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and all others similarly situated.

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

FEB 05 2024

BY: 
Sergio Villanueva, Deputy

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

SHARONDA PIPKINS, on behalf of herself
and all others similarly situated,

PLAINTIFF,

v.

ROCKCREEK, INC., a California
Corporation; ALTERNATIVE CHOICES,
INC., a California Corporation; RSCR
INLAND, INC., a California Corporation;
and DOES 1 through 100, inclusive

DEFENDANTS.

Case No. CIVSB2314694

FIRST AMENDED CLASS ACTION
COMPLAINT

1. **FAILURE TO PAY ALL OVERTIME
AND DOUBLE TIME WAGES;**
2. **FAILURE TO PROVIDE MEAL
PERIODS;**
3. **FAILURE TO PROVIDE REST
PERIODS;**
4. **FAILURE TO PROVIDE ACCURATE
WAGE STATEMENTS;**
5. **UNFAIR COMPETITION**
6. **PRIVATE ATTORNEYS GENERAL
ACT**

DEMAND FOR JURY

I. INTRODUCTION

This is an action brought by Plaintiff Sharonda Pipkins (“Plaintiff”), on her behalf and all others similarly situated, against Rockcreek, Inc., a California Corporation (“Rockcreek”); Alternative Choices, Inc., a California Corporation (“Alternative Choices”); RSCR Inland, Inc., a California Corporation (“RSCR Inland”); RSCR California, Inc., a Delaware Corporation (“RSCR California”); and other as of yet unnamed DOE Defendants 1-100 (hereinafter collectively “Defendants”) alleging, among other things violations of the California Labor Code and Unfair Competition Law. Plaintiff seeks, on behalf of herself and all others similarly situated, damages, attorneys’ fees and costs of suit. Plaintiff is informed and believes, and on that basis alleges, as follows:

II. GENERAL ALLEGATIONS

1. This class action arises from wage and hour violations for, among other things, Defendants failure to compensate its hourly non-exempt employees in California, who provided direct support care, in compliance with California law. As more fully described herein, Defendants failed and continue to fail to compensate Plaintiff and class members the full amount of overtime and double time premiums based on the correct regular rate of pay, provide legally compliant paid rest breaks, provide legally compliant meal breaks and engages in other Labor Code violations, provide complete and accurate wage statements and violations of the applicable Industrial Welfare Commissions Wage Order.

2. Plaintiff seeks among other things, all wages, restitutionary disgorgement, and statutory penalties. Plaintiff seeks to represent the following Class:

All current and former hourly non-exempt employees of Defendants, in the state of California, who provided direct support care for Defendants at any point from January 2, 2019¹ through the date of class certification (“the Class”).

3. This Court is the proper court and this action is properly filed in San Bernardino and in this judicial district because Defendants do business in San Bernardino and because Defendants’ obligations and liability arise therein.

¹ The Class Periods, excepting those subject to a one-year statute of limitations, are extended by 178 days pursuant to California Judicial Council Emergency Rule 9 (“Emergency Rule 9”). Pursuant to Emergency Rule 9, the statute of limitations of 180 days or more were tolled from April 6, 2020 through October 1, 2020. Accordingly, the statute of limitations were tolled for a period of 178 days during the aforementioned tolling period.

1 4. Plaintiff is a current hourly non-exempt employee for Defendants in the state of
2 California who provided direct support care and is a resident of the County of Riverside, State
3 of California.

4 5. Plaintiff is informed and believes, and thereon alleges that Defendants
5 Rockcreek, Alternative Choices and RSCR Inland are California corporations.

6 6. Plaintiff is informed and believes, and thereon alleges that Defendant RSCR
7 California is a Delaware corporation.

8 7. The true names and capacities, whether individual, corporate, associate, or
9 otherwise, of DOES 1 through 100 are unknown to Plaintiff, who therefore sues the DOE
10 Defendants by fictitious names. Plaintiff will amend this Complaint to show their true names
11 and capacities when they have been ascertained.

12 8. Plaintiff is informed and believes, and thereon alleges, that each and all of the
13 acts and omissions alleged herein were performed by, and/or are attributable to, all Defendants,
14 each acting as agents and/or employees, and/or under the direction and control of each of the
15 other Defendants, and that said acts and failures to act were within the course and scope of said
16 agency, employment and/or direction and control. Plaintiff is informed and believes, and thereon
17 alleges, that at all times material hereto Defendants were and are the agents of each other.

18 9. Plaintiff is informed and believes, and thereon alleges, that Defendants are a
19 single enterprise or integrated enterprise, joint employers, or alter egos of each other, and were
20 acting on behalf of Defendants in the employment, wages, hours and working conditions of
21 Plaintiff and the Class.

22 10. Plaintiff is informed and believes, and thereon alleges, that Defendant DOES 1
23 through 100 are the partners, owners, shareholders, managers, joint employers, or alter egos of
24 Defendants, and were acting on behalf of Defendants in the payment of wages to Plaintiff.

25 11. At all relevant times alleged herein Plaintiff was employed by Defendants, and
26 Plaintiff performed work for Defendants in San Bernardino County and Riverside County in the
27 state of California.

28 **III. FACTS COMMON TO MORE THAN ONE CAUSE OF ACTION**

1 12. Plaintiff and the Class worked as hourly non-exempt employees in the state of
2 California for Defendants.

3 13. Throughout the period of January 2, 2019 through the date of class certification
4 (“Class Period”), Plaintiff and all Class members were and are employees of Defendants in the
5 state of California, entitled to all of the protections afforded to employees under the Labor Code
6 and applicable IWC Wage Orders.

7 14. Defendants’ primary business is providing community living services. This work
8 is performed in part by Plaintiff and the Class members.

9 15. During the relevant time period, Plaintiff and the Class members worked in
10 excess of eight (8) hours in a workday and in excess of forty (40) hours in a workweek.

11 16. During the relevant time period, Defendants failed to pay Plaintiff and Class
12 members the full amount of overtime and double time wages for all overtime and double time
13 hours worked.

14 17. During the relevant time period, Defendants failed to pay Plaintiff and Class
15 members the full amount of overtime and double time wages based on their correct regular rate
16 of pay.

17 18. When Class members worked shifts over eight (8) hours per day, or workweeks
18 over forty (40) hours per week, Defendants did not pay them daily and weekly overtime and
19 double-time pay in accordance with the California Labor Code and applicable Wage Order.

20 19. This includes but is not limited to Defendants’ failure to pay Plaintiff and the
21 Class members for work time spent, including but not limited to, caring for patients and other
22 onsite duties.

23 20. Defendants conduct, as alleged herein, has caused Plaintiff and Class members
24 damages including, but not limited to, loss of wages and compensation.

25 21. Defendants are liable to Plaintiff and the Class for failing to pay overtime and
26 double time wages for all hours worked based on the regular rate of pay, failing to provide legally
27 compliant meal and rest periods, failure to provide accurate wage statements, and unfair
28 competition.

1 22. Plaintiff is a member of and seeks to be the representative for the Class of
2 similarly situated employees who all have been exposed to, have suffered, and/or were permitted
3 to work under, Defendant's unlawful employment practices as alleged herein.

4 23. Despite knowing that Plaintiff and the Class were working Defendants refused to
5 pay the full amount of overtime premiums for all overtime hours worked.

6 24. Throughout the Class Period, Defendants failed to authorize and permit legally
7 compliant meal breaks. Plaintiff and Class members were assigned to and required to work shifts
8 lasting over five (5) hours and were not provided nor allowed to take a timely thirty (30) minute
9 uninterrupted off-duty meal break without exemption. Plaintiff and Class members were
10 assigned to and required to work shifts lasting over ten (10) hours without a second thirty (30)
11 minute uninterrupted off-duty meal break without exemption.

12 25. Throughout the Class Period, Defendants failed and continue to fail to pay for
13 meal period violations at the correct regular rate of pay.

14 26. Throughout the Class Period, Defendants failed to authorize and provide paid rest
15 periods compliant with the provisions of the California Labor Code and applicable Wage Order.
16 Plaintiff and Class members were assigned to and required to work shifts lasting over four (4)
17 hours and were not provided nor allowed to take a non-captive paid ten-minute uninterrupted
18 rest break during each four (4) hour work period, or major fraction thereof, at the direction of
19 Defendants and/or with Defendants knowledge and acquiescence.

20 27. Throughout the Class Period, Defendants failed and continue to fail to pay for
21 rest period violations at the correct regular rate of pay.

22 28. The wage statements provided by Defendants to Plaintiff and the Class failed to
23 provide accurate and complete information reflecting the employing entity and employing
24 entity's address, gross wages earned, net wages earned, meal and rest period premiums, and the
25 applicable hourly rates at the corresponding hours worked.

26 29. The wage statements provided by Defendants to Plaintiff and the Class failed to
27 list or provide the total hour worked.

28 30. The underpayment of wages, Labor Code violations, and Wage Order violations

1 upon Plaintiff and the Class are a consequence of Defendants' unlawful policies and practices
2 which were centrally devised, implemented, communicated, and applied to Plaintiff and the
3 Class.

4 31. Because of Defendants' unlawful conduct, Plaintiff and the Class have been and
5 continue to be systematically deprived of their earned wages to which they are entitled by law
6 and deprived of other benefits of the Labor Code and applicable IWC Wage Orders, to the
7 detriment of herself and the public at large.

8 **CLASS DEFINITION AND CLASS ALLEGATIONS**

9 32. Plaintiff brings this action on her own behalf and on behalf of all others similarly
10 situated, pursuant to California Code of Civil Procedure §382, and as a member of the Class
11 defined as follows:

12 All current and former hourly non-exempt employees of Defendants, in the state
13 of California, who provided direct support care for Defendants at any point from
14 January 2, 2019 through the date of class certification ("the Class").

15 **Sub-Class 1**

16 All current and former hourly non-exempt employees of Defendants, in the state
17 of California, who provided direct support care for Defendants at any point from
18 January 2, 2019 through the date of class certification and who worked at least
one (1) pay period with overtime or double time while also receiving pay in
addition to the base hourly rate of pay. ("Regular Rate" Class).

19 **Sub-Class 2**

20 All current and former hourly non-exempt employees of Defendants, in the state
21 of California, who provided direct support care for Defendants at any point from
22 January 2, 2019 through the date of class certification and who worked at least
one shift of more than five (5) hours. ("Meal Period" Sub-Class).

23 **Sub-Class 3**

24 All current and former hourly non-exempt employees of Defendants, in the state
25 of California, who provided direct support care for Defendants at any point from
26 January 2, 2019 through the date of class certification and who worked at least
one shift of 3.5 hours or more. ("Rest Period" Sub-Class).

27 **Sub-Class 4**

28 All current and former hourly non-exempt employees of Defendants, in the state
of California, who provided direct support care for Defendants at any point from
June 29, 2022 through the date of class certification and received a wage

statement from Defendants without the total hours listed. (“Total Hours Pay Stub” Sub-Class).

Sub-Class 4

All current and former hourly non-exempt employees of Defendants, in the state of California, at any point from June 29, 2022 through the date of class certification and received a wage statement listing RSCR California, Inc.. (“Pay Stub” Sub-Class).

Sub-Class 5

All current and former hourly non-exempt employees of Defendants, in the state of California, who provided direct support care for Defendants at any point from June 29, 2022 through the date of class certification who is a member of Sub-Class 1, 2, and/or 3. (“Pay Stub” Sub-Class).

33. Plaintiff reserves the right to amend or otherwise alter the class definition presented to the Court at the appropriate time, or to alter, propose or eliminate sub-classes, in response to facts learned through discovery, legal arguments advanced by Defendants or otherwise.

34. Further, this action is brought for the benefit of the public, who are entitled to restitution of those funds improperly withheld by Defendants.

35. This action has been brought and may be properly maintained as a class action pursuant to the provisions of the Code of Civil Procedure §382 and other applicable law.

36. **Numerosity:** Members of the Class are so numerous that their individual joinder is impracticable. It is possible to ascertain the number of former and current employees who are members of the proposed class, but they are so numerous that joinder is impracticable. The proposed Class includes future employees (persons who are hired by defendant within the class period, but who are not now class members as current or former employees) whose joinder is currently impossible. The precise number of Class members and their addresses can be determined by Defendants’ business records and will become known to Plaintiff through discovery. Class members may be notified of the pendency of this action by mail, e-mail, the internet, or published and posted notice.

37. **Typicality:** Plaintiff’s claims are typical of the claims of members of the

1 proposed classes. Defendants employed Plaintiff during the statutory period, and Plaintiff has
2 been subjected to Defendants' unlawful employment practices, as alleged in this Complaint.

3 38. **Adequacy of Class Representative:** Plaintiff will fairly and adequately protect
4 the interests of the classes. Plaintiff's interests do not conflict with Class members' interests, and
5 Plaintiff has retained competent and experienced counsel. The interests of Class members will
6 be fairly and adequately protected by Plaintiff and her counsel.

7 39. **Common Questions of Law and Fact:** Common questions of law and fact exist
8 as to all Class members and predominate over any questions affecting solely individual members
9 of the proposed Class:

- 10 a. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff
11 and the members of the Class the full amount of overtime and double-time wages
12 based on the correct regular rate of pay in violation of the applicable Labor Code
13 provisions including §§510 and 1194;
- 14 b. Whether Defendants improperly retained, appropriated or deprived Plaintiff and
15 the Class members of the use of monies or sums to which they were legally
16 entitled;
- 17 c. Whether Defendants engaged in unfair business practices;
- 18 d. Whether Defendants were participants in the alleged unlawful conduct;
- 19 e. Whether Defendants engaged in a pattern or practice of failing to provide
20 Plaintiff and the members of the Class paid rest periods in violation of the
21 applicable IWC Wage Order and Labor Code §226.7 by requiring non-captive
22 paid rest breaks;
- 23 f. Whether Defendants engaged in a pattern or practice of failing to provide
24 Plaintiff and the members of the Class unpaid meal periods in violation of IWC
25 Wage Order and Labor Code §§ 226.7, 512 by failing to timely provide the
26 required number of 30-minute uninterrupted meal periods to Plaintiff and Class
27 members;
- 28 g. Whether Defendants engaged in unfair practice and violated California Business

and Professions Code §17200 by failing to compensate Plaintiff and the members of the Class their full amount of overtime wages;

- h. Whether Defendants failed to provide accurate and complete wage statements to Plaintiff and the members of the Class; and
- i. The nature and extent of class-wide injury and measure of damages for the injury.

40. **Superiority and Substantial Benefit:** A class action is the superior method for the fair and efficient adjudication of this controversy. Defendants implemented illegal schemes that are generally applicable to the members of the proposed plaintiff class and sub-classes. Damages suffered by each Class member may be relatively small given the burden and expense of individual prosecution of the complex and expensive litigation necessitated by Defendants' conduct. Further, it would be virtually impossible for the Class members to redress the wrongs done to them on an individual basis. Even if Class members could afford such individual litigation, the court system could not. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court.

41. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. Plaintiff is informed and believes, and on that basis alleges, that the amount of money due each Class member as economic damages is ascertainable from Defendants' records or may readily be determined by other means.

42. The Classes should also be certified because:

- a. The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members, which would establish incompatible standards of conduct for Defendants;
- b. The prosecution of separate actions by individual Class members creates the risk of adjudication with respect to them, which would, as a practical matter, be dispositive of the interests of the other Class members not parties to the

1 adjudications, or would substantially impair or impede their ability to protect
2 their interests; and

- 3 c. Defendants have acted or refused to act on grounds generally applicable to
4 the Class, and/or general public, thereby making appropriate final and
5 injunctive relief with respect to the Classes as a whole.

6 **FIRST CAUSE OF ACTION**

7 **Failure to Pay All Overtime and Double Time Wages**

8 **Violation of Labor Code §§510 and 1194; IWC Wage Order**

9 (Against all Defendants)

10 43. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein,
11 paragraphs 1 through 41 of this Complaint.

12 44. Plaintiff and the Class members herein were and are employed and scheduled as
13 a matter of established company policy to work and in fact worked as non-exempt hourly
14 employees in excess of eight (8) hours per day and/or in excess of forty (40) hours per workweek.
15 Plaintiff and the Class also worked in excess of twelve (12) hours per day. Defendants employed
16 and scheduled Plaintiff and the Class members without providing the full amount of overtime
17 and double time compensation for such excess hours worked in violation of Labor Code §§510
18 and 1194 and the relevant California Industrial Welfare Commission (IWC) orders.

19 45. Labor Code §510 mandates: “Eight hours of labor constitutes a day's work. Any
20 work in excess of eight hours in one workday and any work in excess of 40 hours in any one
21 workweek and the first eight hours worked on the seventh day of work in any one workweek
22 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for
23 an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no
24 less than twice the regular rate of pay for an employee. In addition, any work in excess of eight
25 hours on any seventh day of a workweek shall be compensated at the rate of no less than twice
26 the regular rate of pay of an employee. Nothing in this section requires an employer to combine
27 more than one rate of overtime compensation in order to calculate the amount to be paid to an
28 employee for any hour of overtime work.” The California overtime requirement and wage

1 requirement are non-waivable rights pursuant to LC §219.

2 46. Section 3(a)(1) of Wage Order No. 5-2001 (“WO 5-01”) mandates that employers
3 pay one and one-half times the employees’ regular rate of pay for employees who work more
4 than eight hours in a day or forty hours in a week and two times their regular rate of pay for any
5 work in excess of twelve hours in one day.

6 47. Labor Code §1194(a) states: “Notwithstanding any agreement to work for a lesser
7 wage, any employee receiving less than the legal minimum wage or the legal overtime
8 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
9 of the full amount of this minimum wage or overtime compensation, including interest thereon,
10 reasonable attorney’s fees, and costs of suit.”

11 48. Pursuant to Labor Code §§218 and 1194(a), Plaintiff may bring a civil action for
12 overtime wages directly against the employer without first filing a claim with the Division of
13 Labor Standards Enforcement (“DLSE”) and may recover such wages, together with interest
14 thereon, penalties, attorneys’ fees and costs. Further, pursuant to Labor Code §1198, it is
15 unlawful to employ person for longer than the hours set by the IWC or under conditions
16 prohibited by the applicable IWC Wage Orders. WO 5-01, as amended, applies to Plaintiff.

17 49. However, Defendants have failed and refused to pay Plaintiff and the class
18 members overtime compensation for all overtime hours worked in excess of eight (8) hours per
19 day, or forty (40) hours per week, and all double time hours worked in excess of twelve (12)
20 hours per day, as required by LC §§510, 1194 and the applicable Wage Orders. Plaintiff is
21 informed and believes and based thereon alleges Defendants’ failure to pay overtime and double
22 time wages resulted from the failure to pay overtime and double time wages based on the correct
23 regular rate of pay, this includes but is not limited to including all required remuneration, such
24 as shift differentials and bonuses, in the regular rate of pay for overtime and double time wages.

25 50. Defendants, and each of them, consistently administered a corporate policy which
26 required Plaintiff and the Class members to work overtime without proper premium overtime
27 and double time pay based on the regular rate of pay. Accordingly, Plaintiff and the Class
28 members were and are entitled to overtime and double time compensation, under California law,

1 based on the appropriate regular rate of pay.

2 51. Plaintiff and the class members have been deprived of rightfully earned overtime
3 and double time compensation as a direct and proximate result of Defendants' common policies,
4 practices, and refusal to pay the full amount of compensation earned for all overtime and double
5 time hours worked.

6 52. Plaintiff, and the class, are entitled to and seek the full amount of all earned unpaid
7 overtime and double time pay, attorneys' fees and costs, and interest pursuant to LC §1194 in an
8 amount to be determined at trial.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PROVIDE MEAL PERIODS**

11 **Violation of Labor Code §§226.7, 512, & IWC Wage Order No. 5-2001**

12 (Against all Defendants)

13 53. Plaintiff restates and incorporates by reference each and every allegation
14 contained in paragraphs 1 through 41, inclusive, as though fully set forth herein.

15 54. Labor Code §226.7 requires an employer to pay one additional hour of
16 compensation, at the regular rate of pay, per day for each meal period the employer fails to
17 provide pursuant to the Labor Code and/or applicable Wage Order. Plaintiff alleges that
18 Defendants failed to provide legally compliant meal periods to Plaintiff and the Class members;
19 in addition to impeding, discouraging, and/or dissuading employees from taking legally
20 compliant meal periods. Employees are entitled to a meal period of at least thirty (30) minutes
21 per five (5) hours work period. Plaintiff and the Class members consistently worked over five
22 (5) hours or ten (10) hours in a shift without the requisite, timely, number of meal periods due to
23 Defendants' policy of discouraging, dissuading and/or impeding Plaintiff from taking meal
24 periods. Defendants further failed to obtain legally compliant meal period waivers for shifts
25 lasting longer than 10 hours. Pursuant to the Code, Plaintiff was entitled to a meal period of not
26 less than thirty (30) minutes prior to exceeding five (5) hours of work and a second meal period
27 for hours worked over ten (10) in a day.

28 55. Pursuant to Labor Code §512 and the applicable Wage Order, employees are

entitled to a meal period of at least thirty (30) minutes per five (5) hour work period.

56. Section 11 of WO 5-01 applies to Plaintiff and the Class member, and provides, in pertinent part, that if an employer fails to provide an employee a legally compliant meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period was not provided.

57. Defendants failed to provide, impeded and/or discouraged Plaintiff and the Class from taking meal breaks of not less than thirty (30) minutes as required by the Labor Code, and WO 5-01 §11.

58. During the relevant statutory time period, Defendants failed to authorize and permit uninterrupted meal breaks. Plaintiff and Class members were routinely required to work without an uninterrupted meal break at the direction of Defendants and/or with Defendants knowledge or acquiescence.

59. By its actions in requiring Plaintiff and the Class to work through meal periods and/or its failure to relieve Plaintiff and the Class of their duties for off-duty meal periods, Defendants violated California Labor Code §226.7 and §11 of IWC Wage Order No. 5-2001, and are liable to Plaintiff and the Class.

60. Defendants further failed to provide, impeded and/or discouraged Plaintiff and the other class members from taking timely and compliant meal breaks of not less than thirty (30) minutes as required by the Labor Code and IWC Wage Order No. 5-2001 without exemption.

61. Pursuant to Labor Code §226.7, Plaintiff and the Class are entitled to damages in an amount equal to one (1) hour of pay at no less than the regular rate of compensation per missed meal break per day, in a sum to be proven at trial.

62. Pursuant to Labor Code §218.5, Plaintiff and the Class seek attorney fees and costs for the non-payment of these wages of one (1) hour of pay at no less than the regular rate of compensation. *Betancourt v. OS Restaurant Services, LLC* (2022) 83 Cal.App.5th 132.

63. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class

1 Members seek recover of pre-judgment interest on all amounts recovered herein.

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5 **THIRD CAUSE OF ACTION**

6 **FAILURE TO PROVIDE REST PERIODS**

7 **Violation of Labor Code §§226.7, 512, & IWC Wage Order No. 5-2001**

8 (Against all Defendants)

9 64. Plaintiff restates and incorporates by reference each and every allegation
10 contained in paragraphs 1 through 41, inclusive, as though fully set forth herein.

11 65. Labor Code §226.7(b) provides that “An employer shall not require an employee
12 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
13 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
14 Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

15 66. Labor Code §516 provides that the Industrial Welfare Commission “may adopt
16 or amend working condition orders with respect to break periods, meal periods, and days of rest
17 for any workers in California consistent with the health and welfare of those workers.”

18 67. Section §12 of the IWC Wage Order No. 5-2001 states: “Every employer shall
19 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
20 the middle of each work period. The authorized rest period time shall be based on the total hours
21 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
22 thereof. However, a rest period need not be authorized for employees whose total daily work
23 time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted
24 as hours worked for which there shall be no deduction from wages.”

25 68. Labor Code §226.7(b) and Section 12(B) of the Wage Order require an employer
26 to pay one additional hour of compensation, at the regular rate of pay, per day for each rest period
27 the employer failed to provide pursuant to the Labor Code and/or applicable Wage Order.

28 69. Plaintiff and the Class members worked over four (4) hours per shift and/or over

1 six (6) hours per shift.

2 70. Plaintiff and the Class members were entitled to a non-captive, duty-free, paid
3 rest period of not less than ten (10) minutes for every four hours worked or major fraction thereof.

4 71. During the relevant time period, Defendants failed to provide legally compliant
5 non-captive and duty-free ten (10) minute paid rest periods to Plaintiff and the Class members
6 by, including but not limited to, requiring the rest periods to be taken on-duty at Defendants'
7 facilities.

8 72. As such, Plaintiff and the Class members were not allowed to leave Defendants'
9 premises for their rest breaks in violation of *Augustus v. ABM Security Services, Inc.* (2016) 2
10 Cal.5th 257 as Defendants failed to relinquish control over how Plaintiff and the Class members
11 spent their rest breaks.

12 73. As such, as a matter of Defendants' established company policy, Defendants
13 failed to authorize and permit all required paid rest periods established by Labor Code §§226.7
14 and 516 and Section 12 of the applicable Wage Order.

15 74. As a result of the unlawful acts of Defendants, Plaintiff and the Class members
16 have been deprived of legally compliant paid rest breaks and are entitled to recover damages
17 under Labor Code §226.7(b) and §12 of IWC Wage Order No. 5-2001 in the amount of one
18 additional hour of compensation at their regular rate of pay for each day a paid rest break was
19 not provided.

20 75. Pursuant to Labor Code §218.5, Plaintiff and the Class seek attorney fees and
21 costs for the non-payment of these wages of one (1) hour of pay at no less than the regular rate
22 of compensation. *Betancourt v. OS Restaurant Services, LLC* (2022) 83 Cal.App.5th 132.

23 76. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class
24 Members seek recover of pre-judgment interest on all amounts recovered herein.

25 **FOURTH CAUSE OF ACTION**

26 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

27 **Violation of Labor Code §226**

28 (Against all Defendants)

1 77. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein,
2 paragraphs 1 through 41 of this Complaint.

3 78. California Labor Code §226 provides:

4 (a) Every employer shall, semimonthly or at the time of each payment of wages,
5 furnish each of his or her employees, either as a detachable part of the check, draft,
6 or voucher paying the employee's wages, or separately when wages are paid by
7 personal check or cash, an accurate itemized statement in writing showing (1) gross
8 wages earned, (2) total hours worked by the employee, except for any employee
9 whose compensation is solely based on a salary and who is exempt from payment
10 of overtime under subdivision (a) of Section 515 or any applicable order of the
11 Industrial Welfare Commission, (3) the number of piece-rate units earned and any
12 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
13 provided that all deductions made on written orders of the employee may be
14 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of
the period for which the employee is paid, (7) the name of the employee and only
the last four digits of his or her social security number or an employee identification
number other than a social security number, (8) the name and address of the legal
entity that is the employer..., and (9) all applicable hourly rates in effect during the
pay period and the corresponding number of hours worked at each hourly rate by
the employee...

15 79. Section 7(A) of the Wage Order requires accurate information pertaining to total
16 wages paid each payroll period, total hours worked in the payroll period and applicable rates of
17 pay, and incentive plan formula provided to the employees. Section 7(B) requires wage
18 statements that list the name of the employer.

19 80. The purpose of requiring greater wage stub information is to insure that
20 employees are adequately informed of compensation received and are not shortchanged by their
21 employers. Requiring the legal entity that is the employer to be included and accurately reflected
22 on the wage statement allows employees to identify the entity who would be subject to a lawsuit
23 for wage and hour violations.

24 81. Labor Code §226(e) provides that an employee is entitled to recover the greater
25 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation of §226
26 occurs and one hundred dollars (\$100) for each subsequent pay period not to exceed an aggregate
27 penalty of four thousand dollars (\$4,000), as well as an award of costs and reasonable attorneys'
28 fees, for all pay periods in which the employer knowingly and intentionally failed to provide

1 timely and accurate itemized statements to the employees.

2 82. At all material times, Defendants knowingly and intentionally failed to provide
3 Plaintiff and the Class members with wage statements accurately reflecting the gross wages
4 earned, net wages earned, the applicable hourly rates at the corresponding hours worked, the
5 name and address of the legal entity that was the employer, and/or list the meal and rest period
6 premium payment on the wage statement.

7 83. Plaintiff and the Class members suffered injury as a result of Defendants'
8 knowing and intentional failure to provide accurate itemized wage statements as Plaintiff and
9 the Class member were owed but not paid premium compensation for all premium hours worked
10 and premium payments for rest and meal period violations which were not reflected on the wage
11 statements. Plaintiff and the Class members suffered injury as a reasonable person could not
12 promptly and easily determine from the wage statements alone the accurate amount of gross
13 wages, applicable hourly rates at the corresponding hours worked, the net wages earned for the
14 pay period and/or the number of rest period premium payments on the wage statements, or the
15 name and address of the legal entity that is the employer.

16 84. Plaintiff and the Class members are entitled to damages of statutory penalties
17 pursuant to Labor Code §226(e) for these violations, in an amount to be determined at trial.

18 85. Plaintiff and the Class members are entitled to and seek costs and reasonable
19 attorneys' fees pursuant to Labor Code §226(e).

20 86. Plaintiff further seeks injunctive relief and reasonable attorneys' fees and costs
21 pursuant to Labor Code §226(h).

22 **FIFTH CAUSE OF ACTION**

23 **UNFAIR COMPETITION**

24 **Violation of Business and Professions Code §§17200, *et seq.***

25 (Against all Defendants)

26 87. Plaintiff re-alleges and incorporates by reference each and every one of the
27 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
28 forth herein.

1 88. Beginning on an exact date unknown to Plaintiff but believed to have occurred at
2 least since four (4) years before the filing of this action, Defendants have engaged in a pattern
3 and practice of acts of unfair competition in violation of B&PC §17200, including the practices
4 alleged herein.

5 89. Defendants, and each of them, are “persons” as defined by Business and
6 Professions Code §17201.

7 90. Plaintiff seeks to enforce important rights affecting the public interest. Plaintiff
8 sues on her own behalf and on behalf of the current, former, and future employees of the
9 Defendants that were required to work overtime and double time hours without receiving the full
10 amount of overtime and double time compensation and required to work shifts without legally
11 compliant meal and rest periods and as parties harmed by Defendants unfair business practices.

12 91. Plaintiff and the Class members suffered injuries-in-fact and have lost money as
13 a result of the Defendants’ unfair competition alleged herein.

14 92. Defendants previously or continue to engage in unlawful, unfair, and/or
15 fraudulent business practices, as alleged in this Complaint, in violation of California’s B&PC
16 §17200 *et seq.* by:

- 17 a. Failing and refusing to pay Plaintiff and the Class members minimum wage for
18 all hours worked in violation of Labor Code §§510, 1194, &1197 and IWC Wage
19 Order No. 5-2001; and
- 20 b. Failing and refusing to pay Plaintiff and the Class members the full amount of
21 overtime and double time compensation for all overtime and double time hours
22 worked in violation of Labor Code §§510, 1194, &1197 and IWC Wage Order
23 No. 5-2001; and
- 24 c. Failing and refusing to provide Plaintiff and the Class members legally compliant
25 non-captive, duty-free, paid, ten-minute rest periods or premium payments, at the
26 regular rate of pay, for said violations in violation of Labor Code §§226.7, 512
27 and IWC Wage Order No. 5-2001; and
- 28 d. Failing and refusing to provide Plaintiff and the Class members legally compliant,

uninterrupted, timely meal breaks or premium payments, at the regular rate of pay, for said violations in violation of Labor Code §§226.7, 512 and IWC Wage Order No. 5-2001

93. All of these allegations constitute unfair business practices and/or unlawful business practices in violation of California B&PC §17200, *et seq.*

94. Defendants have avoided payment of wages, overtime and double time wages and other benefits as required by the California Labor Code, the California Code of Regulations and applicable IWC Wage Orders. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff, the Class members, and others similarly situated, and the members of the public. Defendants should be made to disgorge their ill-gotten gains and to restore them to the Class, including Plaintiff.

95. Plaintiff and the Class members seek full restitution of said monies, as necessary and according to proof, to restore any and all monies withheld and/or acquired by Defendants by means of the unfair, unlawful, and fraudulent business practices complained of herein. Plaintiff seeks, on behalf of all current and former employees of Defendants, restitution of monies retained by Defendants. Plaintiff further seeks, on behalf of themselves and the Class members, the appointment of a receiver, as necessary, to establish the total restitutionary relief from Defendants. The restitution includes all wages withheld by Defendants as a result of the unfair, unlawful, and/or fraudulent business practices; including interest thereon. Absent a statutory provision specifically governing the type of claim at issue, the prejudgment interest rate is 10 percent. The acts complained of herein occurred, at least in part, within the last four (4) years preceding the filing of the Complaint.

96. Plaintiff is informed and believe and thereon allege that at all times herein mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices prohibited by California B&PC §17200, thereby depriving their employees and the Class members, the minimum working condition, standards and conditions due to them under the California labor laws and Industrial Welfare commission wage orders as specifically described herein. Plaintiff further seeks an order requiring Defendants to identify by full name, telephone

1 number, and last known address employees who worked or still work for Defendants for the
2 Class members from four (4) years preceding the filing of the original Complaint through the
3 date of class certification. Plaintiff further seeks an order requiring Defendants to timely pay
4 restitution to all current and former employees, including back wages, and interest.

5 97. By and through its unfair, unlawful, and/or fraudulent business practices and acts
6 described herein, Defendants have obtained valuable services from Plaintiff and all persons
7 similarly situated, and has deprived Plaintiff and all persons similarly situated of valuable rights
8 and benefits guaranteed by law, all to their detriment.

9 98. Plaintiff, and all persons similarly situated, and all persons in interest, are entitled
10 to and do seek such relief as may be necessary to restore to them the money and property which
11 Defendants have acquired, or of which Plaintiff and class members have been deprived by mean
12 of the herein described unfair, unlawful, and/or fraudulent business practices.

13 99. Plaintiff, and all persons similarly situated, and all persons in interest, are further
14 entitled to and do seek a declaration that the above-described business practices are unfair,
15 unlawful, and/or fraudulent, and declaratory relief of Defendants engaging in any of the herein
16 described unfair, unlawful, and/or fraudulent business practices.

17 100. Plaintiff and the Class members request attorney's fees and costs pursuant to
18 Code of Civil Procedure §1021.5 since this action is brought to vindicate important rights of a
19 large class and the public.

20 **SIXTH CAUSE OF ACTION**

21 **PRIVATE ATTORNEYS GENERAL ACT**

22 **Violation of Labor Code §§2698, *et seq.***

23 (Against Defendants Rockcreek, Alternative Choices, and RSCR Inland)

24 101. Plaintiff re-alleges and incorporates by reference each and every one of the
25 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
26 forth herein against Defendants Rockcreek, Alternative Choices and RSCR Inland ("PAGA
27 Defendants").

28 102. Labor Code §§2698-2699, the Labor Code Private Attorney General Act of 2004,

1 provides for a civil penalty to be assessed and collected by the Labor and Workforce
2 Development Agency (LWDA), or any of its departments, divisions, commissions, boards,
3 agencies or employees for a violation of the Labor Code, may be recovered through a civil action
4 by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other
5 current or former employees.

6 103. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
7 agencies, or employees, has discretion to assess a civil penalty, a court in a civil action is
8 authorized to exercise the same discretion, subject to the same limitations and conditions to
9 assess a civil penalty.

10 104. Plaintiff and PAGA Defendants' non-exempt hourly employees who provided
11 direct support care for PAGA Defendants in California, at any point during the period of one
12 year preceding the filing of this action to the present, are "aggrieved employees" as defined by
13 Labor Code §2699, in that they are all current or former employees of PAGA Defendants, and
14 one or more of the alleged violations was committed against them.

15 105. Plaintiff gave written notice electronically to the LWDA, and by certified mail to
16 PAGA Defendants of the specific provisions of this code alleged to have been violated, including
17 the facts and theories to support the alleged violations as required by Labor Code §2699.3. More
18 than 65 days have lapsed since notice to the LWDA and the LWDA has not indicated that it
19 intends to investigate PAGA Defendants' Labor Code violations. Accordingly, Plaintiff may
20 commence a civil action to recover civil penalties for herself and other current and former
21 employees under Labor Code §2699 pursuant to §2699.3.

22 106. Plaintiff asserts all the claims in this Complaint against PAGA Defendants,
23 individually and on behalf of all aggrieved employees in their capacity as private attorney general
24 and seeks all applicable civil penalties available under the Labor Code.

25 107. Pursuant to Labor Code §2699, Plaintiff, individually and on behalf of all
26 aggrieved employees, requests and seeks to recover from the PAGA Defendants; overtime and
27 double time wages at the regular rate of pay, rest period premiums, meal period premiums, and
28 wage statement violations according to proof. Plaintiff is further entitled to attorneys' fees and

costs pursuant to Labor Code §2699(g)(1), as well as all civil penalties, including, but not limited to:

- 1) Penalties under Code of Regulations, Title 8 §11090 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- 2) Penalties under Labor Code §558, in addition to and entirely independent and apart from other penalties provided under the Labor Code, in the amount of \$50 for each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- 3) Penalties under Labor Code §1197.1, in addition to and entirely independent and apart from other penalties provided in the Labor Code, for any initial violation that is intentionally committed, \$100 for each underpaid employee for each pay period for which the employee is underpaid; for each subsequent violation for the same specific offense, \$200 for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed; and
- 4) Penalties under Labor Code §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

108. Any and all additional civil penalties and sums as provided by the Labor Code and/or other statutes.

109. Plaintiff seeks and is entitled to have 75% of all penalties obtained be allocated to the LWDA and 25% to aggrieved employees.

1 110. Further, Plaintiff is entitled to seek and recover reasonable attorney's fees and
2 costs pursuant to Labor Code §§2699(g)(1).

3 **IV. PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays judgment as follows:

- 5 1. An order that the action be certified as a class action;
- 6 2. An order that Plaintiff be appointed class representatives;
- 7 3. An order that counsel for Plaintiff be appointed class counsel;
- 8 4. An order requiring Defendants to identify, by name, email, address and telephone
9 number All current and former California hourly non-exempt employees of
10 Defendants for the period of four (4) years prior to the filing of this action through
11 the date of class certification who provided community living services;
- 12 5. For all unpaid wages due to Plaintiff and each Class member in amounts to be proven
13 at trial;
- 14 6. For the full amount of unpaid minimum wages and liquidated damages due Plaintiff
15 and each Class member pursuant to Labor Code §§ 1194 and 1194.2;
- 16 7. For the full amount of unpaid overtime and double time wages due Plaintiff and each
17 Class member pursuant to Labor Code §1194;
- 18 8. For recovery as authorized by Labor Code §226(e);
- 19 9. For restitution of all unpaid wages due Plaintiff and each Class member;
- 20 10. For all applicable statutory penalties, in amounts to be proven at trial;
- 21 11. For general damages including compensatory damages according to proof;
- 22 12. For pre-judgment interest as allowed by Labor Code §§218.6 and 1194(a) as well as
23 Cal. Civil Code §3287 and to the extent permitted by law, the California Constitution,
24 and/or deemed equitable by the Court;
- 25 13. For all applicable interest on damages, wages, and penalties due;
- 26 14. For injunctive relief to prevent further violations of the California Labor Code;
- 27 15. For declaratory relief that Defendants engaged in unfair practices;
- 28 16. For declaratory relief that Defendants violated Labor Code §§ 226, 226.7, 510, 512,

1194, and 1197;

17. For restitution of all moneys due to Plaintiff and Class members, and disgorged profits from the unlawful and/or unfair business practices of Defendants, pursuant to California Business & Professions Code §17200;

18. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant rest break was not provided;

19. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant meal break was not provided

20. For costs of suit, expenses and attorneys' fees pursuant to Labor Code §§226(e) and (h), 1194(a), 218.5, 2699(g), Code of Civil Procedure §1021.5, *et seq.*, and all other applicable law, and

21. On behalf of Plaintiff and all other aggrieved employees and the LWDA, for all civil penalties authorized by LC §2699 against the PAGA Defendants, including but not limited to:

a) For civil penalties pursuant to LC §558 as follows:

i. For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

ii. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

b) For civil penalties per Code of Regulations, Title 8 §11090 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

c) For civil penalties per Labor Code §1197.1, in the amount of:

i. \$100 for each underpaid employee for each initial pay period for which the employee was intentionally underpaid;

1 ii. \$200 for each underpaid employee for each subsequent pay period for
2 which the employee is underpaid regardless of whether the initial
3 violation is intentionally committed; and

4 d) For civil penalties under LC §2699(f), in addition to and entirely independent and
5 apart from other penalties provided in the Labor Code and for Labor Code
6 violations without a specific civil penalty, in the amount of \$100 for each
7 aggrieved employee per pay period for each violation, and \$200 for each
8 aggrieved employee per pay period for each subsequent violation, and;

9 e) For all such other and further relief that the Court may deem just and proper.

10 Dated: 2/2/2024

THE MYERS LAW GROUP, A.P.C.

11
12
13 By: _____

David P. Myers

Jason Hatcher

Attorneys for Plaintiff Sharonda Pipkins and
all others similarly situated.

PROOF OF SERVICE

I am employed in the office of a member of the bar of this Court at whose direction this service was made. I am over the age of 18 and not a party to the within action; my business address is 9327 Fairway View Place, Suite 100, Rancho Cucamonga, CA 91730.

On February 2, 2024, I served the foregoing document described as **FIRST AMENDED CLASS ACTION COMPLAINT** by serving interested parties in this action by addressed as follows:

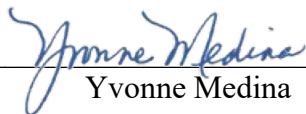
Phil J. Montoya, Jr.
pmontoya@hpylaw.com
Alex M. Barfield
abarfield@hpylaw.com
Hawkins Parnell & Young LLP
445 South Figueroa Street, Suite 3200
Los Angeles, CA 90071

I am “readily familiar” with the firm’s practice of services of process. Under that practice, this document would be deposited:

____ (BY MAIL): with U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business.
____ (BY UPS) Overnight Delivery with the envelope placed in or with a facility maintained by the overnight delivery carrier with fees paid for or provided for.
____ (BY PERSONAL SERVICE) I caused such envelope(s) to be personally served by messenger to the above addresses(s)
 X (BY ELECTRONIC SERVICE) I served the document(s) described above by emailing to the person(s) at the electronic address(es) listed above. I did not receive any electronic message or indication that the transmission was unsuccessful. My email address is ymedina@myerslawgroup.com

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

Executed February 2, 2024 at Rancho Cucamonga, California.



Yvonne Medina