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VALERIE WEBSTER

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

VALERIE WEBSTER, an individual, for the real
party in interest, the State of California, and on
behalf of other current and former employees.

Plaintiff,

vs.

SCRIPPS HEALTH; and DOES 1 through 50,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

01/29/2024 at 03:08:44 PM

Clerk of the Superior Court
By Jimmy Siharath, Deputy Clerk

Case No.: 37-2024-00003825-CU-OE-CTL

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

1. Violation of Labor Code §§ 246, 246(l);
2. Violation of Labor Code § 226.7, 226.7(c),
and the IWC Wage Order;
3. Violation of Labor Code §§ 510, 1194,
1198 and IWC Wage Order;
4. Violation of Labor Code § 226;
5. Violation of Labor Code § 204;
6. Violation of Labor Code §§ 201, 202, 203;
7. Violation of Labor Code §§ 233, 234;
8. Violation of Cal. Bus. & Prof. Code §§
17200, *et seq*;

1 Plaintiff VALERIE WEBSTER (“Plaintiff”), in her capacity as the State of California’s
2 designated proxy under the Private Attorneys General Act, and on behalf of other current and former
3 California employees (“Representative Employees”), and individually on behalf of herself and all
4 other similarly situated individuals (“Class Members”) alleges the following:

5 **NATURE OF THE ACTION**

6 1. Plaintiff, by and through this action, seeks individual, representative, and class relief.

7 2. Plaintiff brings this class action on behalf of herself and Class Members who worked
8 for Defendants SCRIPPS HEALTH and DOES 1 through 50 (collectively referred to as “Defendants”)
9 in California as non-exempt hourly paid employees and against whom one or more violations of the
10 California Labor Code, the applicable Industrial Welfare Commissions Wage Orders (the “IWC Wage
11 Order”), and the California Business and Professions Code section 17200 et seq. (“UCL”) were
12 committed, as set forth in this complaint

13 3. Plaintiff brings this action seeking wages, penalties, restitution, injunctive and other
14 equitable relief, reasonable attorneys’ fees, costs, and any other remedies the Court deems just due to
15 the violations committed by Defendants as alleged in this Complaint.

16 4. Pursuant to the Private Attorneys General Act (“PAGA”), incorporated in Labor Code
17 sections 2698, 2699 *et seq.*, Plaintiff brings this representative action against Defendants for wage and
18 hour violations of the California Labor Code and the applicable Industrial Welfare Commission Wage
19 Order (the “IWC Wage Order”).

20 5. Pursuant to Labor Code section 2699 et seq., any provision of the Labor Code that
21 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
22 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
23 for violation of the code may, as an alternative, be recovered through a civil action brought by an
24 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
25 to the procedures specified in Labor Code section 2699.3.

26 6. Plaintiff also seeks to recover civil penalties under the PAGA through this action.

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8. This Court has jurisdiction over Defendants because each is believed to be an association, corporation, business entity, or individual that conducts substantial business in the State of California, County of San Diego.

10. Pursuant to California Code of Civil Procedure section 395, venue is proper in the Superior Court of California for the County of San Diego because this is where the wrongful misconduct alleged herein occurred.

11. Plaintiff is a former nonexempt employee of Defendants, who started her employment with Defendants on or about August 11, 2014 and worked until about September 19, 2023.

13. At all relevant times, Defendants were Plaintiff's employer under California law.

15. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

16. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

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17. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times, each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the other defendants and each were co-conspirators with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other defendants.

18. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times, each defendant was acting partly within and partly without the scope and course of their employment, and was acting with the knowledge, permission, consent, and ratification of every other defendant.

19. At all relevant times, Defendants were and/or are Class Members and Representative Employees' employers or persons acting on behalf of Representative Employees' employer, under California law, the IWC Wage Order, and Labor Code sections 558 and 558.1 and thus are jointly and severally liable for the violations alleged herein and any amounts awarded and/or recoverable as a result of this action.

GENERAL ALLEGATIONS

20. Plaintiff worked for Defendants during which time she was paid hourly and considered non-exempt.

21. During the relevant time period, Defendants are believed to have employed more than 100 employees.

22. Defendants failed to provided Plaintiff, Class Members, and Representative Employees with paid sick leave at the appropriate rate of pay as required under Labor Code sections 246 and 246(l), resulting in the underpayment of wages.

23. Defendants failed to provide Plaintiff, Class Members, and Representative Employees with compliant meal periods in violation of Labor Code sections 512, 226.7, and the IWC Wage Order.

24. Defendants failed to pay Plaintiff, Class Members, and Representative Employees all earned wages upon separation of employment under Labor Code sections 201 and 202.

25. Defendants failed to pay Plaintiff, Class Members, and Representative Employees all earned wages in a timely matter as required under Labor Code section 204.

1 26. Defendants failed to issue accurate wage statements to Plaintiff, Class Members, and
2 Representative Employees in violation of Labor Code sections 226(a), 226(a)(1), 226(a)(2), 226(a)(5),
3 and 226(a)(9).

4 27. Defendants failed to properly provide Plaintiff, Class Members, and Representative
5 Employees with overtime pay for hours worked in excess of eight hours in a workday and/or hours
6 worked in excess of 40 hours in one workweek.

7 28. Defendants have a sick leave policy that disciplines Plaintiff, Class Members, and
8 Representative Employees for making use of their protected sick leave entitlements.

9 29. To date, Defendants have not paid Plaintiff, Class Members, and Representative
10 Employees all of their wages due and payable, in an amount to be shown according to proof.

11 **CLASS ACTION ALLEGATIONS**

12 30. The proposed Class Members that Plaintiff seeks to represent are defined as follows:

13 All persons who worked for Defendants as a non-exempt employee in
14 California at any time between January 24, 2020 and the date of trial.

15 31. Plaintiff reserves the right to modify the definition of Class Members or further divide
16 it into subclasses or limit to particular issues. (California Rules of Court, Rule 3.765(b).)

17 32. This action may be maintained as a class action because many persons have a well-
18 defined common interest and it is impractical to bring them all before the court. (Code of Civil
19 Procedure § 382.)

20 33. Ascertainable Class: The proposed Class is ascertainable because it can be identified
21 and located using Defendants' payroll and personnel records.

22 34. Numerosity: While the precise number of class members has not yet been determined.
23 Plaintiff is informed and believes there are over 100 putative class members in California affected by
24 Defendants' policies and procedures. Joinder of all propose Class Members is not practicable.

25 35. Typicality: Plaintiff's claims are typical of the claims of the proposed Class. Plaintiff
26 and class members sustained injuries and damages caused by Defendants' common course of conduct
27 in violation of laws, regulations and statutes as alleged.

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1 36. Adequacy of Representation: Plaintiff will fairly and adequately represent and protect
2 the interests of the members of the Class. Proposed Class Counsel, Mashiri Law Firm, APC and The
3 Jami Law Firm P.C., are competent and experienced in litigating employment class actions. Plaintiff
4 is aware and understands her obligations to faithfully assist in the preparation of the case and to make
5 decisions in the best interests of the putative class.

6 37. Superiority of Class Action: A class action is superior to other available means for the
7 fair and efficient adjudication of this controversy. Each class member has been damaged, and is
8 entitled to recovery, by Defendants' illegal policies and practices and a class action allows them to
9 litigate their claims in the most efficient and economical manner for the parties and judicial system.
10 There are no likely difficulties managing this action that preclude its maintenance as a class action.

11 38. Predominating common questions of law and fact include:

- 12 (a) Whether Defendants failed to pay sick leave wages at the correct rate in violation
13 of Labor Code sections 246 and 246(l);
- 14 (b) Whether Defendants failed to pay meal premiums at the regular rate of pay in
15 violation of Labor Code section 226.7, 226.7(c), and the IWC Wage Order;
- 16 (c) Whether Defendants failed to accurately pay overtime wages in violation of Labor
17 Code sections 510, 1194, 1198, and IWC Wage Order;
- 18 (d) Whether Defendants issued inaccurate wage statements in violation of Labor
19 Code section 226(a);
- 20 (e) Whether Defendants failed to timely pay all earned wages in violation of Labor
21 Code section 204;
- 22 (f) Whether Defendants failed to pay all earned wages upon termination/separation
23 of employment in violation of Labor Code sections 201 and 202;
- 24 (g) Whether Defendants are subject to waiting time penalties under Labor Code
25 section 203;
- 26 (h) Whether Defendants violated Labor Code sections 233 and 234;
- 27 (i) Whether the Class is entitled to equitable relief pursuant to Business and
28 Professions Code sections 17200, *et seq.*

PAGA ALLEGATIONS

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

40. Plaintiff is an “aggrieved employee” because she was employed by Defendants and had one or more of the alleged violations committed against her, and therefore is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the Representative Employees, who are also aggrieved employees as defined by Labor Code section 2699(c).

41. On November 24, 2023, Plaintiff, via counsel, sent the statutorily required notice to the LWDA (“PAGA Notice”), indicating that Plaintiff intends to pursue claims against Defendants for violations of the Labor Code.

42. On November 24, 2023, Plaintiff, via counsel, sent a copy of the PAGA Notice to SCRIPPS HEALTH.

43. The statutory period expired since Plaintiff sent the PAGA Notice to the LWDA and LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the applicable penalty claims and did not provide notice as set forth in Labor Code section 2699.3(a)(2)(A). Thus, Plaintiff has exhausted the administrative requirements under the PAGA.

44. On information and belief, current and former employees of Defendants were subject to wage and hour violations by Defendants, specifically by Defendants’ violations of Labor Code sections 201, 202, 203, 204, 226(a)(1), 226(a)(5), 226(a)(9), 226(b), 226(c), 226.7, 233, 234, 246, 246(l), 510, 2698, and 2699 et seq.

45. California law provides that an aggrieved employee may file a representative action under the PAGA against an employer for civil penalties in connection with violations of the Labor Code and Wage Order.

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1 **FIRST CAUSE OF ACTION**

2 **(Violation of Labor Code Sections 246 and 246(l) against all Defendants)**

3 46. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
4 forth herein.

5 47. Under Labor Code sections 246 and 246(l), employers in California must provide
6 employees with paid sick leave to be paid at a specified rate of pay which must factor in additional
7 earnings during a given pay period wherein such leave is used.

8 48. During their employment, Plaintiff, Class Members, and Representative Employees
9 earned additional nondiscretionary compensation, such as, for example, shift differentials, holiday
10 differentials, and incentive/retention bonuses.

11 49. Defendants paid sick leave at the incorrect rate of pay resulting in the underpayment
12 of wages to Plaintiff, Class Members, and Representative Employees. In particular, Defendants failed
13 to appropriately factor in additional nondiscretionary payments and compensation for purposes of
14 computing the appropriate rate of pay for sick leave wages.

15 50. By way of one example, for the pay period beginning 8/14/2022 and ending 8/27/2022,
16 Plaintiff earned shift differentials which Defendants failed to incorporate for purposes of determining
17 the sick leave rate of pay; as a result, Defendants issued Plaintiff sick leave at her base rate of pay
18 rather than her higher rate of pay for the pay period.

19 51. PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor
20 Code sections 246 and 246(l).

21 52. An aggrieved employees is permitted to use the PAGA to enforce California's Healthy
22 Workplaces Healthy Families Act, which incorporates, Labor Code sections 246 and 246(l). (*Wood*
23 *v. Kaiser Found. Hosps.* (2023) 88 Cal.App.5th 742, 748.)

24 53. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
25 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
26 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
27 all Labor Code provisions for which a civil penalty is not specifically provided.

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54. Plaintiff is seeking civil penalties against Defendants, including Labor Code section 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

55. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown according to proof.

56. Pursuant to the PAGA, Labor Code sections 218.5, 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, filing fees paid to the LWDA, wages, interest, and civil penalties in an amount to be shown according to proof

SECOND CAUSE OF ACTION

(Violation of Labor Code Sections 226.7, 226.7(c), and the IWC Wage Order against all Defendants)

57. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

58. Under Labor Code section 226.7(c), if an employer fails to provide an employee with a proper meal or rest period, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

59. During their employment, Plaintiff, Class Members, and Representative Employees earned additional nondiscretionary compensation, such as, for example, shift differentials, holiday differentials, and incentive/retention bonuses. These additional earnings must be incorporated into the regular rate of pay for purposes of issuing meal and/or rest break premiums to Plaintiff, Class Members, and Representative Employees.

60. By way of one example, for the pay period beginning 3/13/2022 and ending 3/26/2022, Plaintiff earned shift differentials which Defendants failed to incorporate into her regular rate of pay; as a result, Defendants issued Plaintiff a meal penalty at her base rate of pay rather than her higher regular rate of pay for the pay period.

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61. Because Defendants failed to issue such meal and rest premiums at the regular rate of pay for the pay period, Defendants violated Labor Code section 226.7(c). (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858.)

62. Plaintiff and Class Members are entitled to and seek unpaid wages.

63. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 226.7, 226.7(c) and the IWC Wage Order.

64. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

65. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.7, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

66. Pursuant to the PAGA, Labor Code sections 218.5, 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, filing fees paid to the LWDA, wages, interest, and civil penalties in an amount to be shown according to proof.

THIRD CAUSE OF ACTION

(Violations of Labor Code Sections 510, 1194, and 1198 and IWC Wage Order against all Defendants)

67. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

68. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and IWC Wage Order.)

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1 69. Defendants failed to properly provide Plaintiff, Class Members, and Representative
2 Employees with overtime pay for hours worked in excess of eight hours in a workday and/or hours
3 worked in excess of 40 hours in one workweek.

4 70. During their employment, Plaintiff, Class Members, and Representative Employees
5 earned additional nondiscretionary compensation, such as, for example, shift differentials, holiday
6 differentials, and incentive/retention bonuses.

7 71. Plaintiff, Class Members, and Representative Employees were not paid accurate
8 overtime wages because Defendants failed to include all compensation earned during a given period
9 when determining the regular rate of pay, resulting in the underpayment of overtime wages.

10 72. Plaintiff, Class Members, and Representative Employees were not paid accurate
11 overtime wages because Defendants failed to compensate them for all hours worked off-the-clock.

12 73. Plaintiff and Class Members are entitled to and seek unpaid wages.

13 74. Defendants violated Labor Code sections 510, 1194, 1198, and the IWC Wage Order.

14 75. Labor Code section 2699(f) imposes upon Defendants, and each of them, penalties of
15 one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two
16 hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor
17 Code provisions for which a civil penalty is not specifically provided.

18 76. Pursuant to Labor Code section 558, any employer or other person acting on behalf of
19 an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision
20 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
21 to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them,
22 penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations,
23 and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

24 77. Plaintiff is seeking civil penalties against Defendants, including Labor Code sections
25 2699(f), 558, the Applicable IWC Wage Order, and/or any other applicable statute allowing recovery
26 of civil penalties under the PAGA in an amount to be shown according to proof.

27 78. Pursuant to Labor Code section 1194, Plaintiff seeks to recover reasonable attorneys'
28 fees, costs, interest, and civil penalties in an amount to be shown according to proof.

1 79. Pursuant to the PAGA, Labor Code sections 218.5, 2699(g), or any other applicable
2 statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, filing fees paid to the LWDA,
3 wages, interest, and civil penalties in an amount to be shown according to proof.

4 **FOURTH CAUSE OF ACTION**

5 **(Violations of Labor Code Section 226(a) against all Defendants)**

6 80. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
7 forth herein.

8 81. Labor Code section 226(a) requires that the wage statements accurately state (1) gross
9 wages earned, (2) total hours worked, (3) number of piece rate unites earned and all applicable piece
10 rates; (4) all deductions made, (5) net wages earned, (6) the pay periods' inclusive dates, (7) the
11 employee's name and either last four (only) Social Security digits for employee ID number, (8) the
12 name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
13 during each pay period and the corresponding number of hours worked at each hourly rate (Cal. Lab.
14 Code §226(a)).

15 82. Defendants failed to accurately state the proper gross on the wage statements in
16 violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to
17 Plaintiff, Class Members, and Representative Employees failed to include the accurate amount of
18 gross wages because they failed to include the proper amount of wages, including, but not limited to,
19 vacation wages, meal premium wages, overtime wages, and sick pay wages.

20 83. Defendants failed to accurately state the proper net wages earned on the wage
21 statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements
22 issued to Plaintiff, Class Members, and Representative Employees failed to include the accurate
23 amount of net wages earned during a given pay period because they failed to include the proper
24 amount of all wages earned, including, but not limited to, vacation, meal premium, overtime, and sick
25 pay wages.

26 84. Defendants failed to provide the applicable hourly rates in effect during the pay period
27 and the corresponding number of hours worked at each hourly rate by the employee in violation of
28 Labor Code section 226(a)(9).

1 85. Defendants failed to accurately state the total hours worked on the wage statements
2 issued to Plaintiff, Class Members, and Representative Employees in violation of Labor Code section
3 226(a)(2). By way of one example, Defendants' wage statements aggregate and reflect a total hours
4 column yet this amount does not reflect the true total hours worked for the pay period. By way of
5 another example, the total hours worked included hours paid for paid time off and meal penalties
6 which are not considered hours worked by an employee during a given pay period.

7 86. Defendants failed to maintain and keep records required under Labor Code section
8 226(a). By way of example, the copies of the wage statements that Defendants kept do not include the
9 accurate gross and net wages, total hours worked, and all applicable hourly rates and corresponding
10 hours worked as described herein and in the aforementioned paragraphs.

11 87. As a result of Defendants' failure to (i) provide accurate wage statements which
12 contains all required information set forth under Labor Code section 226, and (ii) maintain records
13 required under section 226, Plaintiff and Class Members suffered damages.

14 88. Plaintiff and Class Members seek damages, penalties, costs and attorneys' fees
15 pursuant to Labor Code sections 226 subdivision (e) in an amount to be proven at trial.

16 89. Plaintiff and Class Members seek injunctive relief and attorneys' fees and costs
17 pursuant to Labor Code section 226 in an amount to be shown according to proof

18 90. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
19 Labor Code section 226(a), including Labor Code sections 226(a)(1), (a)(2), (a)(5), and (a)(9).

20 91. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
22 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
23 all Labor Code provisions for which a civil penalty is not specifically provided.

24 92. Plaintiff is seeking civil penalties against Defendants, including Labor Code section
25 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
26 PAGA in an amount to be shown according to proof.

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93. Pursuant to the PAGA, Labor Code sections 218.5, 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, filing fees paid to the LWDA, wages, interest, and civil penalties in an amount to be shown according to proof.

FIFTH CAUSE OF ACTION

(Violations of Labor Code Section 204 against all Defendants)

94. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

95. Labor Code section 204 imposes an obligation of timely payment of wages upon California employers.

96. Defendants violated Labor Code section 204 because they failed to timely pay Plaintiff and Representative Employees all earned wages during an applicable pay period.

97. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 204.

98. Labor Code section 204 imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations.

99. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

100. Plaintiff is seeking civil penalties against Defendants under Labor Code section 204, 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

101. Pursuant to the PAGA, Labor Code sections 218.5, 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, filing fees paid to the LWDA, wages, interest, and civil penalties in an amount to be shown according to proof.

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1 **SIXTH CAUSE OF ACTION**

2 **(Violations of Labor Code Sections 201, 202, and 203 against all Defendants)**

3 102. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
4 set forth herein.

5 103. Under Labor Code section 201, if an employee is discharged by his/her employer, the
6 wages earned and unpaid at the time of discharge are due and payable immediately.

7 104. Under Labor Code section 202, if on the other hand, “an employee not having a written
8 contract for a definite period quits his or her employment, his or her wages shall become due and
9 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of
10 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
11 quitting.”

12 105. Labor Code section 203 provides, in pertinent part: “If an employer willfully fails to
13 pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits,
14 the wages of the employee shall continue as a penalty from the due date thereof at the same rate until
15 paid or until an action therefore is commenced; but the wages shall not continue for more than 30
16 days. ...”

17 106. Plaintiff, Class Members, and Representative Employees did not receive all wages
18 upon termination or separation of employment. By way of one example, Plaintiff, Class Members,
19 and Representative Employees were owed sick pay wages, meal premium wages, and overtime wages.
20 To this date, Defendants have not paid all wages upon termination or separation of employment.

21 107. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
22 Labor Code sections 201, 202, and 203.

23 108. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
24 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
25 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
26 all Labor Code provisions for which a civil penalty is not specifically provided.

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109. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

110. Pursuant to the PAGA, Labor Code sections 218.5, 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, filing fees paid to the LWDA, wages, interest, and civil penalties in an amount to be shown according to proof.

SEVENTH CAUSE OF ACTION

(Violations of Labor Code Sections 233 and 234 against all Defendants)

111. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

112. Under Labor Code section 233, “[a]n employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5”.

113. Under Labor Code section 234, “An employer absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.”

114. Defendants had a policy and practice whereby they would discipline Plaintiff, Class Members, and/or Representative Employees for making use of their protected sick leave entitlements. Plaintiff, Class Members, and/or Representative Employees faced discipline in many forms, including but not limited to, termination.

115. By way of example, Defendants issued occurrence points to Plaintiff and threatened her with termination for calling out sick on the following dates: 7/29/2022, 8/15/2022, 8/18/2022, 10/6/2022, 12/19/2022.

116. Defendants' disparate treatment of employees who exercised their entitlement to sick leave hours, violates Labor Code section 233(c).

1 117. Pursuant to Labor Code section 233(d) and/or any other applicable statute, Plaintiff
2 seeks to recover reinstatement and/or actual damages or one day's pay, whichever is greater, and to
3 appropriate equitable relief.

4 118. Pursuant to Labor Code section 233(e) and/or any other applicable statute, Plaintiff
5 seeks to recover reasonable attorneys' fees and costs in an amount to be shown according to proof.

6 119. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
7 Labor Code section 233.

8 120. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
9 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
10 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
11 all Labor Code provisions for which a civil penalty is not specifically provided.

12 121. Plaintiff is seeking civil penalties against Defendants, including Labor Code section
13 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
14 amount to be shown according to proof.

15 122. Pursuant to the PAGA, Labor Code sections 218.5, 2699(g), or any other applicable
16 statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, filing fees paid to the LWDA,
17 wages, interest, and civil penalties in an amount to be shown according to proof.

18 **EIGHTH CAUSE OF ACTION**

19 **(Violation of California Business and Professions Code §17200 against all Defendants)**

20 123. Plaintiff re-alleges all preceding paragraphs.

21 124. Defendants, and each of them, are "persons" as defined under Business and Professions
22 Code §17021.

23 125. Plaintiff is informed and believes and based thereon alleges that Defendants committed
24 the unlawful and unfair business practices, as defined by Cal. Bus. & Prof. Code §17200, *et seq.*, by
25 violating the following laws: Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 233, 234, 246,
26 510.

27 126. During their employment, Plaintiff and Class Members earned additional
28 compensation, such as, for example, shift differentials and incentive pay. Defendants failed to provide

1 Plaintiff and Class Members with the appropriate rate of pay when paying sick pay, as required under
2 Labor Code sections 246 and 246(l), which resulted in the underpayment of wages.

3 127. Plaintiff and Class Members did not receive all wages upon termination or separation
4 of employment in violation of Labor Code sections 201 and 202 and these wages are still owed.

5 128. Defendants' conduct, as alleged in this complaint, constitutes unlawful and unfair
6 conduct prohibited by Cal. Bus. & Prof. Code § 17200, *et seq.*

7 129. Defendants' business practices deprived Plaintiff and Class Members of compensation
8 and other funds to which they are legally entitled, constitutes unlawful and unfair business practices,
9 provides an unfair advantage to Defendants over their competitors who comply with wage and hour
10 and employment laws, and unjustly enriches them.

11 130. The unlawful and unfair business practices conducted by Defendants are ongoing and
12 present a threat and likelihood of continuing against Plaintiff and other class members and,
13 accordingly, Plaintiff and other class members seek injunctive relief in the form of an order by the
14 court requiring Defendants to issue Plaintiff and other class members, accurate sick pay wages, timely
15 wages, and complaint wage statements.

16 131. Plaintiff and other class members have suffered injury in fact and lost money or
17 property because of the aforementioned unlawful and unfair competition.

18 132. Defendants' conduct directly and proximately caused Plaintiff and other class
19 members to suffer damages in an amount to be shown according to proof.

20 133. Plaintiff and Class Members are seeking restitution for the aforementioned unlawful
21 and unfair competition.

22 134. Plaintiff and Class Members are seeking equitable relief, including injunctive relief for
23 the aforementioned unlawful and unfair competition.

24 135. Plaintiff and Class Members are seeking equitable relief, including injunctive relief for
25 the aforementioned unlawful and unfair competition.

26 136. Plaintiff and Class Members are also seeking reasonable attorneys' fees under
27 California Code of Civil Procedure section 1021.5, or any other applicable law allowing for such.

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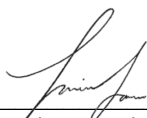
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1. For certification of this action as a class action;
2. For appointment of Plaintiff as the representative of the Class;
3. For appointment of counsel for Plaintiff as Class Counsel;
4. For unpaid wages;
5. For compensatory damages;
6. For statutory penalties;
7. For civil penalties pursuant to the PAGA and/or other applicable laws;
8. For waiting time penalties;
9. For actual damages;
10. For statutory damages;
11. For equitable relief, including injunctive relief;
12. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to the PAGA, Labor Code sections 2699(g) and 218.5, and/or other applicable law;
13. For special and general damages;
14. For Restitution and disgorgement of all ill-gotten profits, including unpaid wages;
15. For all interest accrued to date;
16. For post-judgment interest as provided by law; and
17. For any other relief that the Court may deem just and proper.

Dated: January 29, 2024

THE JAMI LAW FIRM, P. C.

By: 

Tamim Jami
Attorney for Plaintiff
VALERIE WEBSTER