

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 10/27/2023 4:57 PM
Reviewed By: R. Walker
Case #23CV419594
Envelope: 13437792**

Orlando Villalba (SBN 232165)
Orlando.Villalba@capstonelawyers.com
Helga Hakimi (SBN 257381)
Helga.Hakimi@capstonelawyers.com
Joseph D. Parsons (SBN 340074)
Joey.Parsons@capstonelawyers.com
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

Attorneys for Plaintiff Deborah Jones

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

DEBORAH JONES, individually, and on
behalf of other members of the general
public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act (“PAGA”),

Plaintiff,

vs.

CARDINAL HEALTH PHARMACY
SERVICES, LLC, a Delaware limited
liability company; CARDINAL HEALTH,
INC., an Ohio corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 23CV419594

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, *ET
SEQ.***

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (4) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (5) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (6) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (7) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (8) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (9) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(10) Violation of California Business &
Professions Code §§ 17200, *et seq.* (Unfair
Business Practices)

Jury Trial Demanded

1 Plaintiff Deborah Jones, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice.

23 3. Venue is proper in this Court, because Defendants employ persons within the
24 County of Santa Clara, and have violated the requirements of the California Labor Code and
25 applicable IWC Wage Order in this county which give rise to the penalties sought in this
26 action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of
27 the California Labor Code and applicable IWC Wage Order in at least one location within the
28 County of Santa Clara, including Defendants’ locations or facilities in Milpitas (1000

1 Gibraltar Drive, Milpitas, California 95035; 1820 McCarthy Boulevard, Milpitas, California
2 95035; and 1840 McCarthy Boulevard, Milpitas, California 95035); Palo Alto (4083
3 Transport Street, Palo Alto, California 94303); San Jose (1410 Koll Circle, San Jose,
4 California 95112); and Santa Clara (5452 Betsy Ross Drive, Santa Clara, California 95054).
5 Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery
6 of a penalty or forfeiture imposed by statute in the county in which the cause, or some part of
7 the cause, arose. Because Defendants have employees in Santa Clara County and Plaintiff
8 could bring this action to recover penalties in Santa Clara County, venue is proper.

9 **THE PARTIES**

10 4. Plaintiff Deborah Jones is a resident of Angwin, in Napa County, California.
11 Defendants employed Plaintiff as an hourly paid, non-exempt Technician II (Retail Pharmacy)
12 from approximately December 2022 to March 2023. During her employment, Plaintiff
13 typically worked seven (7) hours or more per day and five (5) days per week. Plaintiff's
14 primary job duties included, without limitation, filling prescriptions, communicating with
15 insurance companies, inputting data into the computer system, and answering phone calls
16 from patients.

17 5. CARDINAL HEALTH PHARMACY SERVICES, LLC was and is, upon
18 information and belief, a Delaware limited liability company, and at all times hereinafter
19 mentioned, an employer whose employees are engaged throughout this county and the State of
20 California.

21 6. CARDINAL HEALTH, INC. was and is, upon information and belief, an Ohio
22 corporation, and at all times hereinafter mentioned, an employer whose employees are
23 engaged throughout this county and the State of California.

24 7. Plaintiff is unaware of the true names or capacities of the Defendants sued
25 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
26 amend the complaint and serve such fictitiously named Defendants once their names and
27 capacities become known.

28 8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10

1 were the partners, agents, owners, or managers of CARDINAL HEALTH PHARMACY
2 SERVICES, LLC and CARDINAL HEALTH, INC. at all relevant times.

3 9. Plaintiff is informed and believes, and thereon alleges, that each and all of the
4 acts and omissions alleged herein was performed by, or is attributable to, CARDINAL
5 HEALTH PHARMACY SERVICES, LLC; CARDINAL HEALTH, INC.; and/or DOES 1
6 through 10 (collectively, “Defendants” or “CARDINAL HEALTH”), each acting as the agent,
7 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
8 Defendants and was acting within the course and scope of such agency, employment, joint
9 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
10 and all Defendants were in accordance with, and represent, the official policy of Defendants.

11 10. At all relevant times, Defendants, and each of them, ratified each and every act
12 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
13 and abetted the acts and omissions of each and all the other Defendants in proximately causing
14 the damages herein alleged.

15 11. Plaintiff is informed and believes, and thereon alleges, that each of said
16 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
17 omissions, occurrences, and transactions alleged herein.

18 12. Under California law, Defendants are jointly and severally liable as employers
19 for the violations alleged herein because they have each exercised sufficient control over the
20 wages, hours, working conditions, and employment status of Plaintiff and class members.
21 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
22 controlled their work schedule and/or conditions of employment, determined their rate of pay,
23 and maintained their employment records. Defendants suffered or permitted Plaintiff and
24 class members to work and/or “engaged” Plaintiff and class members so as to create a
25 common-law employment relationship. As joint employers of Plaintiff and class members,
26 Defendants are jointly and severally liable for the civil penalties and all other relief available
27 to Plaintiff and class members under the law.

28 13. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,

Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class members because Defendants have:

- (a) jointly exercised meaningful control over the work performed by Plaintiff and class members;
- (b) jointly exercised meaningful control over Plaintiff's and class members' wages, hours, and working conditions, including the quantity, quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiff and class members;
- (c) jointly required that Plaintiff and class members perform work which is an integral part of Defendants' businesses; and
- (d) jointly exercised control over Plaintiff and class members as a matter of economic reality in that Plaintiff and class members were dependent on Defendants, who shared the power to set the wages of Plaintiff and class members and determined their working conditions, and who jointly reaped the benefits from the underpayment of their wages and noncompliance with other statutory provisions governing their employment.

14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

15. CARDINAL HEALTH PHARMACY SERVICES, LLC; CARDINAL HEALTH, INC.; and DOES 1 through 10 are therefore alter egos of each other.

16. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by them under the name CARDINAL HEALTH.

17. Plaintiff further alleges, upon information and belief, that Defendants CARDINAL HEALTH PHARMACY SERVICES, LLC and CARDINAL HEALTH, INC. are

alter egos of each other for the following reasons:

- (a) According to CARDINAL HEALTH, INC.'s SEC Form 10-K filing for 2022¹, CARDINAL HEALTH PHARMACY SERVICES, LLC is a subsidiary of CARDINAL HEALTH, INC.;
- (b) On the California Secretary of State's website, CARDINAL HEALTH PHARMACY SERVICES, LLC and CARDINAL HEALTH, INC. share the same agent for service of process, C T CORPORATION SYSTEM; and
- (c) On information and belief, CARDINAL HEALTH PHARMACY SERVICES, LLC and CARDINAL HEALTH, INC. utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

18. Defendants are distributors of pharmaceuticals, global manufacturers and distributors of medical and laboratory products, and providers of performance and data solutions for healthcare facilities, operating at least 77 locations in California. Upon information and belief, Defendants maintain a single, centralized Human Resources ("HR") department at their company headquarters in Stafford, Texas, or Dublin, Ohio, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants' company-wide policies, including timekeeping policies and meal and/or rest period policies, to employees throughout California.

19. In particular, Plaintiff and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees' assigned locations or positions. Upon

¹ 10-K Annual Report 08/11/2022, "Cardinal Health, Inc. – Financials SEC Filings" <https://ir.cardinalhealth.com/financials/sec-filings/default.aspx> (last accessed July 24, 2023).

1 information and belief, Defendants set forth uniform policies and procedures in several
2 documents provided at an employee's time of hire.

3 20. Upon information and belief, Defendants maintain a centralized Payroll
4 department at their company headquarters in Stafford, Texas, or Dublin, Ohio, which
5 processes payroll for all non-exempt, hourly paid employees working for Defendants at their
6 various locations in California, including Plaintiff and class members. Based upon
7 information and belief, Defendants issue the same formatted wage statements to all non-
8 exempt, hourly paid employees in California, irrespective of their work locations. Upon
9 information and belief, Defendants process payroll for departing employees in the same
10 manner throughout the State of California, regardless of the manner in which each employee's
11 employment ends.

12 21. Defendants continue to employ non-exempt or hourly paid employees in
13 California.

14 22. Plaintiff is informed and believes, and thereon alleges, that at all times herein
15 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
16 and advisors knowledgeable about California labor and wage law, employment and personnel
17 practices, and about the requirements of California law.

18 23. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
19 members were not paid for all hours worked because all hours worked were not recorded.

20 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and class members were entitled to receive certain wages for
22 overtime compensation and that they were not receiving certain wages for overtime
23 compensation.

24 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and/or class members were entitled to be paid at a regular
26 rate of pay, and corresponding rates of pay for overtime wages and/or meal and rest period
27 premiums, that included as eligible income all remuneration required by law, including but not
28 limited to, all income derived from incentive pay, nondiscretionary bonuses, and/or other

1 forms of compensation, but failed to include all forms of remuneration in calculating the
2 regular rate of pay for Plaintiff and/or class members.

3 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to receive at least minimum
5 wages for compensation and that they were not receiving at least minimum wages for work
6 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
7 and class members were not paid at least minimum wages for work done off-the-clock.

8 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and class members were entitled to rest periods in
10 accordance with the California Labor Code and applicable IWC Wage Order or payment of
11 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
12 permitted to take a compliant rest period and that Plaintiff and class members were not
13 authorized and permitted to take compliant rest periods or provided payment of one (1)
14 additional hour of pay at their regular rates of pay when they were not authorized and
15 permitted to take a compliant rest period.

16 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and/or class members were entitled to meal periods in
18 accordance with the California Labor Code and applicable IWC Wage Order or payment of
19 one (1) additional hour of pay at their regular rates of pay when they were not provided with
20 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and/or class members
21 were not provided with all meal periods or payment of one (1) additional hour of pay at their
22 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
23 period.

24 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to receive complete and
26 accurate wage statements in accordance with California law. In violation of the California
27 Labor Code, Plaintiff and class members were not provided complete and accurate wage
28 statements.

1 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that they had a duty to maintain accurate and complete payroll records in
3 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
4 knowingly, and intentionally failed to do so.

5 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to timely payment of all
7 wages earned upon termination of employment. In violation of the California Labor Code,
8 Plaintiff and class members did not receive payment of all wages due, including, but not
9 limited to, overtime wages, minimum wages, and/or rest period premiums, within permissible
10 time periods.

11 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and class members were entitled to timely payment of wages
13 during their employment. In violation of the California Labor Code, Plaintiff and class
14 members did not receive payment of all wages, including, but not limited to, overtime wages,
15 minimum wages, and/or rest period premiums, within permissible time periods.

16 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and/or class members were entitled to receive sick leave
18 benefits to be paid at a regular rate of pay, that included, as eligible income, all income
19 derived from incentive pay, nondiscretionary bonuses, and/or other forms of compensation. In
20 violation of the California Labor Code, Defendants failed to include all forms of remuneration
21 in calculating the regular rate of pay for sick leave pay.

22 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to receive full
24 reimbursement for all business-related expenses and costs they incurred during the course and
25 scope of their employment and that they did not receive full reimbursement of applicable
26 business-related expenses and costs incurred.

27 35. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants knew or should have known that they had a duty to compensate

1 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
2 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
3 falsely represented to Plaintiff and class members that they were properly denied wages, all in
4 order to increase Defendants' profits.

5 **PAGA REPRESENTATIVE ALLEGATIONS**

6 36. At all times herein set forth, PAGA provides that any provision of law under
7 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
8 assessed and collected by the Labor and Workforce Development Agency ("LWDA") for
9 violations of the California Labor Code and applicable IWC Wage Order may, as an
10 alternative, be recovered by aggrieved employees in a civil action brought on behalf of
11 themselves and other current or former employees pursuant to procedures outlined in
12 California Labor Code section 2699.3.

13 37. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
14 person who was employed by the alleged violator and against whom one or more of the
15 alleged violations was committed."

16 38. Plaintiff and other current and former employees of Defendants are "aggrieved
17 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
18 or former employees and one or more of the alleged violations were committed against them.

19 39. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
20 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
21 following requirements have been met:

22 (a) The aggrieved employee or representative shall give written notice by
23 online filing with the LWDA and by certified mail to the employer of
24 the specific provisions of the California Labor Code alleged to have
25 been violated, including the facts and theories to support the alleged
26 violation.

27 (b) An aggrieved employee's notice filed with the LWDA pursuant to
28 2699.3(a) and any employer response to that notice shall be

1 accompanied by a filing fee of seventy-five dollars (\$75).

- 2 (c) The LWDA shall notify the employer and the aggrieved employee or
3 representative by certified mail that it does not intend to investigate the
4 alleged violation ("LWDA Notice") within sixty (60) calendar days of
5 the postmark date of the aggrieved employee's notice. Upon receipt of
6 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
7 (65) calendar days of the postmark date of the aggrieved employee's
8 notice, the aggrieved employee may commence a civil action pursuant
9 to California Labor Code section 2699 to recover civil penalties.

10 40. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
11 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
12 provision other than those listed in Section 2699.5 after the following requirements have been
13 met:

- 14 (a) The aggrieved employee or representative shall give written notice by
15 online filing with the LWDA and by certified mail to the employer of
16 the specific provisions of the California Labor Code alleged to have
17 been violated (other than those listed in Section 2699.5), including the
18 facts and theories to support the alleged violation.
- 19 (b) An aggrieved employee's notice filed with the LWDA pursuant to
20 2699.3(c) and any employer response to that notice shall be
21 accompanied by a filing fee of seventy-five dollars (\$75).
- 22 (c) The employer may cure the alleged violation within thirty-three (33)
23 calendar days of the postmark date of the notice sent by the aggrieved
24 employee or representative. The employer shall give written notice
25 within that period of time by certified mail to the aggrieved employee or
26 representative and by online filing with the LWDA if the alleged
27 violation is cured, including a description of actions taken, and no civil
28 action pursuant to Section 2699 may commence. If the alleged violation

1 is not cured within the 33-day period, the aggrieved employee may
2 commence a civil action pursuant to Section 2699.

3 41. On August 22, 2023, Plaintiff provided written notice by online filing to the
4 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
5 Code alleged to have been violated, including facts and theories to support the alleged
6 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
7 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
8 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
9 Plaintiff PAGA Case Number LWDA-CM-977040-23. A true and correct copy of Plaintiff's
10 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

11 42. As of the filing date of this complaint, over 65 days have passed since Plaintiff
12 sent the notice described above to the LWDA, and the LWDA has not responded that it
13 intends to investigate Plaintiff's claims and Defendants have not cured the violations.

14 43. Thus, Plaintiff has satisfied the administrative prerequisites under California
15 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
16 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510,
17 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

18 44. Labor Code section 558(a) provides "[a]ny employer or other person acting on
19 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
20 provision regulating hours and days of work in any order of the Industrial Welfare
21 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
22 dollars (\$50) for each underpaid employee for each pay period for which the employee was
23 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
24 underpaid employee for each pay period for which the employee was underpaid" Labor
25 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
26 to any other civil or criminal penalty provided by law."

27 45. Defendants, at all times relevant to this complaint, were employers or persons
28 acting on behalf of an employer(s) who violated Plaintiff's and other aggrieved employees'

rights by violating various sections of the California Labor Code as set forth above.

46. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

47. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

CLASS ACTION ALLEGATIONS

48. Plaintiff brings this action on her own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

49. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

50. Plaintiff's proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California, at any time from October 8, 2020, until the date of trial ("Class").

51. Plaintiff's proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California and who received at least one wage statement within one (1) year prior to the filing of the initial complaint until the date of trial ("Subclass").

52. Members of the Class and Subclass are referred to herein as "class members."

53. Plaintiff reserves the right to redefine the Class and Subclass and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

54. There are common questions of law and fact as to class members that

predominate over questions affecting only individual members, including, but not limited to:

- (a) Whether Defendants required Plaintiff and class members to work over eight (8) hours per day, over twelve (12) hours per day, or over forty (40) hours per week and failed to pay all legally required overtime compensation to Plaintiff and class members;
- (b) Whether Defendants failed to include all forms of remuneration in the regular rate of pay as required by law for purposes of paying overtime wages and/or meal and rest period premiums to Plaintiff and/or class members;
- (c) Whether Defendants failed to pay Plaintiff and class members at least minimum wages for all hours worked;
- (d) Whether Defendants failed to authorize and permit Plaintiff and class members to take rest periods;
- (e) Whether Defendants failed to provide Plaintiff and/or class members with meal periods;
- (f) Whether Defendants provided Plaintiff and class members with complete and accurate wage statements as required by California Labor Code section 226(a);
- (g) Whether Defendants maintained accurate payroll records as required by California Labor Code section 1174(d);
- (h) Whether Defendants failed to pay earned overtime wages, minimum wages, and/or rest period premiums due to Plaintiff and class members upon their discharge;
- (i) Whether Defendants failed to timely pay overtime wages, minimum wages, and/or rest period premiums to Plaintiff and class members during their employment;
- (j) Whether Defendants failed to properly calculate the regular rate of pay upon which Plaintiff's and/or class members' sick leave rate of pay was

- 1 based, as required by California Labor Code section 246 and 248.6;
- 2 (k) Whether Defendants failed to reimburse Plaintiff and class members for
- 3 necessary and required business-related expenditures and/or losses
- 4 incurred by them in the scope of their employment;
- 5 (l) Whether Defendants engaged in unlawful and unfair business practices
- 6 in violation of California Business & Professions Code sections 17200,
- 7 *et seq.*; and
- 8 (m) The appropriate amount of damages, restitution, or monetary penalties
- 9 resulting from Defendants' violations of California law.

10 55. There is a well-defined community of interest in the litigation and the class

11 members are readily ascertainable:

- 12 (a) Numerosity: The class members are so numerous that joinder of all
- 13 members would be unfeasible and impractical. The membership of the
- 14 entire class is unknown to Plaintiff at this time; however, the class is
- 15 estimated to be greater than one hundred (100) individuals and the
- 16 identity of such membership is readily ascertainable by inspection of
- 17 Defendants' employment records.
- 18 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
- 19 protect the interests of each class member with whom she has a well-
- 20 defined community of interest, and Plaintiff's claims (or defenses, if
- 21 any) are typical of all class members as demonstrated herein.
- 22 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
- 23 protect the interests of each class member with whom she has a well-
- 24 defined community of interest and typicality of claims, as demonstrated
- 25 herein. Plaintiff acknowledges that she has an obligation to make
- 26 known to the Court any relationship, conflicts or differences with any
- 27 class member. Plaintiff's attorneys, the proposed class counsel, are
- 28 versed in the rules governing class action discovery, certification, and

1 settlement. Plaintiff has incurred, and throughout the duration of this
2 action, will continue to incur costs and attorneys' fees that have been,
3 are, and will be necessarily expended for the prosecution of this action
4 for the substantial benefit of each class member.

5 (d) Superiority: The nature of this action makes the use of class action
6 adjudication superior to other methods. A class action will achieve
7 economies of time, effort, and expense as compared with separate
8 lawsuits, and will avoid inconsistent outcomes because the same issues
9 can be adjudicated in the same manner and at the same time for the
10 entire class.

11 (e) Public Policy Considerations: Employers in the State of California
12 violate employment and labor laws every day. Current employees are
13 often afraid to assert their rights out of fear of direct or indirect
14 retaliation. Former employees are fearful of bringing actions because
15 they believe their former employers might damage their future
16 endeavors through negative references and/or other means. Class
17 actions provide the class members who are not named in the complaint
18 with a type of anonymity that allows for the vindication of their rights
19 while simultaneously protecting their privacy.

20 **FIRST CAUSE OF ACTION**

21 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

22 **(Against all Defendants)**

23 56. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
24 and every allegation set forth above.

25 57. Labor Code section 1198 makes it illegal to employ an employee under
26 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
27 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
28 shall be the . . . standard conditions of labor for employees. The employment of any employee

1 . . . under conditions of labor prohibited by the order is unlawful.”

2 58. California Labor Code section 1198 and the applicable IWC Wage Order
3 provide that it is unlawful to employ persons without compensating them at a rate of pay
4 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
5 number of hours worked by the person on a daily or weekly basis.

6 59. Specifically, the applicable IWC Wage Order provides that Defendants are and
7 were required to pay Plaintiff and class members working more than eight (8) hours in a day
8 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
9 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
10 workweek.

11 60. The applicable IWC Wage Order further provides that Defendants are and were
12 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
13 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
14 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
15 employee, including nondiscretionary bonuses and incentive pay.

16 61. California Labor Code section 510 codifies the right to overtime compensation
17 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
18 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
19 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate
20 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
21 in a day on the seventh (7th) day of work.

22 62. During the relevant time period, Defendants willfully failed to pay all overtime
23 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
24 class members were not paid overtime premiums for all of the hours they worked in excess of
25 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
26 hours in a week, because all hours worked were not recorded.

27 63. During the relevant period, Defendants had, and continue to have, a company-
28 wide policy of requiring Plaintiff and class members to work off-the-clock before their

1 scheduled shifts. For instance, Defendants had a practice of requiring employees to work
2 several minutes off the clock before their scheduled shift start-times. Plaintiff and class
3 members spent time booting up their computers and logging in before clocking in for their
4 shifts, but they had no way of recording this time worked. As a further example, Defendants
5 had, and continue to have, a company-wide security policy and/or practice of allowing only
6 certain employees to carry keys to the Defendants' pharmacy. Specifically, only the
7 pharmacist employees were issued keys to access the pharmacy at any given time. In
8 adherence with this policy, Plaintiff and class members had to wait for a pharmacist employee
9 to arrive at Defendants' premises and unlock the pharmacy in the mornings before they could
10 clock in for their shifts. As a result, Plaintiff and class members were subject to Defendants'
11 control before they had clocked in for their shifts, but were not compensated for this time.

12 64. Defendants knew or should have known that, as a result of these company-wide
13 practices and/or policies, Plaintiff and class members were performing their assigned duties
14 off-the-clock before their shifts and were suffered or permitted to perform work for which
15 they were not paid. Because Plaintiff and class members worked shifts of eight (8) hours a
16 day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for
17 overtime premium pay. Therefore, Plaintiff and class members were not paid overtime wages
18 for all of the overtime hours they actually worked.

19 65. Defendants' failure to pay Plaintiff and class members the balance of overtime
20 compensation, as required by California law, violates the provisions of California Labor Code
21 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
22 members are entitled to recover from Defendants their unpaid overtime compensation, as well
23 as interest, costs, and attorneys' fees.

24 **SECOND CAUSE OF ACTION**

25 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 26 **Minimum Wages** 27 **(Against all Defendants)**

28 66. Plaintiff incorporates by reference and re-alleges as if fully stated herein each

1 and every allegation set forth above.

2 67. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
3 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
4 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
5 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the
6 time during which an employee is subject to the control of an employer, and includes all the
7 time the employee is suffered or permitted to work, whether or not required to do so.” Cal.
8 Code Regs. Tit. 8, § 11070(2)(G) (defining “Hours Worked”).

9 68. As stated, during the relevant time period, Defendants had company-wide
10 practices and/or policies requiring Plaintiff and class members to work off-the-clock, but
11 failed to compensate them for this time spent working. Plaintiff and class members were
12 required to spend time waiting off-the-clock, before their scheduled shifts, booting up their
13 computers, logging in, then clocking in for their shifts, and waiting for a pharmacist employee
14 to arrive and unlock the pharmacy in the morning.

15 69. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
16 and class members. To the extent that these off-the-clock hours did not qualify for overtime
17 premium payment, Defendants did not pay at least minimum wages for those hours worked
18 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
19 1198.

20 70. As a result, Defendants regularly failed to pay at least minimum wages to
21 Plaintiff and class members for all of the hours they worked in violation of California Labor
22 Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code
23 section 1194.2, Plaintiff and class members are entitled to recover from Defendants liquidated
24 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

25 **THIRD CAUSE OF ACTION**

26 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 27 **(Against all Defendants)**

28 71. Plaintiff incorporates by reference and re-alleges as if fully stated herein each

1 and every allegation set forth above.

2 72. At all relevant times herein set forth, the applicable IWC Wage Order and
3 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
4 members' employment by Defendants.

5 73. At all relevant times, the applicable IWC Wage Order provides that "[e]very
6 employer shall authorize and permit all employees to take rest periods, which insofar as
7 practicable shall be in the middle of each work period" and that the "rest period time shall be
8 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
9 hours or major fraction thereof" unless the total daily work time is less than three and one-half
10 (3 ½) hours.

11 74. At all relevant times, California Labor Code section 226.7 provides that no
12 employer shall require an employee to work during any rest period mandated by an applicable
13 order of the California IWC. To comply with its obligation to authorize and permit rest
14 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
15 employer must "relinquish any control over how employees spend their break time, and
16 relieve their employees of all duties—including the obligation that an employee remain on
17 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
18 *Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California
19 Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from
20 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
21 required rest period was not authorized and permitted.

22 75. During the relevant time period, Defendants regularly failed to authorize and
23 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
24 period worked or major fraction thereof. Defendants' company-wide policies and/or practices
25 of understaffing and assigning heavy workloads resulted in a lack of rest period coverage and
26 prevented Plaintiff and class members from being relieved of all duty to take rest periods.
27 Defendants also failed to schedule rest periods, which further led to Plaintiff and class
28 members not being authorized and permitted to take rest periods.

1 76. Moreover, upon information and belief, Defendants maintained a company-
2 wide on-premises rest period policy, which effectively required that Plaintiff and/or class
3 members remain on Defendants' premises during their rest periods. Because Plaintiff and/or
4 class members were restricted from leaving the premises during rest periods, they were denied
5 the ability to use their rest periods freely for their own purposes, such as running personal
6 errands. Thus, Defendants effectively maintained control over Plaintiff and/or class members
7 during rest periods.

8 77. As a result of Defendants' practices and policies, Plaintiff and class members
9 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
10 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
11 Plaintiff had to forego her rest periods during her employment.

12 78. Defendants have also engaged in a company-wide practice and/or policy of not
13 paying rest period premiums owed when compliant rest periods are not authorized and
14 permitted. Because of this practice and/or policy, Plaintiff and class members have not
15 received premium pay for all missed rest periods. As a result, Defendants denied Plaintiff and
16 class members rest periods and failed to pay them rest period premiums due, in violation of
17 Labor Code sections 226.7 and 516, and the applicable IWC Wage Order.

18 79. Defendants' conduct violates the applicable IWC Wage Order and California
19 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
20 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
21 compensation for each work day that a compliant rest period was not authorized and
22 permitted.

23 **FOURTH CAUSE OF ACTION**

24 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 25 **Statements and Failure to Maintain Accurate Payroll Records** 26 **(Against all Defendants)**

27 80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
28 and every allegation set forth above.

1 81. At all relevant times herein set forth, California Labor Code section 226(a)
2 provides that every employer shall furnish each of his or her employees an accurate and
3 complete itemized wage statement in writing, including, but not limited to, the name and
4 address of the legal entity that is the employer, the inclusive dates of the pay period, total
5 hours worked, and all applicable rates of pay.

6 82. At all relevant times, Defendants have knowingly and intentionally provided
7 Plaintiff and class members with uniform, incomplete, and inaccurate wage statements. For
8 example, Defendants issued uniform wage statements to Plaintiff and class members that fail
9 to correctly list: gross wages earned; total hours worked; net wages earned; the name and
10 address of the legal entity that is the employer; and all applicable hourly rates in effect during
11 the pay period, including rates of pay for overtime wages, and the corresponding number of
12 hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1),
13 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

14 83. Because Defendants did not accurately record the time Plaintiff and Subclass
15 members spent working off-the-clock, Defendants did not list the correct amount of gross
16 wages and net wages earned by Plaintiff and Subclass members in compliance with sections
17 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total
18 number of hours worked by Plaintiff and Subclass members in violation of section 226(a)(2),
19 and failed to list the applicable hourly rates of pay in effect during the pay period and
20 corresponding accurate number of work hours worked at each hourly rate in violation of
21 section 226(a)(9).

22 84. In addition, and separately from these violations, Defendants issued uniform
23 wage statements to Plaintiff and Subclass members that failed to list the name and address of
24 the legal entity of the actual employer in violation of 226(a)(8). The purpose of section
25 226(a)(8) is to provide California employees with transparency as to the true identity of their
26 employer, to allow the employee to contact their employer during employment or in the future
27 for various reasons, including filing an administrative claim, judicial claim, or other action to
28 seek relief against their employer, to obtain unemployment benefits, etc. During the relevant

1 time period, Defendants systematically, and on a company-wide basis, issued wage statements
2 to Plaintiff and Subclass members that fail to list the employing entity's correct name and/or
3 address. Plaintiff's and Subclass members' wage statements incorrectly list the employer's
4 address as "7000 CARDINAL PLACE, DUBLIN, OH 43017," but according to the California
5 Secretary of State's website, CARDINAL HEALTH PHARMACY SERVICES, LLC's entity
6 address should be "13651 DUBLIN COURT, STAFFORD, TX 77477." Alternatively,
7 Plaintiff's and Subclass members' wage statements incorrectly list the employing entity as
8 "Cardinal Health Pharm Serv," when the correct employing entities' name is CARDINAL
9 HEALTH, INC.

10 85. The wage statement deficiencies also include, without limitation, failing to list
11 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
12 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
13 for which employees were paid; failing to list the name of the employee and only the last four
14 digits of his or her social security number or an employee identification number other than a
15 social security number; and/or failing to state all hours worked as a result of not recording or
16 stating hours worked off-the-clock.

17 86. California Labor Code section 1174(d) provides that "[e]very person employing
18 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
19 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
20 plants or establishments at which employees are employed, payroll records showing the hours
21 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
22 applicable piece rate paid to, employees employed at the respective plants or
23 establishments" At all relevant times, and in violation of Labor Code section 1174(d),
24 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
25 members showing the daily hours they worked and the wages paid thereto as a result of failing
26 to record the off-the-clock hours that they worked.

27 87. California Labor Code section 1198 provides that the maximum hours of work
28 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as

1 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
2 employment of any employees for longer hours than those fixed by the order or under
3 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
4 Wage Order, employers are required to keep accurate time records showing when the
5 employee begins and ends each work period. During the relevant time period, Defendants
6 engaged in company-wide practices and/or policies of failing to record actual hours worked,
7 in violation of section 1198.

8 88. Plaintiff and Subclass members are entitled to recover from Defendants the
9 greater of their actual damages caused by Defendants’ failure to comply with California Labor
10 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
11 employee.

12 **FIFTH CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 14 **Termination** 15 **(Against all Defendants)**

16 89. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 90. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
19 that if an employer discharges an employee, the wages earned and unpaid at the time of
20 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
21 her employment, his or her wages shall become due and payable not later than seventy-two
22 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
23 his or her intention to quit, in which case the employee is entitled to his or her wages at the
24 time of quitting.

25 91. On information and belief, Defendants have a company-wide practice and/or
26 policy of paying departing employees their final wages on the next regular pay cycle, instead
27 of adhering to the time requirements set forth in Labor Code sections 201 and 202. For
28 example, Defendants terminated Plaintiff on or about March 23, 2023; however, Defendants

1 did not provide Plaintiff with her final paycheck until about one week later. Thus, Defendants
2 failed to pay Plaintiff her final wages immediately, in violation of California Labor Code
3 section 201.

4 92. Additionally, Defendants willfully failed to pay Plaintiff and class members
5 who are no longer employed by Defendants the earned and unpaid wages set forth above,
6 including but not limited to, overtime wages, minimum wages, and/or rest period premiums,
7 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants'
8 employ.

9 93. Defendants' failure to pay Plaintiff and class members who are no longer
10 employed by Defendants their wages earned and unpaid at the time of discharge, or within
11 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
12 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
13 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
14 thirty (30) day maximum pursuant to California Labor Code section 203.

15 **SIXTH CAUSE OF ACTION**

16 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 17 **Employment** 18 **(Against all Defendants)**

19 94. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

21 95. This cause of action is dependent upon, and wholly derivative of, the overtime
22 wages, minimum wages, and/or rest period premiums that were not timely paid to Plaintiff
23 and class members during their employment.

24 96. At all times relevant herein set forth, Labor Code section 204 provides that all
25 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
26 days, inclusive, of any calendar month, other than those wages due upon termination of an
27 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
28 the month during which the labor was performed.

1 97. At all times relevant herein, Labor Code section 204 provides that all wages
2 earned by any person in any employment between the sixteenth (16th) and the last day,
3 inclusive, of any calendar month, other than those wages due upon termination of an
4 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
5 month.

6 98. At all times relevant herein, Labor Code section 204 provides that all wages
7 earned for labor in excess of the normal work period shall be paid no later than the payday for
8 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
9 204 provides that the requirements of this section are deemed satisfied by the payment of
10 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
11 seven (7) calendar days following the close of the payroll period.

12 99. During the relevant time period, Defendants willfully failed to pay Plaintiff and
13 class members all wages due including, but not limited to, overtime wages, minimum wages,
14 and/or rest period premiums, within the time periods specified by California Labor Code
15 section 204.

16 100. Defendants' failure to timely pay Plaintiff and class members all wages due
17 violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover
18 from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

19 **SEVENTH CAUSE OF ACTION**

20 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 21 **(Against all Defendants)**

22 101. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
23 and every allegation set forth above.

24 102. At all times herein set forth, California Labor Code section 2802 provides that
25 an employer must reimburse employees for all necessary expenditures and losses incurred by
26 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
27 to prevent employers from passing off their cost of doing business and operating expenses on
28 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144

(2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen the employer requires the use of tools or equipment or they are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage may provide and maintain hand tools and equipment customarily required by the particular trade or craft.”

103. During the relevant time period, Defendants, on a company-wide basis, required Plaintiff and class members to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Plaintiff was required to download a mobile application, “Crew Messaging and Scheduling,” on her personal cellular phone and to regularly use her mobile data to view her schedule and message coworkers and management. Plaintiff and class members were not compensated for the cost of the mobile data used to download and access the application. Further, Plaintiff and class members used their personal cellular phones to communicate with management and coworkers via text message regarding work-related matters. Although Defendants required Plaintiff and class members to use their personal mobile devices and/or mobile data to carry out their work-related duties, Defendants failed to reimburse them for their costs incurred.

104. Defendants could have provided Plaintiff and class members with company mobile devices, or, Defendants could have reimbursed employees for the costs of their mobile device usage. Instead, Defendants passed these operating costs off onto Plaintiff and class members. At all relevant times, Plaintiff did not earn at least two (2) times the minimum wage.

105. Defendants’ company-wide policy and/or practice of passing on their operating costs to Plaintiff and class members violates California Labor Code section 2802. Defendants have intentionally and willfully failed to reimburse Plaintiff and class members for necessary business-related expenses and costs.

106. Plaintiff and class members are entitled to recover from Defendants their

1 business-related expenses incurred during the course and scope of their employment, plus
2 interest.

3 **EIGHTH CAUSE OF ACTION**

4 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

5 **(Against all Defendants)**

6 107. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
7 and every allegation set forth above.

8 108. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
9 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
10 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
11 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c)
12 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
13 those Labor Code sections not found in section 2699.5, including sections 246, 248.6, 516 and
14 1182.12.

15 109. Defendants’ conduct, as alleged herein, violates numerous sections of the
16 California Labor Code, including, but not limited to, the following:

- 17 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
18 Wage Order for Defendants’ failure to compensate Plaintiff and other
19 aggrieved employees with all required overtime pay, as alleged herein
20 and as set forth below;
- 21 (b) Violation of Labor Code sections 226.7, 510, and 1198, and the
22 applicable IWC Wage Order for Defendants’ failure to include all forms
23 of remuneration in the regular rate of pay as required by law for
24 purposes of paying overtime wages and/or meal and rest period
25 premiums to other aggrieved employees, as set forth below;
- 26 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
27 1198, and the applicable IWC Wage Order for Defendants’ failure to
28 compensate Plaintiff and other aggrieved employees with at least

1 minimum wages for all hours worked, as alleged herein and set forth
2 below;

- 3 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
4 applicable IWC Wage Order for Defendants' failure to authorize and
5 permit other aggrieved employees to take rest periods, as alleged herein;
- 6 (e) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
7 applicable IWC Wage Order for Defendants' failure to provide other
8 aggrieved employees with meal periods, as set forth below;
- 9 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
10 IWC Wage Order for failure to provide accurate and complete wage
11 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 12 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
13 IWC Wage Order for failure to maintain payroll records, as alleged
14 herein;
- 15 (h) Violation of Labor Code sections 201 and 202 for failure to pay all
16 earned wages upon termination, as alleged herein;
- 17 (i) Violation of Labor Code section 204 for failure to pay all earned wages
18 during employment, as alleged herein;
- 19 (j) Violation of Labor Code sections 246 and 248.6 for failure to properly
20 calculate the sick leave paid to other aggrieved employees as set forth
21 below; and
- 22 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
23 and other aggrieved employees for all business expenses necessarily
24 incurred, as alleged herein.

25 110. During the relevant time period, as stated, Defendants had company-wide
26 policies and/or practices of requiring Plaintiff and other aggrieved employees to work off-the-
27 clock before their scheduled shifts, but did not compensate Plaintiff and other aggrieved
28 employees for this time. Moreover, Defendants had, and continue to have, a company-wide

1 policy and/or practice of understaffing while assigning heavy workloads, resulting in a failure
2 to provide other aggrieved employees with adequate meal period coverage. As a result, other
3 aggrieved employees were not always afforded uninterrupted 30-minute meal periods during
4 shifts when they were entitled to receive a meal period. Consequently, other aggrieved
5 employees worked through meal periods and/or had meal periods interrupted in order to attend
6 to their work duties. Defendants did not compensate other aggrieved employees for the time
7 they spent working off the clock during meal periods.

8 111. As stated, Defendants knew or should have known that as a result of these
9 company-wide practices and/or policies, Plaintiff and other aggrieved employees were
10 performing their assigned duties off-the-clock before their shifts and/or during meal periods,
11 and were suffered or permitted to perform work for which they were not paid. Because
12 Plaintiff and other aggrieved employees worked shifts of eight (8) hours a day or more or
13 forty (40) hours a week or more, some of this off-the-clock work qualified for overtime
14 premium pay.

15 112. Furthermore, Defendants did not pay other aggrieved employees the correct
16 overtime rate for the recorded overtime hours that they generated. In addition to an hourly
17 wage, Defendants paid other aggrieved employees incentive pay, nondiscretionary bonuses,
18 and/or other forms of remuneration. However, in violation of the California Labor Code,
19 Defendants failed to incorporate all compensation, including incentive pay, nondiscretionary
20 bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for
21 purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved
22 employees worked overtime and received these other forms of pay, Defendants failed to pay
23 all overtime wages by paying a lower overtime rate than required.

24 113. Defendants' failure to compensate Plaintiff and/or other aggrieved employees
25 with all required overtime pay and Defendants' failure to properly calculate the overtime rates
26 paid to other aggrieved employees is in violation of California Labor Code sections 510 and
27 1198, and the applicable IWC Wage Order. To the extent that these off-the-clock hours did
28 not qualify for overtime premium payment, Defendants did not pay at least minimum wages

1 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
2 1194, 1197, 1197.1, and 1198. Defendants' failure to pay Plaintiff and/or other aggrieved
3 employees minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and
4 1198.

5 114. As stated, Defendants also have engaged in a company-wide practice and/or
6 policy of not paying all rest period premiums owed when compliant rest periods are not
7 authorized or permitted. Because of this practice and/or policy, Plaintiff and other aggrieved
8 employees have not received premium pay for all missed rest periods. Alternatively, to the
9 extent that Defendants did pay other aggrieved employees one (1) additional hour of premium
10 pay for missed rest periods, Defendants did not pay other aggrieved employees at the correct
11 rate of pay for premiums because Defendants failed to include all forms of compensation,
12 such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the
13 regular rate of pay.

14 115. Defendants' failure to properly calculate the rates of pay for rest period
15 premiums based on all remuneration paid is in violation of California Labor Code sections
16 226.7, 516, and 1198, and the applicable IWC Wage Order.

17 116. At all relevant times herein set forth, the applicable IWC Wage Order and
18 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to other
19 aggrieved employees' employment by Defendants.

20 117. At all relevant times herein set forth, California Labor Code section 512(a)
21 provides that an employer may not require, cause, or permit an employee to work for a period
22 of more than five (5) hours per day without providing the employee with a meal period of not
23 less than thirty (30) minutes, except that if the total work period per day of the employee is
24 not more than six (6) hours, the meal period may be waived by mutual consent of both the
25 employer and the employee. Under California law, first meal periods must start after no more
26 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

27 118. At all relevant times herein set forth, California Labor Code sections 226.7,
28 512(a), 516, and 1198 provide that no employer shall require an employee to work during any

1 meal period mandated by an applicable order of the IWC.

2 119. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), and
3 1198, and the applicable IWC Wage Order also require employers to provide a second meal
4 period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or
5 to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if
6 the total hours worked is no more than twelve (12) hours, the second meal period may be
7 waived by mutual consent of the employer and the employee only if the first meal period was
8 not waived.

9 120. During the relevant time period, as with rest periods, Defendants had, and
10 continue to have, a company-wide policy and/or practice of understaffing locations, which,
11 combined with the assignment of heavy workloads, has resulted in a lack of meal period
12 coverage and prevented other aggrieved employees from taking all timely, uninterrupted meal
13 periods to which they were entitled. As a result, other aggrieved employees had to work
14 through all or part of their meal periods, had their meal periods interrupted, and/or had to wait
15 extended periods of time before taking meal periods. Additionally, Defendants did not
16 provide other aggrieved employees with second 30-minute meal periods on days that they
17 worked in excess of ten (10) hours in one day. Other aggrieved employees did not sign valid
18 meal period waivers on days that they were entitled to meal periods and were not relieved of
19 all duties.

20 121. At all times mentioned herein, Defendants knew or should have known that, as
21 a result of these policies, other aggrieved employees were prevented from being relieved of all
22 duties and required to perform some of their assigned duties during meal periods. Defendants
23 further knew or should have known that they did not pay other aggrieved employees meal
24 period premiums when meal periods were late, interrupted, shortened, and/or missed.

25 122. Moreover, Defendants engaged in a company-wide practice and/or policy of
26 not paying all meal period premiums owed when compliant meal periods are not provided.
27 Because of this practice and/or policy, other aggrieved employees have not received premium
28 pay for missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants

1 did pay other aggrieved employees for missed, late, and interrupted meal periods, Defendants
2 did not pay other aggrieved employees at the correct rate of pay for premiums because
3 Defendants systematically failed to include all forms of compensation, such as incentive pay,
4 nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

5 123. Defendants' failure to provide meal periods to other aggrieved employees and
6 failure to properly calculate the rates of pay for meal period premiums based on all
7 remuneration paid is in violation of California Labor Code sections 226.7, 512(a), 516, and
8 1198, and the applicable IWC Wage Order.

9 124. During the relevant time period, because Defendants did not calculate other
10 aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages
11 and/or meal and rest period premiums, Defendants did not list the correct amount of gross
12 wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not
13 list the correct amount of net wages earned by other aggrieved employees in violation of
14 section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect
15 during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest
16 period premiums, in violation of section 226(a)(9).

17 125. Furthermore, Defendants failed, on a company-wide basis, to keep accurate
18 records of all wages owed, including meal period premiums, and first and second meal period
19 start and end times for other aggrieved employees, in violation of sections 1174(d) and 1198,
20 and the applicable IWC Wage Order. Defendants' conduct is in violation of California Labor
21 Code 226(a), 1174(d), and 1198.

22 126. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
23 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
24 days from the commencement of employment with paid sick days, to be accrued at least one
25 hour for every 30 hours worked. Further, Labor Code section 246(l) provides that an
26 employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time
27 for nonexempt employees shall be calculated in the same manner as the regular rate of pay for
28 the workweek in which the employee uses paid sick time, whether or not the employee

1 actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt
2 employees shall be calculated by dividing the employee's total wages, not including overtime
3 premium pay, by the employee's total hours worked in the full pay periods of the prior 90
4 days of employment."

5 127. At all relevant times herein, California Labor Code section 248.6 provides
6 covered employees with COVID-19 supplemental paid sick leave. Labor Code section
7 248.6(b)(3)(A) provides that each hour of COVID-19 supplemental paid sick leave shall be
8 compensated at a rate equal to the following: 1) "[c]alculated in the same manner as the
9 regular rate of pay for the workweek in which the employee uses paid sick time, whether or
10 not the employee actually works overtime in that workweek[;]" or 2) "[c]alculated by dividing
11 the employee's total wages, not including overtime premium pay, by the employee's total
12 nonovertime hours worked in the full pay periods occurring within the prior 90 days of
13 employment; provided that, for nonexempt employees paid by piece rate, commission or other
14 method that uses all hours to determine the regular rate of pay, total wages, not including
15 overtime premium pay, shall be divided by all hours, to determine the correct amount of
16 COVID-19 supplemental paid sick leave under this subdivision."

17 128. During the relevant time period, on information and belief, Defendants did not
18 pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly
19 wage, Defendants paid Plaintiff and/or other aggrieved employees incentive pay,
20 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
21 California Labor Code, Defendants failed to incorporate all remunerations, including incentive
22 pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for
23 purposes of calculating the sick leave rate. Therefore, during times when other aggrieved
24 employees took sick leave and received these other forms of pay, Defendants failed to pay all
25 sick leave benefits by paying a lower sick leave rate than required. Specifically, Defendants
26 paid other aggrieved employees sick leave based on their hourly rate of pay instead of their
27 regular rate of pay.

28 129. Defendants' failure to properly calculate the sick leave rates of pay based on all

1 remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved
2 employees on a company-wide basis, in violation of Labor Code sections 246(l) and
3 248.6(b)(3)(A).

4 130. Thus, Plaintiff and/or other aggrieved employees are therefore entitled to
5 recover civil penalties pursuant to Labor Code sections 226.3, 248.5, 558, 1174.5, and/or
6 2699(a), (f), and (g).

7 **NINTH CAUSE OF ACTION**

8 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

9 **Unlawful Business Practices**

10 **(Against all Defendants)**

11 131. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
12 and every allegation set forth above.

13 132. Defendants are “persons” as defined by California Business & Professions
14 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
15 and/or associations.

16 133. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
17 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
18 suffered injury in fact and has lost money as a result of Defendants’ unlawful business
19 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
20 meaning of Code of Civil Procedure section 1021.5.

21 134. Defendants’ activities, as alleged herein, are violations of California law, and
22 constitute unlawful business acts and practices in violation of California Business &
23 Professions Code sections 17200, *et seq.*

24 135. A violation of California Business & Professions Code sections 17200, *et seq.*
25 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
26 policies and practices have violated state law in at least the following respects:

- 27 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
28 class members, to work overtime without paying them proper

1 compensation in violation of California Labor Code sections 510 and
2 1198, and the applicable IWC Wage Order, as alleged herein;

3 (b) Failing to pay at least minimum wage to Plaintiff and class members in
4 violation of California Labor Code sections 1182.12, 1194, 1197,
5 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
6 herein;

7 (c) Failing to authorize and permit Plaintiff and class members to take all
8 rest periods in violation of California Labor Code sections 226.7, 516,
9 and 1198, and the applicable IWC Wage Order, as alleged herein;

10 (d) Failing to provide Plaintiff and class members with accurate wage
11 statements and failing to maintain accurate payroll records in violation
12 of California Labor Code sections 226(a), 1174(d), and 1198, and the
13 applicable IWC Wage Order, as alleged herein;

14 (e) Failing to timely pay all earned wages to Plaintiff and class members in
15 violation of California Labor Code section 204, as alleged herein; and

16 (f) Failing to reimburse Plaintiff and class members for all business
17 expenses necessarily incurred in violation of California Labor Code
18 section 2802, as alleged herein.

19 136. As a result of the violations of California law herein described, Defendants
20 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
21 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
22 herein.

23 137. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
24 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
25 Defendants during a period that commences four years prior to the filing of this complaint; a
26 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
27 class members; and an award of attorneys' fees pursuant to California Code of Civil
28 Procedure section 1021.5 and other applicable laws; and an award of costs.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

138. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

140. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants' unfair business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

142. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants' policies and practices have violated the spirit of California's rest period laws and constitute acts

1 against the public policy behind these laws.

2 143. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
3 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
4 benefits implemented by section 226.7 withheld and retained by Defendants during a period
5 that commences four years prior to the filing of this complaint; a permanent injunction
6 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
7 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
8 Procedure section 1021.5 and other applicable laws; and an award of costs.

9 **REQUEST FOR JURY TRIAL**

10 Plaintiff requests a trial by jury.

11 **PRAYER FOR RELIEF**

12 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
13 against Defendants, jointly and severally, as follows:

14 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
15 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
16 reserves the right to amend her prayer for relief to seek a different amount.

17 **Class Certification**

- 18 2. That this case be certified as a class action;
19 3. That Plaintiff be appointed as the representative of the Class and Subclass;
20 4. That counsel for Plaintiff be appointed as class counsel.

21 **As to the First Cause of Action**

22 5. That the Court declare, adjudge, and decree that Defendants violated California
23 Labor Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to
24 pay all overtime wages due to Plaintiff and class members;

25 6. For general unpaid wages at overtime wage rates and such general and special
26 damages as may be appropriate;

27 7. For pre-judgment interest on any unpaid overtime compensation commencing
28 from the date such amounts were due, or as otherwise provided by law;

1 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
2 California Labor Code section 1194(a); and

3 9. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Second Cause of Action**

6 10. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage
8 Order by willfully failing to pay minimum wages to Plaintiff and class members;

9 11. For general unpaid wages and such general and special damages as may be
10 appropriate;

11 12. For pre-judgment interest on any unpaid compensation from the date such
12 amounts were due, or as otherwise provided by law;

13 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
14 California Labor Code section 1194(a);

15 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

16 15. For such other and further relief as the Court may deem equitable and
17 appropriate.

18 **As to the Third Cause of Action**

19 16. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully
21 failing to authorize and permit Plaintiff and class members to take all rest periods;

22 17. That the Court make an award to the Plaintiff and class members of one (1) hour
23 of pay at each employee's regular rate of pay for each workday that a rest period was not
24 authorized and permitted;

25 18. For all actual, consequential, and incidental losses and damages, according to
26 proof;

27 19. For premiums pursuant to California Labor Code section 226.7(c);

28 20. For pre-judgment interest on any unpaid rest period premiums from the date

such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

24. For all actual, consequential, and incidental losses and damages, according to proof;

25. For injunctive relief pursuant to California Labor Code section 226(h);

26. For statutory penalties pursuant to California Labor Code section 226(e);

27. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

28. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages, and/or rest period premiums owed at the time of termination of the employment of Plaintiff and other terminated class members;

30. For all actual, consequential and incidental losses and damages, according to proof;

31. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

32. For pre-judgment interest on any unpaid wages from the date such amounts

1 were due, or as otherwise provided by law;

2 33. For attorneys' fees pursuant to California Code of Civil Procedure section
3 1021.5, or as otherwise provided by law; and

4 34. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Sixth Cause of Action**

7 35. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
9 overtime wages, minimum wages, and/or rest period premiums during their employment;

10 36. For all actual, consequential and incidental losses and damages, according to
11 proof;

12 37. For statutory penalties according to proof pursuant to California Labor Code
13 section 210;

14 38. For pre-judgment interest on any unpaid wages from the date such amounts
15 were due, or as otherwise provided by law;

16 39. For attorneys' fees pursuant to California Code of Civil Procedure section
17 1021.5, or as otherwise provided by law; and

18 40. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Seventh Cause of Action**

21 41. That the Court declare, adjudge and decree that Defendants violated California
22 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
23 related expenses and costs incurred by Plaintiff and class members;

24 42. For unpaid business-related expenses and such general and special damages as
25 may be appropriate;

26 43. For pre-judgment interest on any unpaid business-related expenses from the
27 date such amounts were due, or as otherwise provided by law;

28 44. For all actual, consequential, and incidental losses and damages, according to

1 proof;

2 45. For attorneys' fees and costs pursuant to California Labor Code section
3 2802(c), or as otherwise provided by law; and

4 46. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Eighth Cause of Action**

7 47. That the Court declare, adjudge and decree that Defendants violated the
8 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
9 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
10 to include all forms of remuneration in the regular rate of pay for purposes of paying overtime
11 wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and 1198 (by
12 failing to pay at least minimum wages for all hours worked); 226.7, 516, and 1198 (by failing
13 to authorize and permit all rest periods); 226.7, 512(a), 516, and 1198 (by failing to provide all
14 meal periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and
15 maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages
16 upon termination); 204 (by failing to timely pay all earned wages during employment); 246
17 and 248.6 (by failing to properly calculate sick leave pay); and 2802 (by failing to reimburse
18 business expenses);

19 48. For civil penalties pursuant to the California Labor Code, including sections
20 210, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor
21 Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510, 512(a), 516, 1174(d), 1182.12,
22 1194, 1197, 1197.1, 1198, and 2802;

23 49. For attorneys' fees and costs pursuant to California Labor Code section
24 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
25 Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510, 512(a), 516, 1174(d),
26 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

27 50. For pre-judgment and post-judgment interest as provided by law; and

28 51. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Ninth Cause of Action

52. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiff and class members all overtime wages due to them, failing to provide Plaintiff and class members all minimum wages due to them, failing to authorize and permit Plaintiff and class members to take all rest periods, failing to provide Plaintiff and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiff and class members, failing to timely pay Plaintiff and class members all earned wages during employment, and failing to reimburse Plaintiff and class members for business-related expenses, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

53. For restitution of unpaid wages to Plaintiff and all class members and prejudgment interest from the day such amounts were due and payable;

54. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

55. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

56. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

57. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiff and class members the statutory benefits guaranteed under California Labor Code section 226.7 constitutes an unfair business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

58. For restitution of the statutory benefits under California Labor Code section 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the

1 day such amounts were due and payable;

2 59. For the appointment of a receiver to receive, manage and distribute any and all
3 funds disgorged from Defendants and determined to have been wrongfully acquired by
4 Defendants as a result of violations of California Business & Professions Code sections
5 17200, *et seq.*;

6 60. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
7 California Code of Civil Procedure section 1021.5;

8 61. For pre-judgment and post-judgment interest as provided by law; and

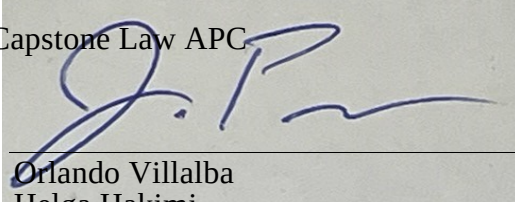
9 62. For such other and further relief as the Court may deem equitable and
10 appropriate.

11
12 Dated: October 27, 2023

Respectfully submitted,

13
14 Capstone Law APC

15 By:

16 
17 Orlando Villalba
Helga Hakimi
Joseph D. Parsons

18 Attorneys for Plaintiff Deborah Jones
19
20
21
22
23
24
25
26
27
28

EXHIBIT “1”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

August 22, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Deborah Jones v. Cardinal Health Pharmacy Services, LLC, et al.*

Dear PAGA Administrator:

This office represents Deborah Jones in connection with her claims under the California Labor Code. Ms. Jones was an employee of CARDINAL HEALTH PHARMACY SERVICES, LLC and/or CARDINAL HEALTH, INC. For the purpose of this letter, Ms. Jones collectively refers to these entities as "CARDINAL."

The employers may be contacted directly at the addresses below:

CARDINAL HEALTH PHARMACY SERVICES, LLC	CARDINAL HEALTH, INC.
13651 DUBLIN COURT	7000 CARDINAL PLACE
STAFFORD, TX 77477	DUBLIN, OH 43017

Ms. Jones intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Jones seeks relief on behalf of herself, the State of California, and other persons who are or were employed by CARDINAL as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

CARDINAL employed Ms. Jones as an hourly paid, non-exempt employee from approximately December 2022 to March 2023. Ms. Jones worked as a Technician II (Retail Pharmacy) at CARDINAL's location in Santa Rosa, California. Ms. Jones typically worked seven (7) hours or more per day and five (5) days per week. At the time her employment ended, Ms. Jones was compensated approximately \$28.00 per hour. Her primary job duties included, without limitation, filling prescriptions, communicating with insurance companies, inputting data into the computer system, and answering phone calls from patients.

CARDINAL committed one or more of the following Labor Code violations against Ms. Jones, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

CARDINAL’s Company-Wide and Uniform Payroll and HR Practices

CARDINAL HEALTH PHARMACY SERVICES, LLC is a Delaware limited liability company and CARDINAL HEALTH, INC. is an Ohio corporation. Together, they are distributors of pharmaceuticals, global manufacturers and distributors of medical and laboratory products, and providers of performance and data solutions for healthcare facilities, operating at least 77 locations in California. Upon information and belief, CARDINAL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Stafford, Texas, or Dublin, Ohio, for all non-exempt, hourly paid employees working for CARDINAL in California, including Ms. Jones and other aggrieved employees. At all relevant times, CARDINAL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Jones and other aggrieved employees, regardless of their location or position.

Upon information and belief, CARDINAL maintains a centralized Payroll department at its corporate headquarters in Stafford, Texas, or Dublin, Ohio, which processes payroll for all non-exempt, hourly paid employees working for CARDINAL in California, including Ms. Jones and other aggrieved employees. Further, CARDINAL issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Jones and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, CARDINAL utilized the same methods and formulas when calculating wages due to Ms. Jones and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

CARDINAL willfully failed to pay all overtime wages owed to Ms. Jones and other aggrieved employees. During the relevant time period, Ms. Jones and other aggrieved employees were not paid

¹ These facts, theories, and claims are based on Ms. Jones’s experience and counsel’s review of those records currently available relating to Ms. Jones’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Jones reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

During the relevant period, CARDINAL had, and continues to have, a company-wide policy of requiring Ms. Jones and other aggrieved employees to work off-the-clock before their scheduled shifts. For instance, CARDINAL had a practice of requiring employees to work several minutes off the clock before their scheduled shift start-times. Ms. Jones and other aggrieved employees spent time booting up their computers and logging in before clocking in for their shifts, but they had no way of recording this time worked. As a further example, CARDINAL had, and continues to have, a company-wide security policy and/or practice of allowing only certain employees to carry keys to the CARDINAL's pharmacy. Specifically, only the pharmacist employees were issued keys to access the pharmacy at any given time. In adherence with this policy, Ms. Jones and other aggrieved employees had to wait off-the-clock for approximately 15 minutes for a pharmacist employee to arrive at CARDINAL's premises and unlock the pharmacy in the mornings before they could clock in for their shifts; this occurred about three (3) times per week. As a result, Ms. Jones and other aggrieved employees were subject to CARDINAL's control before they had clocked in for their shifts, but were not compensated for this time.

Moreover, CARDINAL had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, resulting in a failure to provide other aggrieved employees with adequate meal period coverage. As a result, other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Consequently, other aggrieved employees worked through meal periods and/or had meal periods interrupted in order to attend to their work duties. CARDINAL did not compensate other aggrieved employees for the time they spent working off the clock during meal periods.

CARDINAL knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Jones and other aggrieved employees were performing their assigned duties off-the-clock before their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Jones and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Jones and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, CARDINAL did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, CARDINAL paid Ms. Jones and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CARDINAL failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, CARDINAL failed to pay all overtime wages by paying a lower overtime rate than required.

CARDINAL's failure to pay Ms. Jones and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Jones and other aggrieved employees are entitled to recover civil

penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

As set forth above, during the relevant time period, CARDINAL had company-wide practices and/or policies requiring Ms. Jones and other aggrieved employees to work off-the-clock, but failed to compensate them for this time spent working. Ms. Jones and other aggrieved employees were required to spend time waiting off-the-clock, before their scheduled shifts, booting up their computers, logging in, then clocking in for their shifts, and waiting for a pharmacist employee to arrive and unlock the pharmacy in the morning.

In addition, as stated, due to CARDINAL's uniform policies and/or practices of understaffing, assigning heavy workloads, and resultant lack of meal period coverage, other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods. As a result, other aggrieved employees were not relieved of all duties during unpaid meal periods and continued to work, time for which they were not compensated.

Accordingly, CARDINAL regularly failed to pay at least minimum wages to Ms. Jones and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than

twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As set forth above, CARDINAL had, and continues to have, a company-wide policy and/or practice of understaffing locations, which, combined with the assignment of heavy workloads, has resulted in a lack of meal period coverage and prevented other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. Additionally, CARDINAL did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. Other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, CARDINAL knew or should have known that, as a result of these policies, other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. CARDINAL further knew or should have known that it did not pay other aggrieved employees all meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Moreover, CARDINAL engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that CARDINAL did pay other aggrieved employees for missed, late, and interrupted meal periods, CARDINAL did not pay other aggrieved employees at the correct rate of pay for premiums because CARDINAL systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, CARDINAL failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over

how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, CARDINAL regularly failed to authorize and permit Ms. Jones and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. CARDINAL had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, which resulted in a lack of rest period coverage because there were too few employees on duty to handle the heavy workloads and provide rest period coverage. Moreover, CARDINAL had a company-wide practice of failing to schedule rest periods, which further led to Ms. Jones and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, CARDINAL maintained a company-wide on-premises rest period policy, which effectively required that Ms. Jones and/or other aggrieved employees remain on the work premises during their rest periods. Because Ms. Jones and/or other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, CARDINAL effectively maintained control over Ms. Jones and/or other aggrieved employees during rest periods.

As a result of CARDINAL’s practices and policies, Ms. Jones and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Jones had to forego all of her rest periods during her employment.

CARDINAL has also engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Jones and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that CARDINAL did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, CARDINAL did not pay other aggrieved employees at the correct rate of pay for premiums because CARDINAL failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, CARDINAL failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. CARDINAL has not provided Ms. Jones and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a

subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, CARDINAL has knowingly and intentionally provided Ms. Jones and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CARDINAL issued uniform wage statements to Ms. Jones and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, CARDINAL violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, because CARDINAL did not record the time Ms. Jones and other aggrieved employees spent working off-the-clock, CARDINAL did not list the correct amount of gross wages and net wages earned by Ms. Jones and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, CARDINAL failed to accurately list the total number of hours worked by Ms. Jones and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9)).

Second, because CARDINAL did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, CARDINAL did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, CARDINAL failed to list the correct amount of net wages in violation of section 226(a)(5). CARDINAL also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

Third, and separately from these violations, CARDINAL issued uniform wage statements to Ms. Jones and other aggrieved employees that failed to list the name and address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. During the relevant time period, CARDINAL systematically, and on a company-wide basis, issued wage statements to Ms. Jones and other aggrieved employees that fail to list the employing entity's correct name and/or address. Ms. Jones's and other aggrieved employees' wage statements incorrectly list the employer's address as "7000 CARDINAL PLACE, DUBLIN, OH 43017," but according to the California Secretary of State's website, CARDINAL HEALTH PHARMACY SERVICES, LLC's entity address should be "13651 DUBLIN COURT, STAFFORD, TX 77477." Alternatively, Ms. Jones's and other aggrieved employees' wage statements incorrectly list the employing entity as "Cardinal Health Pharm Serv," when the correct employing entity's name is CARDINAL HEALTH, INC.

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to

list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list 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; and/or failing to state all hours worked as a result of not recording or stating the hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d), CARDINAL willfully failed to maintain accurate payroll records for Ms. Jones and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, CARDINAL engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and/or meal period start and stop times for Ms. Jones and other aggrieved employees, in violation of section 1198. Also, in light of CARDINAL’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, CARDINAL kept no records of meal start and end times for second meal periods.

Because CARDINAL failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Jones and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Jones and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, CARDINAL willfully failed to pay Ms. Jones and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and/or rest period premiums, and/or sick leave pay, within the time periods specified by California Labor Code section 204.

Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, CARDINAL had a company-wide practice and/or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, CARDINAL terminated Ms. Jones on or about March 23, 2023; however, CARDINAL did not provide Ms. Jones with her final paycheck until about one week later. Thus, CARDINAL failed to pay Ms. Jones her final wages immediately, in violation of California Labor Code section 201.

Additionally, CARDINAL willfully failed to pay Ms. Jones and other aggrieved employees who are no longer employed by CARDINAL the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and/or rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving CARDINAL's employ.

Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 246 and 248.6 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually

works overtime in that workweek[;]” or 2) “[p]aid sick time for nonexempt employees shall be calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

At all relevant times herein, California Labor Code section 248.6 provide covered employees with COVID-19 supplemental paid sick leave. California Labor Code section 248.6(b)(3)(A) provides that each hour of COVID-19 supplemental paid sick leave shall be compensated at a rate equal to the following: 1) “[c]alculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]” or 2) “[c]alculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total nonovertime hours worked in the full pay periods occurring within the prior 90 days of employment; provided that, for nonexempt employees paid by piece rate, commission or other method that uses all hours to determine the regular rate of pay, total wages, not including overtime premium pay, shall be divided by all hours, to determine the correct amount of COVID-19 supplemental paid sick leave under this subdivision.”

During the relevant time period, on information and belief, CARDINAL did not pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, CARDINAL paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CARDINAL failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, CARDINAL failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, CARDINAL paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

CARDINAL’s failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l) and 248.6(b)(3)(A).

Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, CARDINAL had a company-wide policy of requiring Ms. Jones and other aggrieved employees to utilize their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but CARDINAL failed to reimburse

them for the costs of their work-related mobile device expenses. For example, Ms. Jones was required to download a mobile application, “Crew Messaging and Scheduling,” on her personal cellular phone and to regularly use her mobile data to view her schedule and message coworkers and management. Ms. Jones and other aggrieved employees were not compensated for the cost of the mobile data used to download and access the application. Further, Ms. Jones and other aggrieved employees used their personal cellular phones to communicate with management and coworkers via text messages regarding work-related matters. Although CARDINAL required Ms. Jones and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related duties, CARDINAL failed to reimburse them for these costs.

Additionally, during the relevant time period, CARDINAL, on a company-wide basis, required that other aggrieved employees use their own personal vehicles to run company errands. For example, other aggrieved employees were required to use their personal vehicles to drive to CARDINAL’s other pharmacy locations to pick up or drop off prescription medications. Although CARDINAL required other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, CARDINAL failed to reimburse them for their mileage or travel expenses.

CARDINAL could have provided Ms. Jones and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and company vehicles, or, CARDINAL could have reimbursed employees for their mobile device usage, mileage, and travel expenses. Instead, CARDINAL passed these operating costs off onto Ms. Jones and other aggrieved employees. At all relevant times, Ms. Jones did not earn at least two (2) times the minimum wage.

Thus, CARDINAL had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” CARDINAL, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Jones’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Jones seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Jones, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against CARDINAL for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Jones seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: CARDINAL HEALTH PHARMACY SERVICES, LLC (via U.S. Certified Mail);
CARDINAL HEALTH, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2405 9389

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy)
☐ Return Receipt (electronic)
☐ Certified Mail Restricted Delivery

Postmark
Here

CARDINAL HEALTH
PHARMACY SERVICES, LLC
13651 DUBLIN COURT
STAFFORD, TX 77477

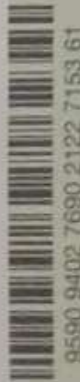
Instructions

CARDINAL HEALTH
PHARMACY SERVICES, LLC
13651 DUBLIN COURT
STAFFORD, TX 77477

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

CARDINAL HEALTH
PHARMACY SERVICES, LLC
13651 DUBLIN COURT
STAFFORD, TX 77477



9590 9402 7690 2122 7153 61

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent
☐ Addressee

1. Received by (Printed Name) C. Date of Delivery

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

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2405 9372

CERTIFIED MAIL

U.S. Postal Service[™]
CERTIFIED MAIL[®] RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Cardinal Health, Inc.
7000 Cardinal Place
Dublin, OH 43017

JONES V.
CARDINAL

Postmark
Date

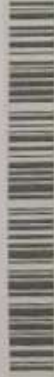
CARDINAL HEALTH, INC.
7000 CARDINAL PLACE
DUBLIN, OH 43017

CARDINAL HEALTH, INC.
7000 CARDINAL PLACE
DUBLIN, OH 43017

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

CARDINAL HEALTH, INC.
7000 CARDINAL PLACE
DUBLIN, OH 43017



9590 9402 7690 2122 7153 54

2. Article Number (Transfer from service label)

7022 2410 0000 2405 9372

PS Form 3811, July 2020 PSN 7530-02-000-9063

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

3. Received by (Printed Name)

C. Date of Delivery

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

4. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery

- ☐ Priority Mail Express[®]
- ☐ Registered Mail[™]
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation[™]
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

**CARDINAL HEALTH
PHARMACY SERVICES, LLC
13651 DUBLIN COURT
STAFFORD, TX 77477**



9590 9402 7690 2122 7153 61

2. Article Number (Transfer from service label)

7022 2410 0000 2405 9389

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Susan Olveda*

- ☐ Agent
- ☐ Addressee

3. Received by (Printed Name)

Susan Olveda

C. Date of Delivery

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

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail®
- ☐ Insured Mail Restricted Delivery
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

(over \$500)

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

CARDINAL HEALTH, INC.
7000 CARDINAL PLACE
DUBLIN, OH 43017



9590 9402 7690 2122 7153 54

2. Article Number (Transfer from service label)

7022 2410 0000 2405 9372

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☒ Agent

☐ Addressee

3. Received by (Printed Name)

C. Date of Delivery

08/29/23

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



5. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

all Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **October 27, 2023**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Lois M. Kosch
lkosch@wilsonturnerkosmo.com
Nicole R. Roysdon
nroysdon@wilsonturnerkosmo.com
J. Patrick Allen
pallen@wilsonturnerkosmo.com
WILSON TURNER KOSMO LLP
402 West Broadway, Suite 1600
San Diego, CA 92101
Telephone: 619-236-9600
Facsimile: 619-236-9669

Attorneys for:
-CARDINAL HEALTH PHARMACY
SERVICES, LLC
-CARDINAL HEALTH, INC.

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

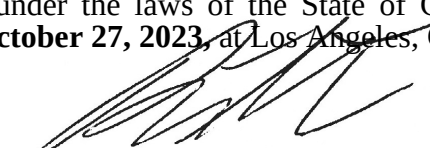
☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **October 27, 2023**, at Los Angeles, California.

Riley McIntire
Type/Print Name


Signature