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SARA KEEFE

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Nora Lopez, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO-CENTRAL DIVISION

(UNLIMITED JURISDICTION)

SARA KEEFE,

Plaintiff,

vs.

EC OPCO CA PARTNER II, LLC dba POINT
LOMA ESTATES MEMORY CARE; EC
OPCO POINT LOMA, LP dba POINT LOMA
ESTATES MEMORY CARE; CA SENIOR
LIVING EE GROUP, LLC; and DOES 1 to 25,
inclusive,

Defendant(s).

Case No.: 37-2023-00041465-CU-OE-CTL

COMPLAINT FOR DAMAGES FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 8) Civil Penalties (Lab. Code §§ 2698, *et seq.*);
- 9) Disability Discrimination (Gov. Code, §§ 12940(a); 12926(m));
- 10) Failure to Engage in the Interactive Process (Gov. Code, § 12940(n));
- 11) Failure to Accommodate Disability (Gov. Code, § 12940(m));
- 12) Retaliation in Violation of the FEHA

(Gov. Code, § 12940(h));
13) Wrongful Termination in Violation of
the Fair Employment Housing Act
("FEHA") (Gov. Code § 12940(a));
14) Wrongful Termination in Violation of
Public Policy; and
15) Unfair Competition (Bus. & Prof.
Code, § 17200 *et seq.*)

JURY TRIAL DEMANDED

COMES NOW Plaintiff, SARA KEEFE (hereafter "Plaintiff"), and complains and
alleges as follows:

INTRODUCTION

1. Plaintiff brings this action based on alleged violations of the California Labor
Code, Industrial Welfare Commission Order No. 5-2001 (hereafter "the Wage Order"), the
Business and Professions Code, and public policy against EC OPCO CA PARTNER II, LLC
dba POINT LOMA ESTATES MEMORY CARE; EC OPCO POINT LOMA, LP dba POINT
LOMA ESTATES MEMORY CARE; CA SENIOR LIVING EE GROUP, LLC; and DOES 1
to 25, inclusive, (collectively "POINT LOMA" or "Defendants").

JURISDICTION AND VENUE

2. Jurisdiction and venue are proper in this Court and this action is properly filed
in the County of San Diego – Central Division because Defendants EC OPCO CA PARTNER
II, LLC dba POINT LOMA ESTATES MEMORY CARE; EC OPCO POINT LOMA, LP dba
POINT LOMA ESTATES MEMORY CARE; CA SENIOR LIVING EE GROUP, LLC; and
DOES 1 to 25, inclusive, do business in the County of San Diego and because Defendants'
obligations and liabilities arise therein, and because the work that was performed by Plaintiff
in the County of San Diego is the subject of this action. Moreover, Plaintiff's damages sought
herein exceed \$25,000.

THE PARTIES

3. Plaintiff Sara Keefe is a resident of San Diego, California. At all relevant times,

1 Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations
2 Section 11050 and an “Aggrieved Employee” within the meaning of Labor Code Section
3 2699(c).

4 4. At all times mentioned herein, Defendant EC OPCO CA PARTNER II, LLC, is
5 and was a Delaware limited liability company and the owner, operator, and/or managing entity
6 of the assisted living facility, Point Loma Estates Memory Care, located at 3423 Channel Way,
7 San Diego, California 92110, and which employed Plaintiff. As such, it is a citizen of
8 California based on Plaintiff’s information and belief.

9 5. At all times mentioned herein, Defendant EC OPCO POINT LOMA, LP, is
10 and was a Delaware limited partnership and the owner, operator, and/or managing entity of the
11 assisted living facility, Point Loma Estates Memory Care, located at 3423 Channel Way, San
12 Diego, California 92110, and which employed Plaintiff. As such, it is a citizen of California
13 based on Plaintiff’s information and belief.

14 6. At all times mentioned herein, Defendant CA SENIOR LIVING EE GROUP,
15 LLC, is and was Washington limited liability company and the owner, operator, and/or
16 managing entity of the assisted living facility, Point Loma Estates Memory Care, located at
17 3423 Channel Way, San Diego, California 92110, and which employed Plaintiff. As such, it is
18 a citizen of California based on Plaintiff’s information and belief.

19 7. The “Aggrieved Employees” are all current and former non-exempt or hourly
20 paid employees who worked for Defendants in California during the relevant time period
21 pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys
22 General Act of 2004 (“PAGA”).

23 8. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
24 participation in the conduct alleged herein, of the defendants sued as DOES 1-25, inclusive, but
25 is informed and believes and thereon alleges that said defendants are legally responsible for the
26 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.
27 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE
28 defendants when ascertained.

9. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters or employers of the remaining Defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such agency or employment, and with the approval and ratification of each of the other Defendants.

10. Plaintiff is informed and believes and thereon alleges that each and every one of the acts and omissions alleged herein were performed by, and/or are attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other Defendants, and that said acts and failures to act were within the course and scope of said agency, employment, and/or direction and control.

11. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack of a practice which resulted in Defendants not paying Plaintiff and the Aggrieved Employees in accordance with applicable California labor laws as alleged herein.

GENERAL ALLEGATIONS

12. Elmcroft of Point Loma/Point Loma Estates Memory Care, a residential care facility for the elderly located at 3423 Channel Way, San Diego, California, employed Plaintiff as a cook since April of 2004. Plaintiff would prepare breakfast and lunch for the residents of the facility. Plaintiff generally worked Tuesdays through Saturdays from 6:00 a.m. to 2:30 p.m. POINT LOMA wrongfully terminated Plaintiff's employment on or around May 19, 2023.

13. At all relevant times, POINT LOMA issued wages to Plaintiff and all of the other Aggrieved Employees on a biweekly basis and paid them by the hour. At all relevant times, POINT LOMA classified Plaintiff and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order. Plaintiff's latest rate of pay was approximately \$18.00 per hour.

14. POINT LOMA failed to pay Plaintiff and the other Aggrieved Employees for all time worked or subject to its control. Plaintiff and the other Aggrieved Employees

1 consistently worked “off the clock” in that the company had a policy and practice of rounding
2 down work hours and “time shaving” which led to Plaintiff and others not being paid for all
3 hours worked, which would include the minimum wage. Moreover, to the extent employees
4 such as Plaintiff and others worked through their meal periods and those meal periods were
5 interrupted, they were not compensated for that time, which would be akin to a minimum
6 wage violation. Furthermore, POINT LOMA management would often speak to or call
7 Plaintiff and the other Aggrieved Employees about work-related matters before the start of
8 their shifts or after their shifts had ended. Plaintiff would consistently receive calls and texts
9 from the kitchen manager, Felipe Godinez, concerning her work schedule or work related
10 matters.

11 15. Due to the above “off the clock” violations, POINT LOMA failed to pay
12 Plaintiff and the Aggrieved Employees properly-calculated overtime wages. The Aggrieved
13 Employees’ actual work hours, which included the “off the clock” work as described above,
14 entitled them to overtime, however, it was not company policy to keep accurate track of all
15 hours worked and to pay employees the accurate amount of overtime, especially since the “off
16 the clock” work was not factored into the equation. Furthermore, any incentive payments
17 and/or bonus payments were not factored into employees’ regular rate of pay for purposes of
18 deciphering the correct overtime rate of pay. In addition, any bonus and/or incentive payments
19 were not factored into the correct meal and rest break premium pay per *Ferra v. Loews*
20 *Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

21 16. POINT LOMA failed to provide all compliant meal periods and authorize and
22 permit all compliant rest periods to which Plaintiff and the other Aggrieved Employees were
23 entitled. Plaintiff and the other Aggrieved Employees were entitled to take off-duty,
24 uninterrupted 30-minute meal periods before the fifth and tenth hours of work and to take
25 uninterrupted 10-minute rest periods for every four hours or major fraction thereof worked.
26 Plaintiff and the Aggrieved Employees would not be able to take timely, uninterrupted meal
27 periods before the 5th or 10th hour worked. Similarly, Plaintiff and the other Aggrieved
28 Employees were not able to take timely and uninterrupted 10 minute rest breaks. Even when

1 Plaintiff and the other Aggrieved Employees were clocked out for a meal period or taking their
2 rest breaks, POINT LOMA management/staff would interrupt them with questions about work
3 related matters or requests for assistance. On information and belief, POINT LOMA did not
4 provide premium wages for these meal and rest break violations; if POINT LOMA did provide
5 premium wages, they were not paid at the correct rate, as explained above.

6 17. POINT LOMA failed to reimburse Plaintiff and the other Aggrieved
7 Employees for business expenses they incurred in direct consequence of the discharge of their
8 duties. POINT LOMA required Plaintiff and the Aggrieved Employees to use their own
9 personal cell phones to communicate with ownership/management concerning work matters
10 and use their own kitchen tools, including a potato peeler and squeegee. POINT LOMA
11 management, including kitchen manager, Felipe Godinez, called and texted Plaintiff and the
12 other Aggrieved Employees on their personal cell phones on a regular basis. However,
13 POINT LOMA did not provide Plaintiff and the others with mobile phones and did not
14 reimburse Plaintiff and the other Aggrieved Employees for these mobile phone expenses and
15 kitchen tools. Accordingly, POINT LOMA was in violation of California Labor Code sections
16 2800 and 2802.

17 18. POINT LOMA failed to pay its employees all wages due to them within any
18 time period specified by California Labor Code section 204, including the minimum wages
19 and overtime as described above as well as meal/rest break premiums.

20 19. POINT LOMA did not provide Plaintiff and the other Aggrieved Employees
21 accurate, itemized wage statements. Wage statements must include, among other things, total
22 hours worked by the employee. Labor Code § 226(a)(2). POINT LOMA issued wage
23 statements that inaccurately reflected total hours worked, gross and net wages earned, and the
24 number of hours worked at each hourly rate because of POINT LOMA's failure to properly
25 pay wages as explained herein. Labor Code §§ 226(a)(1), (2), (5), (9). POINT LOMA's failure
26 to maintain accurate records as to the hours worked daily by employees also constitutes a
27 violation of Labor Code section 1174(d).

28 20. Finally, because POINT LOMA did not properly pay all wages earned as

1 explained herein, POINT LOMA also failed to pay final wages owed to Plaintiff and the other
2 Aggrieved Employees in violation of Labor Code section 203. These earned but unpaid wages
3 include minimum wages and compensation for all hours worked, overtime compensation,
4 premium pay for missed meal and rest breaks, and business expense reimbursement, among
5 others.

6 21. POINT LOMA has also violated Labor Code section 558 and engaged in
7 business practices which violate Business and Professions Code Section 17200.

8 22. Moreover, Plaintiff would also have individual claims against POINT LOMA
9 for violations of the Fair Employment and Housing Act (FEHA), including disability
10 discrimination, failure to accommodate, failure to engage in the interactive process, failure to
11 prevent disability discrimination, and wrongful termination in violation of public policy, in
12 that Plaintiff was unequivocally terminated while she was still on medical leave.

13 23. In or around early March 2023, Plaintiff suffered an injury to her arm and was
14 put off work by her physician due to her physical disability. Plaintiff's physician had extended
15 her medical leave through May 28, 2023 and once more through June 18, 2023. Plaintiff had
16 provided all of her work restriction letters to POINT LOMA. Not surprisingly, POINT LOMA
17 terminated Plaintiff's employment on or around May 19, 2023, while she was still on medical
18 leave, stating that there was no work for her. Any justification offered by POINT LOMA was
19 and is pretextual as POINT LOMA unequivocally had the required discriminatory animus.

20 24. Pursuant to California Government Code § 12960, Plaintiff has exhausted her
21 administrative remedies. Plaintiff filed a complaint with the State of California Civil Rights
22 Department ("CRD") (previously "DFEH") alleging claims in this complaint. On the same
23 day, the CRD issued a notice of right-to-sue to Plaintiff against the named Defendants.

24 **FIRST CAUSE OF ACTION**

25 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

26 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

27 **(By Plaintiff against all Defendants)**

28 25. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

1 26. At all relevant times, Plaintiff was a non-exempt employee of Defendants and
2 entitled to the benefits and protections of California Labor Code §§ 510, 1194, 1197, and 1198,
3 and the Wage Order.

4 27. Section 2(K) of the Wage Order defines “hours worked” as “the time during
5 which an employee is subject to the control of an employer, and includes all the time the
6 employee is suffered or permitted to work, whether or not required to do so.”

7 28. Section 3 of the Wage Order states:

8 (A) Daily Overtime - General Provisions

9 (1) The following overtime provisions are applicable to
10 employees 18 years of age or over and to employees 16 or
11 17 years of age who are not required by law to attend
12 school and are not otherwise prohibited by law from
13 engaging in the subject work. Such employees shall not
14 be employed more than eight (8) hours in any workday or
15 more than 40 hours in any workweek unless the employee
16 receives one and one-half (1 ½) times such employee’s
17 regular rate of pay for all hours worked over 40 hours in
18 the workweek. Eight (8) hours of labor constitutes a day’s
19 work. Employment beyond eight (8) hours in any
20 workday or more than six (6) days in any workweek is
21 permissible provided the employee is compensated for
22 such overtime at not less than:

18 (a) One and one-half (1 ½) times the employee’s
19 regular rate of pay for all hours worked in excess
20 of eight (8) hours up to and including 12 hours in
21 any workday, and for the first eight (8) hours
22 worked on the seventh (7th) consecutive day of
23 work in a workweek.

22 (b) Double the employee’s regular rate of pay for
23 all hours worked in excess of 12 hours in any
24 workday and for all hours worked in excess of
25 eight (8) hours on the seventh (7th) consecutive
26 day of work in a workweek.

26 (c) The overtime rate of compensation required to
27 be paid to a nonexempt full-time salaried
28 employee shall be computed by using the
employee’s regular hourly salary as one-fortieth
(1/40) of the employee’s weekly salary.

1 29. Section 4 of the Wage Order requires an employer to pay non-exempt employees
2 at least the minimum wage set forth therein for all hours worked, which consist of all hours that
3 an employer has actual or constructive knowledge that employees are working.

4 30. Labor Code section 510 states:

5 Eight hours of labor constitutes a day's work. Any work in excess
6 of eight hours in one workday and any work in excess of 40
7 hours in any one workweek and the first eight hours worked on
8 the seventh day of work in any one workweek shall be
9 compensated at the rate of no less than one and one-half times the
10 regular rate of pay for an employee. Any work in excess of 12
11 hours in one day shall be compensated at the rate of no less than
12 twice the regular rate of pay for an employee. In addition, any
13 work in excess of eight hours on any seventh day of a workweek
14 shall be compensated at the rate of no less than twice the regular
15 rate of pay of an employee. Nothing in this section requires an
16 employer to combine more than one rate of overtime
17 compensation in order to calculate the amount to be paid to an
18 employee for any hour of overtime work.

14 31. California Labor Code § 1194 invalidates any agreement between an employer
15 and an employee to work for less than the minimum wage required under the applicable Wage
16 Order.

17 32. California Labor Code § 1197 makes it unlawful for an employer to pay an
18 employee less than the minimum wage required under the applicable Wage Order for all hours
19 worked during a payroll period.

20 33. California Labor Code § 1198 makes it unlawful for an employer to employ an
21 employee under conditions that violate the Wage Order.

22 34. In conjunction, these provisions of the California Labor Code require employers
23 to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates
24 for all hours worked, including unrecorded hours when the employer knew or reasonably should
25 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
26 *Co.* (2000) 22 Cal.4th 575, 585.)

27 35. Defendants required Plaintiff to work in excess of eight (8) hours in one workday
28 and forty (40) hours in one workweek without compensating her for such time worked at the

1 premium rates required by California law.

2 36. As described more fully above, Defendants failed to pay all minimum, regular,
3 overtime, and double time wages to Plaintiff because Defendants paid wages based on rounded
4 times, did not pay for off-the-clock work, and failed to pay overtime and double time wages
5 based on correct regular rates of pay.

6 37. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
7 amount, subject to proof, to the extent that she was not paid the full amount of wages earned
8 during each pay period during the applicable limitations period, including minimum, overtime,
9 and double-time wages.

10 38. As a result of Defendants' conduct, Plaintiff seeks damages and/or restitution for
11 unpaid wages which Defendants failed to pay her at the rates set forth herein, interest thereon,
12 and costs of suit and reasonable attorney's fees pursuant to California Labor Code §§ 1194.

13 **SECOND CAUSE OF ACTION**

14 **FAILURE TO PROVIDE REST BREAKS**

15 **(Lab. Code §§ 226.7 and 1198)**

16 **(By Plaintiff against all Defendants)**

17 39. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

18 40. At all relevant times during the applicable limitations period, Plaintiff was a
19 non-exempt employee of Defendants and entitled to the benefits and protections of California
20 Labor Code §§ 226.7, 1198, and the Wage Order.

21 41. Labor Code § 1198 states,

22 "The maximum hours of work and the standard conditions of labor
23 fixed by the commission shall be the maximum hours of work and the
24 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful."

25 42. In relevant part, Section 12 of the Wage Order states:

26 Rest Periods:

27 (A) Every employer shall authorize and permit all employees
28 to take rest periods, which insofar as practicable shall be in the
middle of each work period. The authorized rest period time
shall be based on the total hours worked daily at the rate often

(10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest 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.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer 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.

43. In addition, Labor Code Section 226.7 states

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

44. Pursuant to the Wage Order, Plaintiff was entitled to be provided with net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

45. Defendants failed to authorize and permit Plaintiff to take compliant rest periods and failed to pay one hour of correctly-calculated premium pay for each day such a rest period was not provided.

46. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount subject to proof to the extent she was not paid additional wages owed for all rest breaks not provided to her.

47. By reason of the above, Plaintiff is entitled to premium wages for workdays in which one or more rest breaks were not provided to her pursuant to California Labor Code § 226.7, plus interest and costs.

employee's regular rate of compensation for each workday that the meal period is not provided.

53. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff was entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day she worked five or more hours. Pursuant to California Labor Code § 512, Plaintiff was also entitled to a second 30-minute meal period when she worked more than ten (10) hours in a workday.

54. During the relevant time period, Defendants failed to provide Plaintiff with compliant meal periods before the fifth hour of work and failed to pay one hour of correctly-calculated premium pay for each day such a meal period was not provided.

55. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount subject to proof to the extent she was not paid additional wages owed for all meal periods not provided to her.

56. By reason of the above, Plaintiff is entitled to premium wages for workdays in which one or more meal periods were not provided to her pursuant to California Labor Code § 226.7, plus interest and costs.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code §§ 1198 & 2802)

(By Plaintiff against all Defendants)

57. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

58. At all relevant times, Plaintiff was a non-exempt employee of Defendants and entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the Wage Order.

59. In pertinent part, California Labor Code § 2802(a) states:

An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.

60. California Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

1 61. At all relevant times during the applicable limitations period, POINT LOMA
2 required Plaintiff to use her own personal cell phone to communicate with
3 ownership/management concerning work matters and use her own kitchen tools, including a
4 potato peeler and squeegee. POINT LOMA management, including kitchen manager, Felipe
5 Godinez, called and texted Plaintiff on her personal cell phone on a regular basis. However,
6 POINT LOMA did not reimburse Plaintiff for these expenses.

7 62. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
8 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
9 Defendants' failure to indemnify Plaintiff for the reasonable expenses she incurred in the course
10 of performing her duties.

11 63. By reason of the above, Plaintiff is entitled to reimbursement for all necessary
12 expenditures and losses and interest due and owing to within three years (3) of the date of the
13 filing of the Complaint until the date of entry of judgment pursuant to California Labor Code §
14 2802(b). Further, Plaintiff seeks reasonable attorney's fees pursuant to Labor Code § 2802(c).

15 **FIFTH CAUSE OF ACTION**

16 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

17 **(California Labor Code Section 226)**

18 **(By Plaintiff against all Defendants)**

19 64. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

20 65. Pursuant to California Labor Code Section 226, every employer must furnish
21 each employee an itemized statement of wages and deductions at the time of payment of wages.

22 66. Defendants knowingly and intentionally did not furnish Plaintiff with pay stubs
23 that accurately reflected all information required by Labor Code Section 226, including but not
24 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
25 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
26 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed
27 to maintain and provide accurate itemized wage statements to Plaintiff in accordance with
28 California Labor Code Section 226(a).

67. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to the 1-year period immediately preceding the date this lawsuit was filed.

68. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained damages, including loss of earnings, in an amount to be established at trial. As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs and attorney's fees pursuant to statute.

69. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS

(California Labor Code Sections 201-203)

(By Plaintiff against all Defendants)

70. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

71. Pursuant to California Labor Code Section 201(a), an employer who discharges an employee must immediately pay for all compensation due and owing.

72. Pursuant to California Labor Code Section 202, when an employee resigns, the employer must pay all compensation due and owing within 72 hours of resignation, or on the employee's last day of work, if the employee gives more than 72 hours notice of resignation.

73. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay, without abatement or reduction, any wages of an employee whose employment ends, the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; however, the wages shall not continue for more than 30 days

1 for failure to pay an employee owed wages.

2 74. After Plaintiff's employment with Defendants ended, Defendants willfully
3 refused and continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

4 75. Under this cause of action, Plaintiff prays for penalties due under the statutes
5 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
6 proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years
7 immediately preceding the filing of this lawsuit.

8 76. Under this cause of action, Plaintiff also prays for attorney's fees and costs
9 under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages
10 as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

11 77. Under this cause of action, Plaintiff prays for penalties due under the statutes
12 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
13 proof at trial.

14 **SEVENTH CAUSE OF ACTION**

15 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

16 **(California Labor Code Section 204)**

17 **(By Plaintiff against all Defendants)**

18 78. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

19 79. California Labor Code Section 204 establishes the fundamental right of all
20 employees in the State of California to be paid wages in a timely fashion for their work.

21 80. At all times relevant during the liability period, Defendants failed to pay
22 Plaintiff the full amount of all owed wages when due as required by California Labor Code
23 Section 204.

24 81. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
25 informed, believes, and thereon alleges, that all times relevant during the applicable limitations
26 period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours
27 worked, including the minimum wage, overtime hours, double time hours, and premium pay
28 for missed meal and rest breaks.

1 82. As a result of Defendants’ unlawful conduct, Plaintiff has suffered damages in
2 an amount, subject to proof, to the extent she was not paid all wages each pay period. The
3 precise amount of unpaid wages is not presently known to Plaintiff but can be determined
4 directly from Defendants’ records or indirectly based on information from Defendants’ records.

5 83. Under this cause of action, Plaintiff prays for penalties due under the statutes
6 alleged along with any allowable interest, penalties, attorney’s fees, and costs according to
7 proof at trial.

8 **EIGHTH CAUSE OF ACTION**

9 **CIVIL PENALTIES**

10 **(Lab. Code §§ 2698, *et seq.*)**

11 **(By Plaintiff against all Defendants)**

12 84. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

13 85. Plaintiff is an Aggrieved Employee under the Private Attorneys General Act of
14 2004 (“PAGA”) because she was employed by Defendants during the applicable statutory
15 period and suffered one or more of the violations of the Labor Code set forth in this Complaint.
16 Plaintiff seeks to recover on her own behalf, on behalf of the State of California, and on behalf
17 of all current and former Aggrieved Employees of Defendants, the civil penalties provided by
18 PAGA, plus reasonable attorney’s fees and costs.

19 86. During the applicable time period, Defendants violated California Labor Code
20 §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802.

21 87. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
22 behalf of themselves and other current or former employees, to bring a civil action to recover
23 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

24 88. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the
25 Aggrieved Employees are entitled to recover civil penalties for each of the Defendants’
26 violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174,
27 1194, 1197, 1198, and 2802 during the applicable limitations period in the following amounts:

28 A. For violations of California Labor Code § 204, one hundred dollars

1 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
2 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
3 established by California Labor Code § 210).

4 B. For violations of California Labor Code § 226(a), two hundred fifty
5 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars
6 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
7 established by California Labor Code § 226.3).

8 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
9 (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars (\$100.00)
10 for each Aggrieved Employee for each subsequent violation (penalty amounts established by
11 California Labor Code § 558).

12 D. For violations of California Labor Code § 1174, five hundred dollars
13 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
14 California Labor Code § 1174.5).

15 E. For violations of California Labor Code § 1197, one hundred dollars
16 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
17 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
18 per pay period (regardless of whether the initial violations were intentionally committed)
19 (penalty amounts established by California Labor Code § 1197.1).

20 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
21 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period
22 for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per
23 pay period for each subsequent violation (penalty amounts established by California Labor
24 Code § 2699(f)(2)).

25 89. Plaintiff has complied with the procedures for bringing suit specified in
26 California Labor Code § 2699.3. By letters dated June 20, 2023 and July 14, 2023, Plaintiff
27 filed written notices online with the Labor and Workforce Development Agency (“LWDA”)
28 and gave written notice by certified mail to Defendants of the specific provisions of the

1 California Labor Code alleged to have been violated, including the facts and theories to support
2 the alleged violations. Plaintiff accompanied her LWDA notice with a fee in the amount of
3 \$75.00. The LWDA has failed to take action in response within 65 calendar days of the date of
4 Plaintiff's notice, but Plaintiff anticipates that the LWDA will provide written notice to
5 Plaintiff informing her that it does not intend to investigate these allegations.

6 90. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
7 Employees are entitled to an award of civil penalties and reasonable attorney's fees and costs in
8 connection with their claims for civil penalties.

9 **NINTH CAUSE OF ACTION**

10 **DISABILITY DISCRIMINATION**

11 **(Gov. Code, §§ 12926(m), 12940(a))**

12 **(By Plaintiff against all Defendants)**

13 91. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

14 92. Defendants and DOES 1 to 25, inclusive, are covered employers under
15 California's Fair Employment and Housing Act ("FEHA").

16 93. According to Government Code section 12940(a), it is an unlawful employment
17 practice for an employer to discharge a person from employment because of a physical
18 disability. (*Id.* § 12926(m)).

19 94. At all times, Plaintiff's work for Defendants was satisfactory and she never
20 engaged in misconduct. Defendants had no complaints about Plaintiff's work performance or
21 behavior.

22 95. Plaintiff's arm injury, which was debilitating, and which limited a major life
23 activity, qualifies as a disability under FEHA, and Plaintiff was entitled to its protection.

24 96. Defendants knew of Plaintiff's disability and violated California Government
25 Code section 12940 et. seq. by discriminating against Plaintiff on the basis of her physical
26 disability and terminating Plaintiff's employment because of her physical disability. Such
27 discrimination constituted unlawful discrimination in violation of California Government Code
28 sections 12926(m) and 12940(a).

97. As a proximate result of the conduct of the Defendants, Plaintiff has suffered and will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical and emotional injuries, including nervousness, humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's damages will be ascertained at trial.

98. In committing the foregoing acts, Defendants have been guilty of oppression, fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to punitive damages in a sum appropriate to punish and make an example out of the foregoing Defendants.

99. The acts of oppression, fraud, and/or malice, were engaged in by employees of Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful conduct for which an award of punitive damages is sought, and/or was personally guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on part of an officer, director, or managing agent of each of the Defendants, thereby entitling Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with California Civil Code section 3294 in a sum appropriate to punish and make an example of each Defendant.

100. FEHA provides for an award of reasonable attorneys' fees and costs incurred by a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an award of attorneys' fees and costs.



TENTH CAUSE OF ACTION

1 **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS**

2 **(Gov. Code, §12940(n))**

3 **(By Plaintiff against all Defendants)**

4 101. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

5 102. Defendants and DOES 1 to 25, inclusive, are covered employers under
6 California's Fair Employment and Housing Act ("FEHA").

7 103. At all relevant times, Plaintiff was an employee of Defendants with a physical
8 condition – pregnancy – which is a disability that is protected under FEHA.

9 104. Under California Government Code section 12940(n), the employer must engage
10 in a timely, good faith interactive process in response to a request for reasonable
11 accommodation by an employee with a known physical or mental disability or known medical
12 condition. The employer must initiate this process if the employee's disability is known or
13 apparent by making known to the employee other suitable job opportunities. Absent evidence of
14 undue hardship to the employer, the employer should give preference to the employee's
15 requested accommodation during this process.

16 105. As set forth in the allegations above, Defendants, and each of them, were aware
17 of Plaintiff's disability and failed to engage in the interactive process with Plaintiff to determine
18 effective reasonable accommodations as required by California Government Code section
19 12940(n) and 12926.1(e).

20 106. Had Defendants, and each of them, engaged in a timely good faith interactive
21 process, there were reasonable accommodations that would have accommodated Plaintiff's
22 disability.

23 107. As a direct and proximate result of the conduct of Defendants, and each of them,
24 Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, salary, benefits, and
25 additional amounts of money Plaintiff would have received if Plaintiff had been afforded a good
26 faith interactive process. As a result, Plaintiff has suffered such damages in an amount
27 according to proof.

28 108. As a further direct and proximate result of the conduct of Defendants, and each

1 of them, Plaintiff has been harmed in that Plaintiff has suffered the intangible loss of
2 employment-related opportunities. As a result, Plaintiff has suffered such damages in an amount
3 according to proof.

4 109. As a further direct and proximate result of the conduct of Defendants, and each
5 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish,
6 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
7 suffered such damages in an amount according to proof.

8 110. The above-recited actions of Defendants, and each of them, were done with
9 malice, fraud, oppression, and in reckless disregard of Plaintiff's rights under the FEHA.
10 Accordingly, Plaintiff is entitled to an award of punitive damages.

11 **ELEVENTH CAUSE OF ACTION**

12 **FAILURE TO ACCOMMODATE DISABILITY**

13 **(Gov. Code, § 12940(m))**

14 **(By Plaintiff against all Defendants)**

15 111. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

16 112. Defendants and DOES 1 to 25, inclusive, are covered employers under
17 California's Fair Employment and Housing Act ("FEHA").

18 113. At all relevant times, Plaintiff was an employee of Defendants with a physical
19 condition – an injured arm – which is a disability that is protected under FEHA.

20 114. California Government Code section 12940(m) makes it unlawful "[f]or an
21 employer or other entity...to fail to make reasonable accommodation for the known physical or
22 mental disability of an applicant or employee."

23 115. As set forth above, Plaintiff informed Defendants of her arm injury, but rather
24 than accommodating Plaintiff's physical disability, Defendants terminated Plaintiff's
25 employment with Defendants.

26 116. As a proximate result of the conduct of the Defendants, Plaintiff has suffered
27 and will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
28 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical

1 and emotional injuries, including nervousness, humiliation, depression, anguish,
2 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's
3 damages will be ascertained at trial.

4 117. In committing the foregoing acts, Defendants have been guilty of oppression,
5 fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to
6 punitive damages in a sum appropriate to punish and make an example out of the foregoing
7 Defendants.

8 118. The acts of oppression, fraud, and/or malice, were engaged in by employees of
9 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
10 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
11 wrongful conduct for which an award of punitive damages is sought, and/or was personally
12 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
13 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
14 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
15 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
16 California Civil Code section 3294 in a sum appropriate to punish and make an example of each
17 Defendant.

18 119. FEHA provides for an award of reasonable attorneys' fees and costs incurred by
19 a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
20 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
21 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
22 award of attorneys' fees and costs.

23 **TWELFTH CAUSE OF ACTION**

24 **RETALIATION IN VIOLATION OF THE FEHA**

25 **(Gov. Code, § 12940(h))**

26 **(By Plaintiff against all Defendants)**

27 120. Plaintiff incorporates by reference each and every paragraph of this Complaint
28 as if fully alleged herein.

1 121. Defendants and DOES 1 to 25, inclusive, are covered employers under
2 California's Fair Employment and Housing Act ("FEHA").

3 122. At all relevant times, Plaintiff was an employee of Defendants with a physical
4 condition – an injured arm – which is a disability that is protected under FEHA.

5 123. The California Fair Employment and Housing Act (FEHA), Government Code
6 section 12900 et seq., provides that it is illegal for an employer to retaliate against an
7 employee who has opposed any practices that violated the FEHA. (*Id.* § 12940(h).)

8 124. As alleged above, Plaintiff was retaliated against and terminated from her
9 employment as a result of her physical disability and being forced to miss work as a result of
10 her physical disability.

11 125. As a direct and proximate result of Defendants' conduct, Plaintiff has been
12 harmed in that Plaintiff has suffered the loss of wages, salary, and benefits, among other
13 things. As a result, Plaintiff has suffered such damages in an amount according to proof.

14 126. As a further direct and proximate result of the conduct of Defendants, and each
15 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish
16 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
17 suffered such damages in an amount according to proof.

18 127. The acts of oppression, fraud, and/or malice, were engaged in by employees of
19 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
20 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
21 wrongful conduct for which an award of punitive damages is sought, and/or was personally
22 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
23 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
24 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
25 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance
26 with California Civil Code section 3294 in a sum appropriate to punish and make an example
27 of each Defendant.

28 128. FEHA provides for an award of reasonable attorneys' fees and costs incurred

1 by a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and
2 will continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
3 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
4 award of attorneys' fees and costs.

5 **THIRTEENTH CAUSE OF ACTION**
6 **WRONGFUL TERMINATION IN VIOLATION OF THE FEHA**
7 **(Gov. Code § 12940(a))**
8 **(By Plaintiff against all Defendants)**

9 129. Plaintiff incorporates by reference each and every paragraph of this Complaint
10 as if fully alleged herein.

11 130. At all times mentioned herein, the FEHA, Government Code section 12900 *et*
12 *seq.*, was in full force and effect and binding upon Defendants and each of them.

13 131. Government Code section 12940(a) provides that it is an unlawful employment
14 practice for an employer to discharge a person from employment because of a physical
15 disability. *Id.*, Gov. Code, § 12926(m).

16 132. Under California Government Code section 12921, "The opportunity to seek,
17 obtain, and hold employment without discrimination because of ... physical disability ... is ...
18 recognized as and declared to be a civil right."

19 133. Defendants, and each of them, violated the FEHA when they terminated
20 Plaintiff's employment due to her physical disability and missing work due to her physical
21 disability.

22 134. As a proximate result of the wrongful acts of Defendants, Plaintiff has been
23 harmed in that Plaintiff has suffered actual, consequential and incidental financial losses,
24 including without limitation, loss of salary and benefits, and the intangible loss of
25 employment-related opportunities and damage to her professional reputation, all in an amount
26 subject to proof at the time of trial. Plaintiff claims such amounts as damages together with
27 prejudgment interest pursuant to Civil Code Sections 3287 and/or § 3288 and/or any other
28 provision of law providing for prejudgment interest.

135. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and emotional distress. Plaintiff is informed and believes and thereon alleges that she will continue to experience said emotional suffering for a period in the future she cannot presently ascertain, all in an amount subject to proof at the time of trial.

136. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff, thereby justifying an award to her of punitive damages in a sum appropriate to punish and make an example of Defendants.

FOURTEENTH CAUSE OF ACTION

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

(By Plaintiff against all Defendants)

137. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

138. Plaintiff was employed by Defendants.

139. At all times during her employment with Defendants, Plaintiff performed her duties with the utmost diligence and competence.

140. The state and federal statutes recited below embody fundamental, substantial, and well-established public policies of the United States and State of California. By terminating Plaintiff, Defendants violated these fundamental, substantial, and well-established public policies:

(A) Article I, § 8 of the California Constitution provides that a person may not be disqualified from entering or pursuing a business, profession, vocation or employment because of sex (gender). At all relevant times, this Section and the sections of the FEHA stated above were fundamental public policies of the State of California. Pregnancy discrimination violates the California Constitution's (Art. I, § 8) ban on sex discrimination. *Badih v. Myers* (1995) 36 Cal.App.4th 1289, 1293.

(B) At all times herein mentioned, the California Fair Employment & Housing Act

1 (FEHA), Government Code Section 12900, was in full force and effect and binding upon
2 defendants and each of them.

3 (C) It prohibits physical disability in all aspects of employment including hiring,
4 termination and terms and conditions. Cal.Gov.Code § 12940(a).

5 (D) Under California Government Code Section 12921, the opportunity to seek, obtain
6 and hold employment without discrimination because of a physical disability is recognized as
7 and declared to be a civil right.

8 141. Plaintiff's employment was wrongfully terminated on or around on or around
9 May 19, 2023 in violation of these fundamental public policies as set forth above with respect
10 to Plaintiff's physical disability.

11 142. As set forth above, said actions by Defendants were wrongful and in violation
12 of the fundamental principles of the public policy of the State of California as reflected in its
13 laws, objectives and policies. Said statutes and constitutional expressions of public policy
14 include, but are not limited to, the FEHA, and the California Constitution, Article 1 section 8.
15 These laws inure to the benefit of the public at large, and not just the private interests of the
16 employers and employees whom they govern or protect.

17 143. Moreover, Plaintiff was forced to hire an attorney to assist her to end these
18 illegal activities.

19 144. As a direct and proximate result of the aforementioned acts and omissions of
20 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
21 loss of income (past and future), loss of employment benefits (past and future), general and
22 compensatory damages (past and future), mental pain and anguish and emotional distress (past
23 and future), and will continue to suffer in the future, in an amount to be proved at trial.

24 145. The foregoing conduct engaged in by Defendants and each of their directors,
25 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
26 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
27 an environment free of discrimination, retaliation and labor code violations, so as to justify the
28 imposition of punitive damages to punish and set an example of said Defendants.

1 **FIFTEENTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

4 **(By Plaintiff against all Defendants)**

5 146. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

6 147. At all relevant times during the applicable limitations period, Plaintiff has been
7 an employee of Defendants and entitled to the benefits and protections of the Business and
8 Professions Code §§ 17200, *et seq.*

9 148. Defendants engaged in unfair competition by failing to 1) pay employees for all
10 hours worked at the correct rates of pay and 2) pay their employees premium wages for
11 workdays during which one or more meal or rest periods were not provided, and 3) reimburse
12 employees for necessary business expenses incurred in the course of performing their duties.

13 149. The unlawful conduct of Defendants alleged herein amounts to and constitutes
14 unfair competition within the meaning of California Business & Professions Code §§ 17200,
15 *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
16 unfairly gained a competitive advantage over other comparable companies doing business in
17 California that comply with their legal obligations to, among other things, refrain from
18 discriminatory practices and prevent discrimination, pay their employees premium wages for
19 workdays in which they did not provide employees with one or more meal and rest periods,
20 indemnify them for all business expenses incurred during the course of performing their
21 duties, including, but not limited to, mobile phone expenses and kitchen tools, and pay them
22 all wages earned.

23 150. As a result of Defendants' unfair competition as alleged herein, Plaintiff has
24 suffered injuries in fact and lost money or property. Defendants failed to pay Plaintiff for all
25 hours worked, failed to provide her with premium wages for missed meal and rest periods, and
26 failed to reimburse Plaintiff for all expenses she incurred in the course of performing her
27 duties.

28 151. Pursuant to California Business & Professions Code § 17203, Plaintiff is

1 entitled to restitution of all monies rightfully belonging to her that Defendants did not pay her
2 or otherwise retained by means of their unlawful and unfair business practices.

3 152. Plaintiff is entitled to reasonable attorneys' fees in connection with her unfair
4 competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial
5 benefit doctrine and/or the common fund doctrine.

6 153. Accordingly, with respect to this cause of action, Plaintiff prays for the herein
7 stated relief, and an award of all reasonable costs and attorneys' fees, including interest
8 thereon, as permitted by law, all in amounts subject to proof.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

- 11 1. For compensatory damages including lost past and future wages, commissions, and all
12 other sums of money, including employment benefits, together with interest on said
13 amounts, and any other economic injury to Plaintiff, according to proof;
- 14 2. For general damages according to proof;
- 15 3. For special and consequential damages to the extent allowed by law;
- 16 4. For punitive and exemplary damages against Defendants in an amount subject to proof;
- 17 5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
18 subject to proof at trial;
- 19 6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
20 7. proof at trial;
- 21 8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
22 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 23 9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
24 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 25 10. For maximum civil penalties available under the Labor Code and applicable Wage
26 Order against Defendants as described more particularly in the Complaint;
- 27 11. For restitution and disgorgement for all unfair business practices by Defendants against
28 Plaintiff in an amount according to proof;

- 1 12. For an order enjoining Defendants from further unfair and unlawful business practices
2 in violation of Business and Professions Code Sections 17200, et seq.;
- 3 13. For all remedies available to Plaintiff under the applicable Wage Order and the Labor
4 Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated
5 damages, damages, penalties, and waiting time penalties according to proof to the
6 extent permitted by law;
- 7 14. For the imposition of civil penalties and/or statutory penalties;
- 8 15. For all interest as allowed by law;
- 9 16. For all costs and disbursements incurred in this suit;
- 10 17. Reasonable attorney's fees where available by law, including but not limited to,
11 pursuant to, Code of Civil Procedure section 1021.5, and/or other applicable laws; and
- 12 18. For such other and further relief as this Court may deem proper.

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

15
16 Dated: September 25, 2023

MM LAW, APC

17 By Maralle Messrelian
18 Maralle Messrelian, Esq.
19 Attorney for Plaintiff,
20 SARA KEEFE
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