 Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA LINDA
12 UNIVERSITY FAMILY MEDICAL GROUP, INC. and is an employer subject to California state
13 wage and hour laws.

14 24. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
15 LINDA UNIVERSITY CHILDREN'S HOSPITAL FOUNDATION was and is a California
16 corporation with its principal place of business in San Bernardino County, California. Plaintiffs are
17 further informed, believe and thereon allege that, at all relevant times, LOMA LINDA
18 UNIVERSITY CHILDREN'S HOSPITAL FOUNDATION regularly conducted and conducts
19 business within the State of California and derives substantial revenues from services performed in
20 California. In addition, Plaintiffs are informed, believe and thereon allege that, at all relevant times,
21 LOMA LINDA UNIVERSITY CHILDREN'S HOSPITAL FOUNDATION and is an employer
22 subject to California state wage and hour laws.

23 25. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
24 LINDA UNIVERSITY CHILDREN'S HOSPITAL was and is a California corporation with its
25 principal place of business in San Bernardino County, California. Plaintiffs are further informed,
26 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY CHILDREN'S
27 HOSPITAL regularly conducted and conducts business within the State of California and derives
28 substantial revenues from services performed in California. In addition, Plaintiffs are informed,

1 believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY CHILDREN'S
2 HOSPITAL and is an employer subject to California state wage and hour laws.

3 26. Plaintiffs are informed, believe and thereon allege that, at all relevant times, LOMA
4 LINDA UNIVERSITY – URGENT CARE, LLC was and is a California limited liability company
5 with its principal place of business in San Bernardino County, California. Plaintiffs are further
6 informed, believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY –
7 URGENT CARE, LLC regularly conducted and conducts business within the State of California
8 and derives substantial revenues from services performed in California. In addition, Plaintiffs are
9 informed, believe and thereon allege that, at all relevant times, LOMA LINDA UNIVERSITY –
10 URGENT CARE, LLC and is an employer subject to California state wage and hour laws.

11 27. Plaintiffs are informed, believe and based thereon allege that Defendants share the
12 same agent for service of process, among other things.

13 28. Plaintiffs are informed, believe and based thereon allege that Defendants suffered
14 and permitted Plaintiffs and Class Members to work, and/or jointly exercised control over the
15 wages, hours, and/or working conditions of Plaintiffs and the Class Members.

16 29. Defendants continue to employ non-exempt employees within California.

17 30. Plaintiffs are unaware of the true names and capacities of those defendants identified
18 as DOES 1 through 50. Therefore, Plaintiffs identify those defendants fictitiously. Plaintiffs are
19 informed, believe and thereon allege that at all relevant times each DOE defendant was a parent,
20 sister, or related corporate entity of defendants, or an owner, employee or agent of defendants, and
21 each related entity, and was acting with the knowledge and authorization of each of the other
22 defendants. Plaintiffs will seek to amend this FAC to allege the true names and capacities of each
23 DOE defendant when their names have been ascertained and identified. Plaintiffs are informed,
24 believe and thereon allege that each of the defendants sued as DOES 1 through 50 participated in,
25 received the benefit of, or was in some way responsible for one or more of the wrongful acts and
26 omissions and some portion of the damages alleged herein.

27 31. Plaintiffs are informed, believe and thereon allege that at all times relevant, each
28 defendant acted in all respects pertinent to this action as the agent of the other defendant, carried

1 out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
2 defendant are legally attributable to the other defendant. Furthermore, defendants in all respects
3 acted as the employer and/or joint employer of Plaintiffs and the Class Members.

4 32. Plaintiffs are informed, believe and thereon allege that Defendants, each and all of
5 them, at all times material hereto, were the joint employers, parent companies, successor
6 companies, predecessors in interest, affiliates, agents, employees, servants, joint venturers,
7 directors, fiduciaries, representatives, and/or co-conspirators of each of the remaining defendants.
8 Defendants, unless otherwise alleged, at all times material hereto, performed all acts and omissions
9 alleged herein within the course and scope of said relationship(s), and are a proximate cause of
10 Plaintiffs' damages as alleged in this Complaint.

11 33. Plaintiffs are informed, believe and thereon allege that there exists a unity of interest
12 in ownership between Defendants and DOES 1 through 50, inclusive, such that any individuality
13 and separateness between the individual and the corporation does not exist, as Defendants, and
14 DOES 1 through 50, inclusive, are alter egos, in that: (1) Defendants are and at all times mentioned
15 herein were mere shells, instrumentalities and conduits through which DOES 1 through 50,
16 inclusive, carried out their business in the business name, exercising complete control and
17 dominance over such business; (2) that Defendants were conceived, intended and used by DOES 1
18 through 50, inclusive, as devices to avoid individual liability and in place of Defendants, and DOES
19 1 through 50, inclusive, and were without the financial solvency and responsibility required by law;
20 and (3) that all of the assets of the Defendants have been transferred to DOES 1 through 50,
21 inclusive, or some other individual or entity which he or she owns or controls, with the intent to
22 hinder, delay or defraud creditors of Defendants, leaving Defendants with no assets. Further,
23 Plaintiffs are informed, believe and thereon allege that there exists a principal-agency relationship
24 between and among Defendants.

25 34. At all relevant times herein, Defendants were agents of each other and acting within
26 the course and scope of their agency.

27 **CLASS ACTION ALLEGATIONS AND FACTUAL BACKGROUND**

28 35. Pursuant to California Code of Civil Procedure section 382, Plaintiffs bring this

1 action individually and as a class action on behalf of a proposed Class defined as follows:

2 Class:

3 All current and former non-exempt employees employed by Defendants in the State
4 of California within four (4) years prior to the commencement of this action to the
5 date of class certification.

6 36. The Class is also comprised of the following Subclass:

7 Waiting Time Sub-Class:

8 Those members of the Class who separated from their employment with Defendants
9 within three (3) years prior to the commencement of this action to the date of class
10 certification.

11 Alternative Workweek Sub-Class:

12 All Class members subject to an alternative workweek schedule within four (4) years
13 prior to the commencement of this action to the date of class certification.

14 37. Plaintiffs reserve the right pursuant to California Rules of Court, Rule 3.764 and
15 3.765, to amend or modify the respective definitions of the Class and/or Subclasses to provide
16 greater specificity and/or further division into subclasses or limitation to particular issues based on
17 further investigation and discovery.

18 38. This action is brought, and may properly be maintained, as a class action pursuant
19 to California Code of Civil Procedure section 382 because there is a well-defined community of
20 interest in the litigation, and the proposed class is easily ascertainable. This action presents
21 questions of common interest and satisfies the numerosity, commonality, typicality, adequacy,
22 predominance, and superiority requirements of this provision.

23 39. Through this action, Plaintiffs allege Defendants have consistently maintained and
24 enforced against Plaintiffs and Class Members unlawful employment practices and policies which
25 violate the Labor Code and IWC Wage Orders.

26 40. Plaintiffs are informed, believe, and thereon allege that during the Class Period,
27 Defendants failed to pay Plaintiffs and Class Members all minimum, regular, overtime, and double
28 time wages for all hours worked in violation of the Labor Code and IWC Wage Orders. During the

1 PAGA Period, Plaintiffs and Class Members were required to work on-call shifts, during which
2 they were required to, for example, remain on call or standby for 13.5 consecutive hours on certain
3 mid-week days and for 24 consecutive hours on certain midweek days and be available to receive
4 a call at any point during the shift. If Plaintiffs and Class Members received a call during an on-
5 call shift, they only had a limited amount of time to respond to the call and arrive at the worksite.
6 If Plaintiffs and Class Members failed to answer the call and/or arrive at the worksite within a
7 specified amount of time, he or she would be disciplined. During these on-call shifts, Defendants
8 failed to pay Plaintiffs and Class Members minimum, regular, overtime, and/or double time wages
9 for all hours worked. For example, Defendants paid Plaintiffs and Class Members an hourly rate
10 below minimum wage during their on-call shifts instead of paying Plaintiffs and Class Members at
11 their regular rate of pay. In addition, during the PAGA Period, Plaintiffs and Class Members
12 regularly worked more than eight (8) hours and/or 10 hours per workday, over 40 hours per
13 workweek, and/or over eight (8) hours per workday on the seventh consecutive day of work.
14 Specifically, Defendants failed to accurately record all time worked, engaged in time shaving, and
15 failed to pay all wages earned to Plaintiffs and Class Members. In addition, Defendants required
16 Plaintiffs and Class Members to complete work-related tasks off the clock. For example, Plaintiffs
17 and Class Members were required to carry and respond to pagers, including while they were off the
18 clock. Plaintiffs and Class Members also received work related text messages and other
19 communications from Defendants' management and employees during purported meal periods and
20 before and after their shifts. In addition, Defendants prohibited Plaintiffs and Class Members from
21 clocking in until near the beginning of their scheduled start time despite being subject to
22 Defendants' control. Defendants also rounded Plaintiffs and Class Members' hours worked,
23 including meal periods, thereby depriving them of work performed before and after their scheduled
24 shifts or meal periods. Defendants' rounding practice systematically undercompensated Plaintiffs
25 and Class Members and favored the employer rather than the employee. Upon information and
26 belief, Defendants discouraged and impeded Plaintiffs and Class Members from recording hours
27 worked that were outside of their scheduled shifts in order to limit the amount of overtime
28 employees could accrue. Further, this policy of limiting overtime, led Defendants to round the hours

1 worked by Plaintiffs and Class Members. For example, if Plaintiffs and/or the Class Members
2 arrived prior to their scheduled start time, Defendants would record the scheduled start time and
3 not the time of arrival. Defendants further required Plaintiffs and Class Members, upon entering
4 Defendants' premises, to walk approximately five (5) minutes or more to Defendants' electronic
5 timekeeping system to clock in for their shifts. Defendants did not compensate Plaintiffs and Class
6 Members for all hours worked because Plaintiffs and Class Members were regularly on-duty during
7 their meal and/or rest periods. In addition, Defendants failed to include all remunerations such as
8 shift differentials and/or other incentive pay when calculating Plaintiffs and Class Members'
9 regular rate of pay for purposes of paying overtime, double time, meal and rest period premiums,
10 vacation pay, and sick pay and/or otherwise failed to pay the proper rate of pay. Defendants also
11 required Plaintiffs and Class Members that were subject to an alternative workweek schedule to
12 work outside of their regularly scheduled alternative workweek schedule and failed to pay them
13 proper overtime compensation. Alternatively, Defendants failed to implement a proper alternative
14 workweek and thus owe Plaintiffs and Class Members unpaid overtime and/or double time.
15 Defendants also failed to provide proper reporting time pay when Plaintiffs and Class Members
16 were scheduled to report to work and/or were required to report to work a second time in any one
17 workday but were not put to work or furnished with less than half of their usual or scheduled day's
18 work or furnished less than two hours of work on the second reporting because of inadequate
19 scheduling or other reason. Defendants further failed to pay for compensable travel time when
20 Plaintiffs and Class Members were required to drive between worksites during a workday without
21 compensation. As such, Defendants failed to pay Plaintiffs and Class Members the proper sick pay,
22 vacation pay, minimum, regular, overtime, and double time wages for all hours worked, in violation
23 of the Labor Code and applicable IWC Wage Orders.

24 41. Plaintiffs are informed, believe, and thereon allege that during the Class Period,
25 Defendants deprived Plaintiffs and Class Members of the opportunity to take all of their statutorily
26 entitled meal periods within the appropriate time intervals or provide compensation in lieu thereof
27 in violation of the Labor Code and IWC Wage Orders. During the Class Period, Defendants failed
28 to provide timely off-duty 30-minute meal periods within the appropriate time intervals to Plaintiffs

1 and Class Members as required by Labor Code section 512 and section 11 of the applicable Wage
2 Order. Specifically, Plaintiffs and Class Members regularly had their meal periods missed,
3 interrupted, shortened, restricted to the worksite, and/or late. For example, Plaintiffs and Class
4 Members were required to use a cell phone/pager for work related purposes during purported meal
5 periods. Further, upon information and belief, Plaintiffs and/or Class Members' meal periods were
6 frequently short as a result of walking to the breakroom after clocking out. In addition, Defendants
7 rounded Plaintiffs and Class Members' meal periods. For example, despite providing meal periods
8 of less than 30-minutes to Plaintiffs and Class Members, Defendants rounded meal periods to 30
9 minutes. Defendants also failed to adopt and implement a policy authorizing a second 30-minute
10 meal period when Plaintiffs and Class Members worked in excess of 10 hours per workday.
11 Defendants further edited time and payroll records to remove or otherwise alter meal period
12 violations such as late, short, and/or missing meal periods. Despite these meal period violations and
13 Plaintiffs and Class Members' complaints—including, without limitation, Defendants repeatedly
14 deleting Plaintiffs and Class Members' code entries for meal period premiums—Defendants failed
15 to compensate Plaintiffs and Class Members with an additional hour of pay at their regular rate for
16 every day in which they suffered a meal period violation. Accordingly, Defendants failed to provide
17 Plaintiffs and Class Members with timely, uninterrupted off-duty meal periods for at least 30
18 minutes when they worked more than five (5) hours and/or 10 hours in a workday, and failed to
19 compensate Plaintiffs and Class Members with an additional hour of pay at their regular rate of pay
20 for every day in which they were denied a compliant meal period in violation of the Labor Code
21 and applicable IWC Wage Orders.

22 42. Plaintiffs are informed, believe, and thereon allege that during the Class Period,
23 Defendants failed to permit Plaintiffs and Class Members to take all of their statutorily entitled 10-
24 minute rest periods for every four (4) hours worked or major fraction thereof or provide
25 compensation in lieu thereof in violation of the Labor Code and IWC Wage Orders. Specifically,
26 Employers failed to provide uninterrupted, 10-minute rest breaks due to the same understaffing and
27 busy workload explained above, as well as interruptions by Defendants' management. For example,
28 Plaintiffs and Class Members regularly only had time to quickly use the restroom (less than 10

minutes) during their purported rest breaks and had no one to relieve them for a proper rest break since there was a quick turnaround from patient to patient and Plaintiffs and Class Members had to get each patient ready in time. In addition, rest periods were on-duty and/or frequently interrupted since Plaintiffs and Class Members were required to use a cell phone/pager for work related purposes during purported rest periods. As such, Plaintiffs and Class Members regularly had their rest breaks missed, interrupted, shortened, and/or restricted to the worksite. Specifically, Defendants regularly failed to provide second rest breaks and failed to adopt and implement a policy authorizing a third 10-minute rest period when Plaintiffs and Class Members worked in excess of 10 hours per workday. Notwithstanding these rest break violations, Defendants failed to compensate Plaintiffs and Class Members with an additional hour of pay at their regular rate for every day in which they suffered a rest period violation. Accordingly, Defendants violated the Labor Code and applicable IWC Wage Orders.

43. Plaintiffs are informed, believe, and thereon allege that during the Class Period, Defendants failed to reimburse Plaintiffs and Class Members for necessary business expenses incurred in the performance of their duties in violation of the Labor Code and IWC Wage Orders. During the Class Period, Defendants failed to reimburse Plaintiffs and Class Members for all business expenses incurred for Defendants' benefit. Specifically, Plaintiffs and Class Members were required to use their personal cell phones to download Defendants' required pager phone application called "Spok Mobile" and other applications (e.g., Workforce for scheduling and timecards) to perform or discuss work-related matters, including via text messages, with Defendants' representatives without any reimbursement. Further, Plaintiffs and Class Members were required to use their personal vehicles to commute to and from Defendants' various locations without any reimbursement for mileage or related costs. Furthermore, Plaintiffs and Class Members were required to purchase equipment to carry out their job duties, including lead glasses, without reimbursement. Accordingly, Defendants violated the Labor Code and applicable IWC Wage Orders.

44. Plaintiffs are informed, believe, and thereon allege that during the Class Period, Defendants willfully failed to timely pay all wages due to Plaintiffs and the Waiting Time Subclass

1 upon separation of employment in violation of the Labor Code and IWC Wage Orders. Plaintiffs
2 and Waiting Time Subclass Members were not paid all wages (including sick pay, vacation pay,
3 minimum, regular, overtime, and double time wages), reimbursements, meal period premiums,
4 and/or rest period premiums within the required time period in violation of the Labor Code and
5 applicable IWC Wage Orders.

6 45. Plaintiffs are informed, believe, and thereon allege that during the Class Period,
7 Defendants failed to furnish Plaintiffs and Class Members with accurate and complete wage
8 statements in violation of the Labor Code and IWC Wage Orders. Plaintiffs and Class Members
9 received wage statements which did not accurately reflect the gross and net wages earned, total
10 hours worked, all applicable rates of pay and the corresponding number of hours worked at each
11 pay rate – including the correct rate of pay for sick pay, vacation pay, overtime and double time
12 wages, and/or meal and rest period premiums, and address on wage statements issued to Plaintiffs
13 and Class Members, among other things in violation of the Labor Code and IWC Wage Orders.
14 Defendants did not record the time Plaintiffs and/or Class Members spent working off-the-clock
15 and deducted time from their meal periods that were missed and/or interrupted, or otherwise time
16 they should have been paid for.

17 46. Plaintiffs and/or Class Members received compensation, including shift differential
18 and weekend differential pay, in addition to their hourly wages while employed by Defendants.
19 Defendants failed to include those amounts when calculating their regular rate of pay and when
20 paying overtime and double time wages, premium wages, vacation pay, and sick pay.

21 47. Plaintiffs are informed, believe, and thereon allege that Defendants' actions as
22 described throughout this FAC were willful.

23 NUMEROSITY

24 48. The Class is so numerous that joinder of all of its members is impracticable. While
25 the exact number and identities of Class Members are unknown to Plaintiffs at this time and can
26 only be ascertained through appropriate discovery, Plaintiffs are informed, believe, and thereon
27 allege that the Class consists of more than 100 persons.

28 49. A class action is the only available method for the fair and efficient adjudication of

1 this controversy. The members of the Class are so numerous that joinder of all members is
2 impractical, if not impossible. The identity of Class Members can be ascertained by analysis of
3 Defendants' employee and payroll records.

4 **COMMONALITY**

5 50. Common questions of fact and law exist as to all members of the Class that
6 predominate over any questions affecting only individual Class Members. These common legal
7 and factual questions include, but are not limited to, the following:

8 (a) Whether Defendants failed to pay Plaintiffs and Class Members all sick pay,
9 vacation pay, minimum, regular, overtime, and double time wages for all hours worked by Plaintiffs
10 and Class Members, including during regular and on-call shifts;

11 (b) Whether Defendants rounded the time worked by Plaintiffs and Class
12 Members to Defendants' advantage;

13 (c) Whether Defendants failed to provide timely, uninterrupted, off-duty 30-
14 minute meal periods to Plaintiffs and Class Members without compensation and/or compliant
15 premiums at the proper rate of pay in lieu thereof;

16 (d) Whether Defendants auto-deducted 30-minute meal periods for missed or
17 short meal periods;

18 (e) Whether Defendants failed to permit timely, uninterrupted, off-duty 10-
19 minute rest breaks for every four (4) hours or major fraction thereof worked by Plaintiffs and Class
20 Members without compensation and/or premiums at the proper rate of pay in lieu thereof;

21 (f) Whether Defendants failed to provide Plaintiffs and Class Members with
22 sick pay at the regular rate of pay;

23 (g) Whether Defendants failed to implement valid Alternative Workweek
24 Schedules under the election procedures set forth in Labor Code sections 551 and 1198, and Section
25 3 of IWC Wage Order 5-2001;

26 (h) Whether Defendants made unauthorized deductions from Plaintiffs and
27 Class Members' wages, including overtime and double time, on regular and on-call shifts, sick pay,
28 vacation pay, and premium pay;

1 (i) Whether Defendants failed to timely pay Plaintiffs and Waiting Time
2 Subclass Members all wages due either immediately upon termination or within 72 hours after
3 resignation;

4 (j) Whether Defendants' conduct was willful;

5 (k) Whether Defendants failed to issue accurate itemized wage statements to
6 Plaintiffs and Class Members;

7 (l) Whether Defendants failed to reimburse Plaintiffs and Class Members for
8 necessary business expenditures;

9 (m) Whether Defendants engaged in unfair business practices in violation of
10 California Business & Professions Code sections 17200 *et seq.*; and

11 (n) Additional common questions of law and fact that may develop as the
12 litigation progresses.

13 **TYPICALITY**

14 51. Plaintiffs are informed, believe, and thereon allege that Plaintiffs' claims are typical
15 of the claims of the Class because: Plaintiffs and the Class sustained injuries and damages arising
16 out of and caused by Defendants' unlawful policies and practices; the claims arise out of the same
17 course of conduct by Defendants; Plaintiffs' claims are based upon the same legal theories as the
18 claims of the Class; and the legal issues raised under California state law as a result of Defendants'
19 conduct apply equally to Plaintiffs and the Class Members.

20 **ADEQUACY OF REPRESENTATION**

21 52. Plaintiffs are adequate representatives of the Class, in that their claims (and
22 defenses, if any) are typical of those of the Class. Plaintiffs have no conflicts of interest with their
23 fellow Class Members and will be able to fairly and adequately protect the interests of the Class.
24 Plaintiffs have the same interests in the litigation of this case as the Class Members; and are
25 committed to vigorous prosecution of this case and have retained competent counsel experienced
26 in class action and wage and hour litigation of this nature.

27 ///

28 ///

1 **PREDOMINANCE**

2 53. Defendants have engaged in a common course of wage and hour abuse toward
3 Plaintiffs and Class Members. The common issues arising from this conduct that affect Plaintiffs
4 and Class Members predominate over any individual issues. Adjudication of these common issues
5 in a single action has important and desirable advantages of judicial economy.

6 **SUPERIORITY OF CLASS ACTION**

7 54. A class action is superior to other available methods for the fair and efficient
8 adjudication of this controversy because individual litigation of the claims of all Class Members is
9 impracticable. Even if every Class Member could afford individual litigation, the court system
10 could not. It would be unduly burdensome to the courts in which individual litigation of numerous
11 cases would proceed. Individualized litigation would also present the potential for varying,
12 inconsistent, or contradictory judgments and would magnify the delay and expense to all parties
13 and to the court system resulting from multiple trials of the same complex factual issues. Moreover,
14 individual actions by Class Members may establish inconsistent standards of conduct for
15 Defendants. By contrast, the conduct of this action as a class action, with respect to some or all of
16 the issues presented herein, presents fewer management difficulties, conserves the resources of the
17 parties and the court system, and protects the rights of each Class Member.

18 55. Defendants have acted or refused to act in respects generally applicable to the Class,
19 thereby making appropriate relief with regard to the members of the Class as a whole, as requested
20 herein.

21 **PUBLIC POLICY CONSIDERATIONS**

22 56. Employers in the State of California violate employment and labor laws every day.
23 Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation.
24 Former employees are fearful of bringing actions because they believe their former employers
25 might damage their future endeavors through negative references and/or other means. Class actions
26 provide Class Members who are not named in the action with a type of anonymity that allows for
27 the vindication of their rights while affording them privacy protections.

28 ///

FIRST CAUSE OF ACTION
(FAILURE TO PAY ALL WAGES)
(Against All Defendants)

57. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though fully set forth herein.

58. At all relevant times, Defendants had a duty to comply with Labor Code sections 204, 206, 210, 218, 221, 223, 224, 227.3, 246, 510, 558, 1182.12, 1194, 1194.2, 1197, 1198, and the applicable IWC Wage Orders and California Code of Regulations.

59. Labor Code section 204 and the IWC Wage Orders require timely payment of all wages owed on regularly scheduled paydays at least twice during each calendar month, on days designated in advance by the employer as the regular paydays. All wages in earned in excess of the normal work period must be paid no later than the payday for the next regular payroll period.

60. Labor Code section 206 provides that in case of a dispute over wages, the employer shall pay, without condition and promptly under the Labor Code all wages conceded due, leaving to the employee all remedies he/she is otherwise entitled to as to any balance claimed.

61. Labor Code section 210 provides:

every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld. (b) The penalty shall either be recovered by the employee as a statutory penalty pursuant to Section 98 or by the Labor Commissioner as a civil penalty through the issuance of a citation or pursuant to Section 98.3.

62. Labor Code section 221 provides “[i]t shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.”

63. Labor Code section 223 provides “[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.”

64. Labor Code section 224 prohibits any deduction from an employee’s wages which

1 is not either authorized by the employee in writing or permitted by law.

2 65. Labor Code section 246 requires employers to provide and allow employees to use
3 at least 24 hours, or three days, of paid sick leave per year.

4 66. Labor Code section 227.3 requires employers to pay terminated employees for their
5 unused paid vacation time at their final rate of pay.

6 67. At all times relevant, Labor Code section 510, and applicable sections of the
7 California Code of Regulations and the IWC Wage Orders applied to Plaintiffs' work with
8 Defendants and continue to apply to Class Members' employment with Defendants. Labor Code
9 section 510 and applicable provisions of the California Code of Regulations and IWC Wage Orders
10 state that any work performed in excess of eight hours in a workday and/or 40 hours in a workweek
11 must be paid at one and one-half times the employee's regular rate of pay. Any work performed in
12 excess of 12 hours in a workday must be compensated at the rate of no less than twice the regular
13 rate of pay for an employee.

14 68. Labor Code section 558 provides "[a]ny employer or other person acting on behalf
15 of an employer who violates, or causes to be violated, a section of this chapter or any provision
16 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
17 subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
18 underpaid employee for each pay period for which the employee was underpaid in addition to an
19 amount to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100)
20 for each underpaid employee for each pay period for which the employee was underpaid in addition
21 to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section
22 shall be paid to the affected employee."

23 69. Labor Code section 1182.12 sets forth the minimum hourly wage that must be paid
24 to all employees in California for all hours worked. Local minimum wage ordinances may provide
25 for higher minimum wage rates that must be paid to employees for all hours worked in those locales
26 where each local ordinance is in effect. Labor Code section 1197 affirms that it is unlawful to pay
27 less than the state or local minimum wage, whichever is higher, for any hour of work.

28 70. Labor Code section 1194 provides that any employee receiving less than the legal

1 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover
2 in a civil action the unpaid balance of the full amount of the minimum wage or overtime
3 compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

4 71. Labor Code section 1194.2 authorizes the recovery of liquidated damages in an
5 amount equal to the wages unlawfully unpaid and interest thereon for unpaid wage violations.

6 72. Labor Code section 1197 provides that the minimum wage for employees fixed by
7 the commission is the minimum wage to be paid to the employees, and the payment of a less wage
8 than minimum so fixed is unlawful.

9 73. Labor Code section 1198 prohibits employers from employing for longer hours or
10 less favorable conditions than those set forth in the Labor Code, IWC Wage Orders, or as otherwise
11 set by the Labor Commissioner.

12 74. The failure to pay at least minimum wages to Plaintiffs and Class Members for each
13 and every hour worked violates Labor Code sections 1812.11-1812.12, 1194, 1194.2, and 1197;
14 the applicable IWC wage order section 4; and Business & Professions Code.

15 75. The failure to pay designated wages to Plaintiffs and Class Members for each and
16 every hour worked violates Labor Code sections 221 and 223; the applicable IWC wage order
17 section 3; and Business & Professions Code.

18 76. During the Class Period, Plaintiffs and Class Members regularly worked in excess
19 of eight (8), 10, and/or 12 hours per workday and over 40 hours per workweek and were not paid
20 for being on-call, wages at their proper rate of pay for overtime, double time, sick pay, vacation
21 pay, and meal and rest period premiums, and off-the-clock work including due to rounding, among
22 other things.

23 77. Plaintiffs are informed, believe, and thereon allege that during the Class Period,
24 Plaintiffs and Class Members regularly worked over eight (8) hours and/or 10 hours per workday,
25 and/or over 40 hours per workweek. Plaintiffs and other Class Members also worked over eight (8)
26 hours on the seventh consecutive day of work.

27 78. Plaintiffs are informed, believe, and thereon allege that during the Class Period,
28 Defendants failed to pay Plaintiffs and Class Members all wages for hours worked (including

1 minimum, regular, overtime, and double time wages for regular and on-call shifts) by failing to
2 accurately record all time worked, time shaving, rounding time, auto-deducting missed or short
3 meal periods, and requiring off-the-clock work without compensation, among other things.

4 79. As a direct and proximate result of Defendants' unlawful conduct, as set forth
5 herein, Plaintiffs and Class Members have sustained and continue to sustain damages, including
6 loss of earnings from minimum, regular, overtime, and double time compensation due, in an amount
7 to be established at trial, plus prejudgment interest, attorneys' fees, and costs pursuant to statute.

8 80. Plaintiffs are informed, believe, and thereon allege that Defendants, through their
9 conduct described herein, have committed an "intentional theft of wages in an amount greater than
10 nine hundred fifty dollars (\$950) from any one employee, or two thousand three hundred fifty
11 dollars (\$2,350) in the aggregate from two or more employees...in any consecutive 12-month
12 period" within the meaning of California Penal Code section 487m. Specifically, Defendants have
13 intentionally deprived Plaintiffs and Class Members of wages, as defined in Labor Code section
14 200, gratuities, as defined in Labor Code section 350, benefits, or other compensation, by unlawful
15 means, with the knowledge that the wages, gratuities, benefits, or other compensation is due to
16 Plaintiffs and Class Members under the law. Plaintiffs and the Class Members they seek to represent
17 are thus entitled to recover from Defendants treble damages and costs, including reasonable
18 attorneys' fees, pursuant to California Penal Code section 496(c).

19 81. WHEREFORE, Plaintiffs and the Class Members they seek to represent request
20 relief as described herein and below.

21 **SECOND CAUSE OF ACTION**

22 **(FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU**

23 **THEREOF)**

24 **(Against All Defendants)**

25 82. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though
26 fully set forth herein.

27 83. At all relevant times, Defendants had a duty to comply with Labor Code sections
28 226.7, 512, 516 and the applicable IWC Wage Orders and California Code of Regulations.

1 84. Labor Code section 512 and Section 11 of the IWC Wage Orders prohibit an
2 employer from employing any person for a work period of more than 5 hours per day without
3 providing the employee with a meal period of not less than 30 minutes (commencing before the
4 employee's fifth hour of work), except that if the total work period per day is no more than 6 hours,
5 the meal period may be waived by mutual consent of the employer and employee. A second meal
6 period of not less than 30 minutes is required if an employee works more than 10 hours per day and
7 must begin before the employee's tenth hour of work, except if the total hours worked is no more
8 than 12 hours, the second meal period may be waived by mutual consent of the employer and
9 employee, but only if the first meal period was not waived.

10 85. Section 11 of the applicable IWC Wage Orders state that "[u]nless the employee is
11 relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on
12 duty' meal period and counted as time worked."

13 86. Labor Code section 226.7(b) and the IWC Wage Orders prohibit an employer from
14 requiring any employee to work during a meal period mandated by any California statute,
15 regulation, standard or order. If an employer fails to provide an employee with a meal period in
16 accordance with state law, Labor Code section 226.7(c) and the IWC Wage Orders require that the
17 employer pay the employee one additional hour of pay at the employee's regular rate of
18 compensation for each workday that the meal period is noncompliant.

19 87. Throughout the Class Period, Plaintiffs and Class Members did not receive
20 compliant meal periods when working more than five (5) hours and/or 10 hours per workday
21 because their first and second meal periods were missed, late, interrupted, short, and/or not free of
22 all duties. For example, Plaintiffs and Class Members were required to use a cell phone/pager for
23 work related purposes during purported meal periods. In addition, Defendants rounded Plaintiffs'
24 and Class Members' meal periods. Even further, Defendants intentionally deleted Plaintiffs' and
25 Class Members' code entries for meal premiums.

26 88. During the Class Period, Defendants failed to pay Plaintiffs and Class Members
27 meal period premiums for noncompliant meal periods pursuant to Labor Code section 226.7(b) and
28 the applicable IWC Wage Order and California Code of Regulations.

89. Plaintiffs are informed, believe, and thereon allege that Class Members did not voluntarily waive their meal periods.

90. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiffs and Class Members have sustained and continue to sustain damages, including loss of premium pay for meal period violations and earnings, in an amount to be established at trial, plus prejudgment interest pursuant to statute. To the extent such unpaid premiums or meal period violations are deemed unpaid wages, Plaintiffs will also seek attorneys' fees and costs pursuant to statute.

91. Plaintiffs are informed, believe, and thereon allege that Defendants, through their conduct described herein, have committed an “intentional theft of wages in an amount greater than nine hundred fifty dollars (\$950) from any one employee, or two thousand three hundred fifty dollars (\$2,350) in the aggregate from two or more employees...in any consecutive 12-month period” within the meaning of California Penal Code section 487m. Specifically, Defendants have intentionally deprived Plaintiffs and Class Members of wages, as defined in Labor Code section 200, gratuities, as defined in Labor Code section 350, benefits, or other compensation, by unlawful means, with the knowledge that the wages, gratuities, benefits, or other compensation is due to Plaintiffs and Class Members under the law. Plaintiffs are informed, believe, and thereon allege that meal period premiums are wages, gratuities, benefits, or other compensation within the meaning of California Penal Code section 487m. Plaintiffs and the Class Members they seek to represent are thus entitled to recover from Defendants treble damages and costs, including reasonable attorneys’ fees, pursuant to California Penal Code section 496(c).

92. WHEREFORE, Plaintiffs and the Class Members they seek to represent request relief as described herein and below.

THIRD CAUSE OF ACTION

**(FAILURE TO PERMIT REST PERIODS OR PROVIDE COMPENSATION IN LIEU
THEREOF)**

(Against All Defendants)

93. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though

1 fully set forth herein.

2 94. At all relevant times, Defendants had a duty to comply with Labor Code section
3 226.7 and the applicable IWC Wage Orders and California Code of Regulations.

4 95. Labor Code section 226.7(a) states “No employer shall require any employee to
5 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
6 Commission.”

7 96. Section 12 of the applicable IWC Wage Order provides in relevant part that:

8 (A) Every employer shall authorize and permit all employees to
9 take rest periods, which insofar as practicable shall be in the middle
10 of each work period. The authorized rest period time shall be based
11 on the total hours worked daily at the rate of ten (10) minutes net rest
12 time per four (4) hours or major fraction thereof. However, a rest
13 period need not be authorized for employees whose total daily work
time is less than three and one-half (3 1/2) hours. Authorized rest
period time shall be counted as hours worked for which there shall be
no deduction from wages.

14 (B) If an employer fails to provide an employee a rest period in
15 accordance with the applicable provisions of this order, the employer
16 shall pay the employee one (1) hour of pay at the employee’s regular
rate of compensation for each work day that the rest period is not
provided.

17 97. Plaintiffs are informed, believe, and thereon allege that during the Class Period,
18 Plaintiffs and Class Members worked in excess of three-and-a-half (3.5) hours, six (6) hours, 10
19 hours, and/or 12 hours per workday.

20 98. During the Class Period, Plaintiffs and Class Members did not receive compliant
21 10-minute rest periods for every four hours worked or major fraction thereof because rest breaks
22 were missed, interrupted, shortened, restricted to the worksite, and/or not free of all duties. For
23 example, Plaintiffs and Class Members were required to use a cell phone/pager for work related
24 purposes during purported rest periods.

25 99. During the Class Period, Defendants failed to pay Plaintiffs and Class Members rest
26 period premiums for noncompliant rest periods pursuant to Labor Code section 226.7(b) and the
27 applicable IWC Wage Order.

28 100. As a direct and proximate result of Defendants’ unlawful conduct, as set forth

1 herein, Plaintiffs and Class Members have sustained and continue to sustain damages, including
2 loss of earnings, in an amount to be established at trial plus prejudgment interest pursuant to statute.
3 To the extent such unpaid premiums or rest period violations are deemed unpaid wages, Plaintiffs
4 will also seek attorneys' fees and costs pursuant to statute.

5 101. Plaintiffs are informed, believe, and thereon allege that Defendants, through their
6 conduct described herein, have committed an "intentional theft of wages in an amount greater than
7 nine hundred fifty dollars (\$950) from any one employee, or two thousand three hundred fifty
8 dollars (\$2,350) in the aggregate from two or more employees...in any consecutive 12-month
9 period" within the meaning of California Penal Code section 487m. Specifically, Defendants have
10 intentionally deprived Plaintiffs and Class Members of wages, as defined in Labor Code section
11 200, gratuities, as defined in Labor Code section 350, benefits, or other compensation, by unlawful
12 means, with the knowledge that the wages, gratuities, benefits, or other compensation is due to
13 Plaintiffs and Class Members under the law. Plaintiffs are informed, believe, and thereon allege
14 that rest period premiums are wages, gratuities, benefits, or other compensation within the meaning
15 of California Penal Code section 487m. Plaintiffs and the Class Members they seek to represent are
16 thus entitled to recover from Defendants treble damages and costs, including reasonable attorneys'
17 fees, pursuant to California Penal Code section 496(c).

18 102. WHEREFORE, Plaintiffs and the Class Members they seek to represent request
19 relief as described herein and below.

20 **FOURTH CAUSE OF ACTION**

21 **(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS)**

22 **(Against All Defendants)**

23 103. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though
24 fully set forth herein.

25 104. At all relevant times, Defendants had a duty to comply with Labor Code section 226
26 and the applicable IWC Wage Orders and California Code of Regulations.

27 105. Labor Code section 226(a) requires that, semimonthly or at the time of each payment
28 of wages, employers must furnish each employee with an accurate itemized wage statement in

1 writing that accurately shows (1) gross wages earned, (2) total number of hours worked, (3) the
2 number of any piece-rate units earned and all applicable piece rates, (4) all deductions made from
3 wages, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name and last four
4 digits or employment identification number of the employee, (8) the name and address of the legal
5 entity that is the employer, and (9) all applicable hourly rates in effect and the corresponding
6 number of hours worked at each hourly rate.

7 106. Labor Code section 226(e)(1) authorizes an employee suffering injury as a result of
8 a knowing and intentional failure by an employer to provide an accurate itemized wage statement
9 to recover the greater of all actual damages or \$50 for the initial pay violation and \$100 for each
10 violation in a subsequent pay period, not to exceed an aggregate penalty of \$4,000 per employee,
11 in addition to an award of costs and attorneys' fees.

12 107. Section 7 of the IWC Wage Orders requires Defendants to maintain time records
13 showing, among other things, when the employee begins and ends each work period, meal periods
14 taken, and total daily hours worked in an itemized wage statement, and must show all deductions
15 and reimbursements from payment of wages, and accurately report total hours worked by Plaintiffs
16 and Class Members. Plaintiffs are informed, believe, and thereon allege that Defendants have
17 knowingly and intentionally failed to comply with the IWC Wage Orders.

18 108. Throughout the Class Period, Defendants provided wage statements that did not
19 accurately reflect the total number of hours worked by Plaintiffs and Class Members at each
20 corresponding pay rate, the gross and net wages earned, and the correct entity name and address on
21 wage statements, among other things, making it difficult for Plaintiffs and Class Members to
22 determine whether they were paid correctly for all hours worked, which deductions were made, and
23 the extent of any underpayment. Plaintiffs have had to file this lawsuit in order to determine the
24 extent of the underpayment of wages, thereby causing Plaintiffs to incur expenses and lost time.
25 Plaintiffs would not have had to engage in these efforts and incur these costs had Defendants
26 provided the accurate wages earned. This has also delayed Plaintiffs' ability to demand and recover
27 the underpayment of wages from Defendants. Defendants' violations of Labor Code section 226(a)
28 prevented Plaintiffs and Class Members from knowing, understanding and disputing the wages paid

1 to them, and resulted in an unjustified economic enrichment to Defendants.

2 109. Defendants knowingly and intentionally failed to provide accurate, itemized wage
3 statements to Plaintiffs and Class Members, and as such Plaintiffs and Class Members are deemed
4 to have suffered injury in accordance with Labor Code section 226. Plaintiffs and Class Members
5 are therefore entitled to the damages and penalties provided for under Labor Code section 226(e).

6 110. Plaintiffs and Class Members are also entitled to injunctive relief under Labor Code
7 section 226(h), compelling Defendants to comply with Labor Code section 226, and seek the
8 recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

9 111. WHEREFORE, Plaintiffs and the Class Members they seek to represent request
10 relief as described herein and below.

11 **FIFTH CAUSE OF ACTION**
12 **(WAITING TIME PENALTIES)**
13 **(Against All Defendants)**

14 112. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though
15 fully set forth herein.

16 113. At all relevant times, Defendants had a duty to comply with Labor Code
17 sections 201, 202, and 203, and the applicable IWC Wage Orders and California Code of
18 Regulations. Defendants failed to comply with these final paycheck requirements with respect to
19 Plaintiffs and Waiting Time Subclass Members.

20 114. Labor Code section 201 requires that if an employer discharges an employee, the
21 wages earned and unpaid at the time of discharge are due and payable immediately.

22 115. Labor Code section 202 requires that if "an employee not having a written contract
23 for a definite period" quits, the employee's wages shall become due and payable no later than
24 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention
25 to quit, in which case the employee is entitled to his or her wages at the time of quitting.

26 116. Labor Code section 203 provides that if an employer willfully fails to pay, without
27 abatement or reduction, any wages of an employee who is discharged or quits, the wages of the
28 employee shall continue as a penalty from the due date thereof at the same rate until paid or until

1 an action therefor is commenced, but that the wages shall not continue for more than 30 days per
2 employee.

3 117. Plaintiffs are informed, believes, and thereon allege, that at all relevant times,
4 Defendants willfully failed to timely pay Plaintiffs and Waiting Time Subclass Members all of their
5 unpaid wages earned, including, but not limited to, minimum, regular, overtime, and double time
6 wages, compensation for non-compliant meal periods and rest periods, and unpaid expense
7 reimbursements upon separation of employment. Plaintiffs and Waiting Time Subclass Members
8 are entitled to timely compensation upon separation of their employment for any outstanding
9 unpaid wages, reimbursements, and premiums but to date have not received such compensation
10 from Defendants, therefore entitling them to penalties pursuant to Labor Code section 203.

11 118. As a consequence of Defendants' willful conduct in failing to pay all earned wages,
12 Plaintiffs and Waiting Time Subclass Members are entitled to up to 30 days' wages as a penalty
13 for Defendants' failure to timely pay wages upon separation of employment, in addition to
14 prejudgment interest, attorneys' fees, and costs in amounts that will be established at trial.

15 119. WHEREFORE, Plaintiffs and the Class Members they seek to represent request
16 relief as described herein and below.

17 **SIXTH CAUSE OF ACTION**

18 **(FAILURE TO PROVIDE SICK PAY AT THE REGULAR RATE)**

19 **(Against All Defendants)**

20 120. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though
21 fully set forth herein.

22 121. At all relevant times, Defendants had a duty to comply with Labor Code section 246.

23 122. Labor Code section 246 (I) requires the employer to calculate paid sick leave using
24 any of the following calculations:

- 25 (1) Paid sick time for nonexempt employees shall be calculated in the same
26 manner as the regular rate of pay for the workweek in which the employee
27 uses paid sick time, whether or not the employee actually works overtime in
28 that workweek.

- 1 (2) Paid sick time for nonexempt employees shall be calculated by dividing the
2 employee's total wages, not including overtime premium pay, by the
3 employee's total hours worked in the full pay periods of the prior 90 days of
4 employment.
- 5 (3) Paid sick time for exempt employees shall be calculated in the same manner
6 as the employer calculates wages for other forms of paid leave time.

7 123. Plaintiffs and Class members received compensation in addition to hourly wages,
8 such as shift differential, weekend differential, and/or other incentive pay but those additional
9 amounts were not included when calculating sick pay wages.

10 124. As a direct and proximate result of Defendants' unlawful conduct, as set forth
11 herein, Plaintiffs and Class Members have sustained and continue to sustain damages, including
12 loss of earnings, in an amount to be established at trial plus prejudgment interest pursuant to statute.
13 To the extent such unpaid premiums or rest period violations are deemed unpaid wages, Plaintiffs
14 will also seek attorneys' fees and costs pursuant to statute.

15 125. WHEREFORE, Plaintiffs and the Class Members they seek to represent request
16 relief as described herein and below.

17 **SEVENTH CAUSE OF ACTION**

18 **(FAILURE TO REIMBURSE BUSINESS EXPENSES)**

19 **(Against All Defendants)**

20 126. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though
21 fully set forth herein.

22 127. At all relevant times, Defendants had a duty to comply with Labor Code
23 sections 2800 and 2802 and the applicable IWC Wage Orders and California Code of Regulations.

24 128. Labor Code section 2800 requires employers to indemnify employees for losses
25 caused by the employer's want of ordinary care. To the extent Defendants claim that Plaintiffs and
26 Class Members failed to request, demand, notify or otherwise seek reimbursement for their
27 expenses and losses, Defendants were obligated to nevertheless indemnify Plaintiffs and Class
28 Members due to their own negligence.

1 129. Labor Code section 2802(a) requires that employers indemnify and reimburse
2 employees for all business expenses, which are defined as all necessary expenditures or losses
3 incurred by the employee in direct consequence of the discharge of the employee's duties or
4 otherwise incurred based on the employee's obedience to the employer's directions. Labor Code
5 section 2802(b) authorizes employees to recover in a court action interest which shall accrue from
6 the date on which the employee incurred the necessary expenditure or loss. Labor Code
7 section 2802(c) authorizes employees, who to enforce their right to reimbursements under Labor
8 Code section 2802, to also recover attorneys' fees and costs.

9 130. During the Class Period, Defendants failed to reimburse Plaintiffs and Class
10 Members for all business expenses incurred for Defendants' benefit. Specifically, Plaintiffs and
11 Class Members were required to use their personal cell phones to communicate with Defendants
12 and to perform their job duties without reimbursement. Further, Plaintiffs and Class Members were
13 required to use their personal vehicles to commute to and from Defendants' various locations
14 without any reimbursement for mileage or related costs. Furthermore, Plaintiffs and Class Members
15 were required to purchase equipment to carry out their job duties, including lead glasses, without
16 reimbursement.

17 131. Defendants have unfairly and unlawfully violated Labor Code sections 2800 and
18 2802, and the applicable IWC Wage Orders by failing to reimburse Plaintiffs and Class Members
19 for all of their out-of-pocket business expenses incurred in the discharge of their job duties.

20 132. As a consequence of Defendants' willful conduct, Plaintiffs and Class Members
21 have sustained damages for unreimbursed out-of-pocket business expenses, due in an amount to be
22 established at trial, plus prejudgment interest, attorney's fees, and costs pursuant to statute.

23 133. WHEREFORE, Plaintiffs and the Class Members they seek to represent request
24 relief as described herein and below.

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EIGHTH CAUSE OF ACTION
(UNFAIR BUSINESS PRACTICES)
(Against All Defendants)

134. Plaintiffs incorporate by reference all previous paragraphs of this FAC as though fully set forth herein.

135. California Business & Professions Code Section 17200, *et seq.* prohibits unfair competition by prohibiting unlawful, unfair, or fraudulent business practices or acts.

136. Defendants' conduct, as alleged herein, has been and continues to be unfair, unlawful and harmful to Plaintiffs, Class Members, and Defendants' competitors. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure section 1021.5.

137. Defendants' activities, as alleged herein, violate California law and constitute unlawful business acts or practices in violation of California Business and Professions Code sections 17200, *et seq.*

138. A violation of Business and Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law.

139. Plaintiffs bring this action on behalf of themselves and all members of the general public, including the Class Members, pursuant to the UCL. Defendants' conduct alleged below constitutes false, fraudulent, unlawful, unfair, and/or deceptive business practices, in violation of the UCL. Defendants' policies and practices have violated state law in at least the following respects:

(a) Failing to pay all minimum, regular, overtime, and double time wages due to Plaintiffs and Class Members in violation of Labor Code sections 204, 206, 210, 221, 223, 227.3, 246, 510, 558, 1182.11-1182.12, 1194, 1194.2, 1197, and 1198;

(b) Failing to provide compliant meal periods or compensation in lieu thereof in violation of Labor Code sections 226.7, 512, and 516;

(c) Failing to authorize or permit rest breaks or provide compensation in lieu thereof in violation of Labor Code section 226.7;

1 (d) Failing to pay sick pay at the regular rate of pay in violation of Labor Code
2 section 246.

3 (e) Intentionally failing to provide Plaintiffs and Class Members with accurate
4 itemized wage statements in violation of Labor Code section 226;

5 (f) Failing to timely pay all earned wages to Plaintiffs and Waiting Time
6 Subclass Members upon separation of employment in violation of Labor Code sections 201, 202,
7 and 203;

8 (g) Failing to reimburse Plaintiffs and Class Members all necessary business
9 expenses in violation of Labor Code sections 2800 and 2802; and

10 (h) Violations of the IWC Wage Orders for the same conduct above.

11 140. Defendants' course of conduct, acts, and practices in violation of California law
12 mentioned above each constitute a separate and independent violation of the UCL. Defendants'
13 conduct described herein violates the policy or spirit of such laws or otherwise significantly
14 threatens or harms competition. The substantial harm to Plaintiffs and Class Members in being
15 wrongfully denied earned wages, meal and rest periods, premium pay, and reimbursements
16 outweighs the utility, if any, of Defendants' policies or practices and, therefore, Defendants' actions
17 described herein constitute an unfair business practices or acts within the meaning of the UCL.

18 141. Plaintiffs further bring this cause of action on behalf of the proposed Class, seeking
19 statutory and injunctive relief to stop the misconduct of Defendants, as complained herein, and to
20 compel restitution and disgorgement of all profits (i.e., unpaid wages, reimbursements, and
21 premiums, etc.) obtained by Defendants through the unfair and unlawful business practices
22 described herein pursuant to, *inter alia*, Business and Professions Code sections 17202, 17203, and
23 17208. Under the circumstances alleged, it would be inequitable and result in a miscarriage of
24 justice for Defendants to continue to retain the property of Plaintiffs and Class Members.

25 142. Defendants' failure to adopt and implement policies in accordance with and/or
26 adhere to these laws, all of which are binding upon and burdensome to Defendants' competitors,
27 engenders an unfair competitive advantage for Defendants against its competitors, thereby
28 constituting an unfair business practice, as set forth in the UCL.

143. Pursuant to California Business and Professions Code section 17203, as a direct and proximate result of the unfair business practices of Defendants, Plaintiffs, individually, and on behalf of all employees similarly situated, are entitled to equitable and injunctive relief, against such unlawful practices in order to prevent future damage, for which there is no adequate remedy at law, and to avoid a multiplicity of lawsuits. Plaintiffs also seek an order enjoining Defendants to cease and desist from engaging in the practices described herein.

144. Plaintiffs and Class Members also request any other such legal and equitable relief from Defendants' unlawful and willful conduct as the Court deems just and proper, including an injunction prohibiting Defendants from engaging in the unfair, unlawful, and/or fraudulent practices alleged in this FAC.

145. As a result of Defendants' unlawful and unfair business practices, Plaintiffs and Class Members are entitled to and seek other appropriate relief available under California Business & Professions Code sections 17200 *et seq.* Plaintiffs, on behalf of themselves and the Class, also seeks recovery of attorneys' fees and costs of this action to be paid by Defendants as provided by California Code of Civil Procedure section 1021.5.

146. WHEREFORE, Plaintiffs and the Class Members they seek to represent request relief as described herein and below.

NINTH CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004

(AGAINST ALL DEFENDANTS)

147. Plaintiffs hereby re-allege and incorporates by reference all paragraphs above as though fully set forth herein.

148. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action under PAGA only after giving the LWDA and the employer notice of the Labor Code sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate or after 65 days have passed without notice from the LWDA.

149. On May 8, 2023, Plaintiffs gave written notice of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violations, as required

1 by Labor Code Section 2699.3. This written notice was provided via certified mail to Defendants
2 and to the LWDA by electronically filing the notice via the Department of Industrial Relations'
3 website. More than 65 days have passed since Plaintiffs submitted their PAGA notice to the LWDA
4 without notice from the LWDA. Accordingly, Plaintiffs have exhausted the procedural
5 requirements under Labor Code Section 2699.3 as to Defendants and is therefore able to pursue a
6 claim for penalties on behalf of himself and all other aggrieved employees under PAGA.

7 150. On July 11, 2023, Plaintiff gave supplemental written notice of the specified
8 provisions alleged to have been violated, including the facts and theories to support the alleged
9 violations, as required by Labor Code Section 2699.3. This written notice was provided via certified
10 mail to Defendants and to the LWDA by electronically filing the notice via the Department of
11 Industrial Relations' website.

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

18 152. For all provisions of the Labor Code except those for which a civil penalty is
19 specifically provided, Labor Code section 2699(f) imposes upon Defendants a penalty of one
20 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and
21 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
22 pay period in which Defendants violated these provisions of the Labor Code.

23 153. Pursuant to Labor Code Sections 2699.3 and 2699.5, Plaintiffs may seek civil
24 penalties for any alleged violation of the following provisions: subdivision (k) of Section 96,
25 Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205,
26 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223,
27 and 224, paragraphs (1) to (5), inclusive, (7), and (9) of subdivision (a) of Section 226, Sections
28 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section

232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7.

154. During the PAGA period, Defendants were involved in the day-to-day operations of Defendants' facilities and worksites, including hiring, firing, and disciplining employees; enforcing company rules, policies, and practices; working directly at worksites; and meeting and communicating with employees, among other things. Consequently, Defendants violated or caused to be violated the Industrial Welfare Commission ("IWC") Wage Order provisions regulating minimum wages or hours and days of work, as well as Labor Code Sections 203, 204, 226, 226.7, 1194, 1197 and 2802 as explained below. Thus, Defendants are liable for the Labor Code and IWC Wage Order violations pursuant to Labor Code Section 558.1.

155. Defendants' conduct violates numerous Labor Code sections, including, but not limited to, the following:

(a) Violation of Labor Code Sections 201-204, 206, 210, 226.2, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199 for failure to timely pay all earned sick pay, vacation pay, wages (including minimum, regular, overtime, and double time wages as well as commissions) owed to Plaintiffs and other aggrieved employees during employment and upon separation of employment;

(b) Violation of Labor Code Sections 226.7 and 512 for failure to provide meal periods to Plaintiffs and/or other Aggrieved Employees and failure to pay premium wages for

missed meal periods;

(c) Violation of Labor Code Sections 226.7 for failure to permit rest breaks to Plaintiffs and/or other Aggrieved Employees and failure to pay premium wages for missed rest periods;

(d) Violation of Labor Code Sections 226 and 226.3 for failure to provide accurate itemized wage statements to Plaintiffs and/or other Aggrieved Employees;

(e) Violation of Labor Code Sections 226, 226.3, 1174, and 1174.5 for failure to calculate sick pay at the regular rate of pay for the workweek in which Plaintiffs and/or other Aggrieved Employees used paid sick time, or by dividing the Plaintiffs and/or other Aggrieved Employees' total wages, not including overtime premium pay, by the Plaintiffs and/or other Aggrieved Employees' total hours worked in the full pay periods of the prior 90 days of employment, in violation of Labor Code Sections 233, 234, 246, 246.5, 247, 247.5, and 248.5 and the Healthy Workplaces, Healthy Families Act of 2014;

(f) Violation of Labor Code Sections 233 and 234 for failure to permit Plaintiffs and/or Aggrieved Employees use of their accrued and available sick leave entitlement.

(g) Violation of Labor Code Section 227.3 for failure to provide to Plaintiffs and/or Aggrieved Employees accrual of vacation wages and failure to pay to Plaintiffs and/or Aggrieved Employees vested vacation wages;

(h) Violation of Labor Code Sections 221 and 223 for secretly paying Plaintiffs and/or Aggrieved Employees less than the statutory or contractual rate;

(i) Violation of Labor Code Section 224 for making unauthorized deductions to Plaintiffs and Class Members' wages on regular and on-call shifts, sick pay, vacation pay, and premium pay;

(j) Violation of Labor Code Sections 1174 and 1174.5 for failure to maintain accurate records regarding the employment of Plaintiffs and/or other Aggrieved Employees;

(k) Violation of Labor Code Sections 2800 and 2802 for failure to reimburse business expenses to Plaintiffs and other Aggrieved Employees; and

(l) Violation of Labor Code Section 1199 for each of the foregoing Labor Code

1 violations.

2 156. Labor Code Section 226.3 provides: “[a]ny employer who violates subdivision (a)
3 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
4 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
5 each violation in a subsequent citation, for which the employer fails to provide the employee a
6 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.
7 The civil penalties provided for in this section are in addition to any other penalty provided by law.”

8 157. Labor Code Section 226.8 provides that it is unlawful for any person or employer to
9 engage in the willful misclassification of an individual as an independent contractor and provides
10 for penalties up to \$25,000 for each violation, in addition to any other penalties permitted by law.

11 158. Labor Code section 558(a) provides “[a]ny employer or other person acting on
12 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
13 provision regulating hours and days of work in any order of the Industrial Welfare Commission
14 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
15 underpaid employee for each pay period for which the employee was underpaid . . . (2) For each
16 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
17 for which the employee was underpaid.”

18 159. Labor Code Section 1174.5 provides a \$500 penalty for an employer’s failure to
19 maintain accurate and complete payroll records showing the hours worked daily by and the wages
20 paid to employees.

21 160. Labor Code section 1197.1 also provides “[a]ny employer or other person acting
22 either individually or as an officer, agent, or employee of another person, who pays or causes to be
23 paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by
24 an order of the commission shall be subject to a civil penalty . . . as follows: (1) For any initial
25 violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee
26 for each pay period for which the employee is underpaid . . . (2) For each subsequent violation for
27 the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
28 pay period for which the employee is underpaid regardless of whether the initial violation is

1 intentionally committed.

2 161. As set forth above, Defendants have violated numerous provisions of the Labor
3 Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiffs
4 also seek the civil penalties set forth in Labor Code sections 226.3, 226.8, 558, 1174.5, and 1197.1
5 for himself, the underpaid employees, and the State of California.

6 162. Plaintiffs each are an “aggrieved employee” because they were employed by the
7 alleged violators and had one or more of the alleged violations committed against him, and therefore
8 is properly suited to represent the interests of all other aggrieved employees.

9 163. Plaintiffs have exhausted the procedural requirements under Labor Code section
10 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself
11 and all other aggrieved employees under the PAGA.

12 164. Pursuant to Labor Code sections 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled
13 to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
14 cited above.

15 165. For bringing this action, Plaintiffs are entitled to attorney’s fees and costs incurred
16 herein

17 **PRAYER FOR RELIEF**

18 **WHEREFORE**, Plaintiffs, on behalf of themselves and the proposed Class, other
19 aggrieved employees, and the State of California, pray for judgment and the following specific
20 relief against Defendants, jointly and severally, as follows:

21 1. That the Court certify the proposed Class and Subclasses, and any other class or
22 subclasses as appropriate under California Code of Civil Procedure section 382;

23 2. That Plaintiffs be appointed as the Class Representatives;

24 3. That David Alami and Shaheen Anthony Etemadi of Alami Law Group and Daniel
25 J. Hyun of The Law Office of Daniel J. Hyun be appointed as Class Counsel for all purposes;

26 4. For compensatory damages in an amount according to proof with interest thereon;

27 5. For such general, economic, and/or special damages in an amount according to proof
28 with interest thereon;

6. For damages, monetary relief, wages, premiums, reimbursements, benefits and penalties, including interest thereon;
7. For treble damages pursuant to Penal Code section 496(c) for violation of Penal Code section 487m;
8. For waiting time penalties pursuant to Labor Code section 203;
9. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;
10. For the amounts provided for in Labor Code section 226.7;
11. For attorney's fees, costs of suit, including expert fees, and interest pursuant to Labor Code sections 218.6, 226, 1194, 2699(g)(1), 2698 *et seq.*, and 2802 and California Code of Civil Procedure section 1021.5;
12. For restitution to Plaintiffs and Class Members of all money and property unlawfully acquired by Defendants and disgorgement of all profits through unfair or unlawful business practices pursuant to Business and Professions Code sections 17200 *et seq.*;
13. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions Code sections 17200, *et seq.*;
14. For liquidated damages pursuant to Labor Code section 1194.2;
15. For permanent injunctive relief described in the UCL cause of action;
16. For prejudgment interest on all sums recovered pursuant to Labor Code section 218.6, California Civil Code sections 3287 and 3289, and applicable law;
17. For penalties pursuant to Labor Code sections 200, 226, 226.3, and 226.7;
18. For post judgment interest on all amounts awarded to Plaintiffs and Class Members as provided by law;
19. A declaratory judgment that the practices and violations complained of herein are unlawful under California law;
20. For PAGA penalties;

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Dated: August 10, 2023



By:

David Alami
Shaheen Anthony Etemadi
Daniel J. Hyun
Attorneys for Plaintiffs CARISSA ARNOLD and
SAMANTHA TANORI