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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

EVELYN LAMBERT, 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.

PSL ASSOCIATES, LLC, a Delaware limited liability company; PEGASUS SENIOR LIVING, LLC, a Texas limited liability company; WELLTOWER PEGASUS TENANT, LLC, a Delaware limited liability company; OASIS AHR, LLC, an Iowa limited liability company; OASIS OUTSOURCING III, LLC, a Florida limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: STK-CV-UOE-2023-0011435

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, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
(4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
(5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
(6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
(7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
(8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
(9) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;

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

Jury Trial Demanded

Plaintiff Evelyn Lambert, individually and on behalf of all other members of the public similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees, alleges as follows:

JURISDICTION AND VENUE

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

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

3. Venue is proper in this Court, because Defendants employ persons within the County of San Joaquin, and have violated the requirements of the California Labor Code and applicable IWC Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and applicable IWC Wage Order in at least one location within the County of San Joaquin, including Defendants' facility in Stockton (6725 Inglewood Ave.,

Stockton, California 95207). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty or forfeiture imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in San Joaquin County and Plaintiff could bring this action to recover penalties in San Joaquin County, venue is proper.

THE PARTIES

4. Plaintiff Evelyn Lambert is a resident of Palmdale, in Los Angeles County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately December 2019 to June 2023. Plaintiff worked for Defendants as a Care Partner, Medication Technician, and Shift Supervisor at their facility in Lancaster, California. During her employment, Plaintiff typically worked eight (8) hours or more per day and five (5) days per week. Plaintiff's primary job duties included, without limitation, administrating medication to residents, helping residents with daily living activities), cleaning (laundry, mopping, vacuuming), documenting residents' care, and delivering residents' mail.

5. PSL ASSOCIATES, LLC was and is, upon information and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

6. PEGASUS SENIOR LIVING, LLC was and is, upon information and belief, a Texas limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

7. WELLTOWER PEGASUS TENANT, LLC was and is, upon information and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

8. OASIS AHR, LLC was and is, upon information and belief, an Iowa limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

9. OASIS OUTSOURCING III, LLC was and is, upon information and belief, a Florida limited liability company, and at all times hereinafter mentioned, an employer whose

employees are engaged throughout this county and the State of California.

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

11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of PSL ASSOCIATES, LLC; PEGASUS SENIOR LIVING, LLC; WELLTOWER PEGASUS TENANT, LLC; OASIS AHR, LLC; and OASIS OUTSOURCING III, LLC, at all relevant times.

12. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, PSL ASSOCIATES, LLC; PEGASUS SENIOR LIVING, LLC; WELLTOWER PEGASUS TENANT, LLC; OASIS AHR, LLC; OASIS OUTSOURCING III, LLC; and/or DOES 1 through 10 (collectively, "Defendants" or "PSL"), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity with legal authority to act on the others' behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

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

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

15. Under California law, Defendants are jointly and severally liable as employers for the violations alleged herein because they have each exercised sufficient control over the wages, hours, working conditions, and employment status of Plaintiff and class members.

Each Defendant had the power to hire and fire Plaintiff and class members, supervised and controlled their work schedule and/or conditions of employment, determined their rate of pay, and maintained their employment records. Defendants suffered or permitted Plaintiff and class members to work and/or "engaged" Plaintiff and class members so as to create a common-law employment relationship. As joint employers of Plaintiff and class members, Defendants are jointly and severally liable for the civil penalties and all other relief available to Plaintiff and class members under the law.

16. 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.

17. 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.

18. PSL ASSOCIATES, LLC; PEGASUS SENIOR LIVING, LLC; WELLTOWER PEGASUS TENANT, LLC; OASIS AHR, LLC; OASIS OUTSOURCING III, LLC; and DOES 1 through 10 are therefore alter egos of each other.

19. 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 PSL.

20. Plaintiff further alleges, upon information and belief, that Defendants PSL ASSOCIATES, LLC; PEGASUS SENIOR LIVING, LLC; WELLTOWER PEGASUS TENANT, LLC; OASIS AHR, LLC; and OASIS OUTSOURCING III, LLC are alter egos of each other for the following reasons:

(a) On the California Secretary of State's website (https://bizfileonline.sos.ca.gov/) and the Texas Comptroller of Public Accounts' website (https://mycpa.cpa.state.tx.us/coa/), PSL ASSOCIATES, LLC;WELLTOWER PEGASUS TENANT, LLC; and PEGASUS SENIOR LIVING, LLC have the same principal address and/or mailing address, "611 S. MAIN ST[REET] STE 400 GRAPEVINE, TX 76051";

(b) According to their most recent "Statement of Information" forms filed with the California Secretary of State, PSL ASSOCIATES, LLC and WELLTOWER PEGASUS TENANT, LLC share common officers, managers, and/or members, including, but not limited to, Chris Hollister, who serves as Chief Executive Officer and Manager/Member for PSL ASSOCIATES, LLC and WELLTOWER PEGASUS TENANT, LLC;

(c) According to "Statement of Information" forms filed with the California Secretary of State, PSL ASSOCIATES, LLC and WELLTOWER PEGASUS TENANT, LLC share the same agent for service of process, "CORPORATION SERVICE COMPANY WHICH WILL DO

BUSINESS IN CALIFORNIA AS CSC – LAWYERS INCORPORATING SERV";

(d) On the California Secretary of State's website, OASIS AHR, LLC and OASIS OUTSOURCING III, LLC have the same principal address and mailing address, "2054 VISTA PARKWAY[,] SUITE 300 WEST PALM BEACH, FL 33411";

(e) According to "Statement of Information" forms filed with the California Secretary of State, OASIS AHR, LLC and OASIS OUTSOURCING III, LLC share the same agent for service of process, "C T CORPORATION SYSTEM";

(f) On information and belief, PSL ASSOCIATES, LLC; PEGASUS SENIOR LIVING, LLC; WELLTOWER PEGASUS TENANT, LLC; OASIS AHR, LLC; and OASIS OUTSOURCING III, LLC utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

21. Defendants own and operate senior assisted living and memory care communities in the United States. Upon information and belief, Defendants maintain a single, centralized Human Resources ("HR") department at their company headquarters in Grapevine, Texas, or West Palm Beach, Florida, 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 rest period policies, to employees throughout California.

22. 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

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

23. Upon information and belief, Defendants maintain a centralized Payroll department at their company headquarters in Grapevine, Texas or West Palm Beach, Florida, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations in California, including Plaintiff and class members. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State of California, regardless of the manner in which each employee's employment ends.

24. Defendants continue to employ non-exempt or hourly paid employees in California.

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

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

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

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

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

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

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

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

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

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

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

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

36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to receive sick leave benefits to be paid at a regular rate of pay, that included, as eligible income, all income derived from shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of compensation, but failed to include all forms of remuneration in calculating the regular rate of pay for sick leave pay.

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

38. Plaintiff is informed and believes, and thereon alleges, that at all times herein

mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff and class members for all hours worked, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and class members that they were properly denied wages, all in order to increase Defendants' profits.

PAGA REPRESENTATIVE ALLEGATIONS

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

40. 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."

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

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

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

(b) An aggrieved employee's notice filed with the LWDA pursuant to

2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars ($75).

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

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

(a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated (other than those listed in Section 2699.5), including the facts and theories to support the alleged violation.

(b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars ($75).

(c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice sent by the aggrieved employee or representative. The employer shall give written notice within that period of time by certified mail to the aggrieved employee or representative and by online filing with the LWDA if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the aggrieved employee may commence a civil action pursuant to Section 2699.

44. On November 22, 2023, Plaintiff provided written notice by online filing to the LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee of seventy-five dollars ($75). The LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-995925-23. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants are attached hereto as "Exhibit 1."

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

46. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties 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.

47. 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 "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law."

48. Defendants, at all times relevant to this complaint, were employers or persons

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.

49. 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.

50. 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

51. 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.

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

53. 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, within four years prior to the filing of the initial complaint until the date of trial ("Class").

54. 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").

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

56. 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.

57. 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 provide Plaintiff and class members with meal periods;

(e) Whether Defendants failed to authorize and permit Plaintiff and class members to take rest 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, meal and rest period premiums, and/or sick leave pay due to Plaintiff and class members upon their discharge;

(i) Whether Defendants failed timely to pay overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay due 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 class members' sick leave rates of pay were based;

(k) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;

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

(m) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

58. There is a well-defined community of interest in the litigation and the class members are readily ascertainable:

(a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all class members as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that she has an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

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

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

FIRST CAUSE OF ACTION

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

(Against all Defendants)

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

60. Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that ". . . the standard conditions of labor fixed by the commission

shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful."

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

62. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and class members 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) for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

63. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and class members 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.

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

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

66. First, during the relevant period, Defendants had a policy and/or practice of

discouraging and impeding Plaintiff and class members from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. In doing so, Defendants failed to implement a reliable timekeeping system to track and record Plaintiff's and class members' hours worked. Defendants' timekeeping software often malfunctioned, had connectivity issues, or would undergo maintenance for long periods of time, which impeded Plaintiff and class members from accurately recording their hours worked. When Defendants' timekeeping system malfunctioned, had connectivity issues, or underwent maintenance, Defendants' policy and/or practice was to require employees, including Plaintiff and class members, to fill out handwritten timesheets and submit them to management at the end of each shift for review and approval. Upon information and belief, Defendants' management often interlineated, altered, and/or falsified Plaintiff's and class members' time records. Essentially, Defendants' supervisors maintained control and/or discretion over employees' clock-in and clock-out times reported on their handwritten timesheets.

67. Because Defendants discouraged overtime accrual by, among other things, altering and/or falsifying timesheets, Plaintiff and class members were required to complete assigned tasks outside of their scheduled shifts without being compensated for the time they worked. This policy of limiting overtime, coupled with Defendants' understaffing and assignment of heavy workloads (*see infra*), led Plaintiff and class members to work off-the-clock before and after their scheduled shift times. For example, Plaintiff spent 5-10 minutes before her shifts getting updates on residents from the previous shift's Medication Technician and Care Partner. As a further example, upon pressure from her supervisors to clock out, Plaintiff subsequently spent 30-60 minutes completing work-related tasks, such as helping residents dress, making sure they had their meals, or cleaning resident rooms, time for which she was not paid. When Plaintiff attempted to record this time spent working, on information and belief, Defendants' management would later change her timesheets and shave off the time spent working after the shift to avoid payment of additional wages. This off-the-clock work could have been recorded by Defendants, but they refused to do so to avoid payment of

additional wages to Plaintiff and class members.

68. Second, Defendants had, and continue to have, company-wide policies and/or practices of understaffing and assigning heavy workloads, including adopting a single-staffing model for certain positions, including Medication Technicians, which resulted in a lack of meal period coverage and prevented Plaintiff and class members from taking all uninterrupted meal periods to which they were entitled. As a result of Defendants' policy of understaffing and/or single-staffing, Plaintiff and class members were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Moreover, Defendants have a practice of failing to schedule meal periods, which further caused Plaintiff and class members to not be relieved of their duties for compliant meal periods. For example, Plaintiff missed her meal period entirely 1-2 times per week to meet the demands of her workload, such as administering and documenting medications to more than 20 residents per shift, helping residents with activities of daily living (dressing, bathing, and cleaning rooms), and preparing shift reports to pass on to the next shift, among other tasks. Consequently, Plaintiff and class members were required to work through their meal periods and/or had their unpaid meal periods interrupted in order to complete their assigned duties, time for which they were not paid.

69. Third, Defendants had, and continue to have, a policy and/or practice of requiring that Plaintiff and class members carry their personal mobile devices and respond to requests on a walkie-talkie application (called "Two Way"), at all times. As a result, Defendants' management contacted Plaintiff and class members through the Two Way application during unpaid meal periods to discuss work-related matters. For example, during almost every meal period, Plaintiff was required to spend 5-10 minutes answering requests to assist with urgent resident needs and responding to coworkers' questions. Defendants knew or should have known that Plaintiff and class members were performing work while off-the-clock in order to meet Defendants' expectations, but failed to compensate them for this time.

70. Fourth, Defendants maintained a company-wide on-premises meal period policy, which mandated that Plaintiff and class members remain on Defendants' premises

during their unpaid meal periods. Because Plaintiff and class members were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, Defendants effectively maintained control over Plaintiff and class members during their unpaid meal periods.

71. Fifth, on information and belief, Defendants' company-wide timekeeping system prevented Plaintiff and class members from recording all hours worked when their meal periods were shortened or interrupted, because, when the electronic timekeeping system was operating, the system locked out Plaintiff and class members once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, Defendants did not record all hours worked during meal periods and Plaintiff and class members performed work during meal periods for which they were not paid.

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

73. Moreover, Defendants did not pay Plaintiff and/or class members the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, Defendants paid Plaintiff and class members shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, on information and belief, Defendants failed to incorporate all compensation, including shift differential pay, 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 and/or double-time wage rates. Therefore, during times when Plaintiff and/or class members worked overtime and received these other forms of pay, Defendants failed to pay all overtime and/or double-time wages by paying a lower overtime rate than required.

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

SECOND CAUSE OF ACTION

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

(Against all Defendants)

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

76. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act." Cal. Code Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

77. First, as set forth above, due to Defendants' restrictions on overtime accrual, Defendants systematically failed to pay Plaintiff and class members for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. As stated, because Defendants discouraged and impeded Plaintiff and class members from recording hours worked that were outside of their scheduled shifts, Plaintiff and class members were required to work off-the-clock before and after their scheduled shift start and

end times, such as assisting residents, getting updates on residents from the previous shift, helping residents dress, making sure they had their meals, and/or cleaning rooms. As also set forth above, Defendants' timekeeping system restricted Plaintiff and class members from accurately recording their hours worked due to frequent malfunctions and maintenance outages. Instead, Plaintiff and class members filled out handwritten timesheets, which were subject to Defendants' supervisors altering and/or falsifying time punches to reflect scheduled hours rather than hours actually worked, thereby shorting Plaintiff and class members for work performed outside their scheduled shifts.

78. Second, as stated above, due to Defendants' uniform practices of understaffing (including adopting a single-staffing model for certain positions), assigning heavy workloads, failing to schedule meal periods, resultant lack of meal period coverage, and policy requiring employees respond to their personal mobile devices (through the Two Way application), Plaintiff and class members were prevented from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Further, as also stated, due to Defendants' company-wide policy requiring employees to stay on the work premises during meal periods, Plaintiff and class members were not relieved of all duties during unpaid meal periods.

79. Moreover, as stated, Defendants systematically failed to pay Plaintiff and class members for actual hours worked during unpaid meal periods, because, even when Defendants' timekeeping system was working, it locked out Plaintiff and class members for 30 minutes when they clocked out for a meal period. Thus, Defendants systematically failed to pay Plaintiff and class members for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

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

81. Defendants' failure to pay Plaintiff and class members minimum wages violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

THIRD CAUSE OF ACTION

Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period Violations

(Against all Defendants)

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

83. At all relevant times herein set forth, California Labor Code section 512(a) provides that 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 a 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).

84. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

85. At all relevant times herein set forth, 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. The applicable IWC Wage Order further provides that employees in the health care

industry who work shifts in excess of eight (8) hours in a workday may waive one of their two meal periods, if the waiver is signed by both the employee and employer. Cal. Code Regs. tit. 8, § 11050(11)(D).

86. Under California law, an employer cannot evade meal period requirements via the use of "on-duty" meal agreements because it understaffs its locations. *Abdullah v. U.S. Sec. Assocs.*, 731 F.3d 952, 963 (9th Cir. Cal. 2013). In addition, an employee must be provided with the opportunity to eat his or her meal while performing the duties required and any on-duty meal period must, like any off-duty meal period, be at least 30 minutes long. *L'Chaim House, Inc., et al. v. Division of Labor Standards Enforcement*, 38 Cal. App. 5th 141 (2019).

87. First, during the relevant time period, as stated, Defendants had, and continue to have, a company-wide policy and/or practice of understaffing including adopting a single-staffing model for certain positions, while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Plaintiff and class members from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, Defendants had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Plaintiff and class members to not be relieved of their duties for compliant meal periods.

88. Defendants' practices and polices prevented Plaintiff and class members from taking all compliant meal periods to which they were entitled. As a result, Plaintiff and class members 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. For example, Plaintiff missed her meal period entirely 1-2 times per week to meet the demands of her workload, such as administering and documenting medications to more than 20 residents per shift, helping residents with activities of daily living (dressing, bathing, and cleaning rooms), and preparing a shift report to pass on to the next Medication Technician on shift, among other tasks. For the same reasons, Plaintiff would often have to take her meal periods late, and have her meal periods interrupted or cut short to provide immediate assistance to

residents.

89. Moreover, as stated, Defendants had, and continue to have, a company-wide policy and/or practice of requiring that Plaintiff and class members respond to requests through the Two Way walkie-talkie application on their personal mobile devices at all times, including during meal periods. As a result, Defendants' management contacted Plaintiff and class members on their personal phones during meal periods to discuss work-related matters.

90. Second, as stated, Defendants maintained and implemented a company-wide on-premises meal period policy, which mandated that Plaintiff and class members remain on the work premises during the meal periods. Because Plaintiff and class members were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, Defendants effectively maintained control over Plaintiff and class members during meal periods.

91. Third, as described above, due to malfunctions, connectivity issues, and long periods of maintenance, Defendants' electronic timekeeping system was often offline, which forced Plaintiff and class members to record their meal periods on handwritten timesheets, which, on information and belief, were subject to alterations by Defendants' management. Also, as stated, even when Defendants' company-wide timekeeping system was operable, it prevented Plaintiff and class members from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Plaintiff and class members once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed.

92. Fourth, Defendants did not provide Plaintiff and class members with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During her employment, Plaintiff often worked shifts in excess of ten (10) or more hours per day but was not provided a second 30-minute meal period. Defendants did not present Plaintiff and class members with the opportunity to voluntarily choose whether to waive their second 30-minute meal period on any given day. Plaintiff and class members did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all

duties.

93. Fifth, to the extent that Defendants utilized "on-duty" meal period agreements, upon information and belief, their practices and/or policies do not comply with IWC Wage Order No. 5-2001's requirements for on-duty meal periods. IWC Wage Order No. 5-2001 permits on-duty meal periods only when (a) the employees eat with the clients during their meals and are provided with the same meal the clients eat at no charge; or (b) the employee is the sole person in charge and, on the day shift, is provided a meal at no charge. Cal. Code Regs., tit. 8, § 11050(11)(E). Further, an on-duty meal period permitted by IWC Wage Order No. 5-2001 does not absolve employers of the duty to provide timely, 30-minute meal periods. *L'Chaim*, 38 Cal. App. 5th at 147 ("an employee subject to subdivision 11(E) is still entitled to a 30-minute meal period even though that meal period may be on-duty instead of off-duty."). Throughout her employment, Plaintiff did not eat with patients during meals and was not provided with the same meal the patients ate at no charge. Further, Plaintiff was not the sole person in charge, and if working a day shift, was not provided a meal at no charge. Rather, during her employment, Plaintiff ate separately from patients; always worked with one (1) Care Partner or other employee; and ate meals that she brought from home.

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

95. Furthermore, Defendants engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods were not provided. Because of this practice and/or policy, Plaintiff and class members have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants did pay Plaintiff and class members premium pay for missed, late, and interrupted meal periods, they did so at the incorrect rates. In addition to an hourly wage, Defendants

paid Plaintiff and class members shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. Therefore, during times when Plaintiff and class members received meal period premiums and these other forms of pay, Defendants failed to pay full meal period premiums by paying a lower rate than required. Specifically, Defendants paid Plaintiff and class members meal period premiums at their straight hourly rate of pay instead of at their regular rate of pay. As a result, Defendants failed to provide Plaintiff and class members compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

96. Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

FOURTH CAUSE OF ACTION

Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations

(Against all Defendants)

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

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

99. At all relevant times, 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.

100. At all relevant times, 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. 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 v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

101. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants' company-wide practices, including understaffing/single-staffing and assigning heavy workloads, prevented Plaintiff and class members from being relieved of all duty to take rest periods. Additionally, Defendants failed to schedule rest periods, which, coupled with Defendants' failure to provide adequate rest period coverage, further led to Plaintiff and class members not being authorized and permitted to take rest periods. Moreover, Plaintiff and class members were required to respond to requests from management and other employees through the Two Way walkie-talkie application on their personal mobile devices, resulting in interrupted rest periods.

102. Furthermore, Defendants maintained and implemented a company-wide on-premises rest period policy, which mandated that Plaintiff and class members remain on the premises during their rest periods. Because Plaintiff and class members were restricted from leaving Defendants' premises during rest periods, even when they were not in sole charge of residents, they were denied the ability to use their rest periods freely for their own purposes, such as completing personal errands. Thus, Defendants effectively maintained control over

Plaintiff and class members during rest periods.

103. As a result of Defendants' practices and policies, Plaintiff and class members worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, Plaintiff worked through nearly all of her rest periods because of the heavy workload, lack of coverage, and Defendants' failure to schedule rest periods for employees. Defendants failed to authorize and permit Plaintiff and class members to take another rest period when their rest periods were interrupted to respond to the needs of residents.

104. Defendants have 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, Plaintiff and class members have not received premium pay for all missed rest periods. Alternatively, to the extent that Defendants did pay Plaintiff and class members one (1) additional hour of premium pay for missed rest periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for premiums because Defendants failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. As a result, Defendants denied Plaintiff and class members rest periods and failed to pay them rest period premiums due, in violation of Labor Code sections 226.7 and 516, and the applicable IWC Wage Order.

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

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FIFTH CAUSE OF ACTION

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

(Against all Defendants)

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

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

108. At all relevant times, Defendants have knowingly and intentionally provided Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and Subclass members that fail to correctly list: gross wages earned; total hours worked; net wages earned; the 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, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

109. Because Defendants did not record the time Plaintiff and Subclass members spent working off the clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and Subclass members in compliance with sections 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and Subclass members, 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).

110. In addition, because Defendants did not calculate Plaintiff's and Subclass members' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, Defendants did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, Defendants failed to list the correct amount of net wages in violation of section 226(a)(5). Defendants 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).

111. 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 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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

112. 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), Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass members 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.

113. 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, Defendants 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 meal period start and end times for Plaintiff and Subclass members, in violation of section 1198. Also, in light of Defendants' failure to provide Plaintiff and Subclass members with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

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

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon Termination

(Against all Defendants)

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

116. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay that that were not timely paid to Plaintiff and those class members no longer employed by Defendants upon their termination.

117. At all times relevant herein set forth, 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.

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

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

SEVENTH CAUSE OF ACTION

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

(Against all Defendants)

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

121. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay that were not timely paid to Plaintiff and class members during their employment.

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

the month during which the labor was performed.

123. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth (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 first (1st) and the tenth (10th) day of the following month.

124. At all times relevant herein, Labor Code section 204 provides 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, at all times relevant herein, 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.

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

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

EIGHTH CAUSE OF ACTION

Violation of California Labor Code § 2802—Unpaid Business-Related Expenses

(Against all Defendants)

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

128. At all times herein set forth, California Labor Code section 2802 provides that an employer must reimburse employees 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. 5-2001, 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."

129. 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 use her personal cellular phone to contact residents' families and physicians, and to call 911 for residents because the company phone would often be inoperable. Plaintiff was also required to use her personal cellular phone and mobile data to download and use the walkie-talkie application, Two Way, to stay in contact with coworkers during her shifts. Although Defendants required Plaintiff and class members to use their personal mobile devices and mobile data to carry out their work-related duties, Defendants failed to reimburse them for their costs incurred.

130. Additionally, during the relevant time period, Defendants required Plaintiff and class members to purchase supplies and/or equipment necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. For example, throughout her employment, Plaintiff spent about $30 per year on hand sanitizer, pens, masks, and gloves because Defendants failed to provide her with the necessary supplies and/or equipment which were required to perform her duties.

131. Defendants could have provided Plaintiff and class members with the actual tools for use on the job, such as company mobile devices and supplies and/or equipment. Or, Defendants could have reimbursed employees for their mobile device usage and supplies and/or equipment. 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.

132. Defendants' company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred and 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.

133. Plaintiff and class members are entitled to recover from Defendants their business-related expenses incurred during the course and scope of their employment, plus interest.

NINTH CAUSE OF ACTION

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

(Against all Defendants)

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

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

136. Defendants' conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

(a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and other aggrieved employees with all required overtime pay, as alleged herein;

(b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants' failure 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 other aggrieved employees, as alleged herein;

(c) Violation of Labor Code sections 1182.12. 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and other aggrieved employees with at least minimum wages for all hours worked, as alleged herein;

(d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to provide Plaintiff and other aggrieved employees with meal periods, as alleged herein;

(e) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to authorize and permit Plaintiff and other aggrieved employees to take rest periods, as alleged herein;

(f) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiff and other aggrieved employees, as alleged herein;

(g) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as alleged herein;

(h) Violation of Labor Code sections 201 and 202 for failure to pay all earned wages upon termination, as alleged herein;

(i) Violation of Labor Code section 204 for failure to pay all earned wages during employment, as alleged herein;

(j) Violation of Labor Code sections 246 and 248.6 for failure to properly calculate the sick leave paid to Plaintiff and other aggrieved employees, as set forth below; and

(k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff and other aggrieved employees for all business expenses necessarily incurred, as alleged herein.

137. 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. California 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."

138. At all relevant times herein, California Labor Code section 248.6 provides covered employees with COVID-19 supplemental paid sick leave. Labor Code section 248.6(b)(3)(A) provides 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."

139. During the relevant time period, Defendants did not pay Plaintiff and other aggrieved employees the correct sick leave rates of pay. As set forth above, in addition to an

hourly wage, Defendants paid Plaintiff and other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when Plaintiff and other aggrieved employees took sick leave and received these other forms of pay, Defendants failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, Defendants paid Plaintiff and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

140. Defendants' 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 Plaintiff and other aggrieved employees on a company-wide basis in violation of California Labor Code sections 246(l) and 248.6(b)(3)(A). Plaintiff and other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

TENTH CAUSE OF ACTION

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

Unlawful Business Practices

(Against all Defendants)

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

142. Defendants are "persons" as defined by California Business & Professions Code section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

143. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful 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' unlawful business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

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

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

(a) Requiring non-exempt, hourly paid employees, including Plaintiff and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198, and the applicable IWC Wage Order, as alleged herein;

(b) Failing 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 class members, in violation of California Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order, as alleged herein;

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

(d) Failing to provide all meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged herein;

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

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

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

(h) Failing to properly calculate the sick leave paid to Plaintiff and class members in violation of California Labor Code sections 246(l) and 248.6(b)(3)(A), as set forth below; and

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

146. 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. 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."

147. At all relevant times herein, California Labor Code section 248.6 provides covered employees with COVID-19 supplemental paid sick leave. Labor Code section 248.6(b)(3)(A) provides 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."

148. During the relevant time period, Defendants did not pay Plaintiff and class members the correct sick leave rates of pay. As set forth above, in addition to an hourly wage, Defendants paid Plaintiff and class members shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when Plaintiff and class members took sick leave and received these other forms of pay, Defendants failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, Defendants paid Plaintiff and class members sick leave based on their hourly rate of pay instead of their regular rate of pay. Defendants' 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 Plaintiff and class members on a company-wide basis in violation of California Labor Code sections 246(l) and 248.6(b)(3)(A).

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

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

ELEVENTH CAUSE OF ACTION

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

Unfair Business Practices

(Against all Defendants)

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

152. Defendants are "persons" as defined by California Business & Professions Code section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

153. 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.

154. Defendants' activities, namely Defendants' company-wide practice and/or policy of not paying Plaintiff and class members all meal and rest period premiums due to them under Labor Code section 226.7, deprived Plaintiff and class members of the compensation guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a "'dual-purpose' remedy intended primarily to compensate employees, and secondarily to shape employer conduct." *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiff and class members as part of their employment with Defendants, and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

155. 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 meal and rest period laws and constitute

acts against the public policy behind these laws.

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

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

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

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

Class Certification

2. That this case be certified as a class action;

3. That Plaintiff be appointed as the representative of the Class and Subclass;

4. That counsel for Plaintiff be appointed as class counsel.

As to the First Cause of Action

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

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

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

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

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

As to the Second Cause of Action

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

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

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

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

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

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

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiff and class members;

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

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

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

20. For pre-judgment interest on any unpaid meal 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 California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully failing to authorize and permit Plaintiff and class members to take all rest periods;

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

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

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

27. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

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

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

As to the Fifth Cause of Action

30. 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;

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

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

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

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

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

As to the Sixth Cause of Action

36. 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, meal and rest period premiums, and/or sick leave pay owed at the time of termination of the employment of Plaintiff and other terminated class members;

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

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

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

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

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

As to the Seventh Cause of Action

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

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

44. For statutory penalties according to proof pursuant to California Labor Code section 210;

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

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

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

As to the Eighth Cause of Action

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

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

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

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

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

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

As to the Ninth Cause of Action

54. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other aggrieved employees: 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing to include all forms of remuneration in the regular rate of pay for purposes of paying overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and 1198 (by

failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); 246 and 248.6 (by failing to properly calculate sick leave pay); and 2802 (by failing to reimburse business expenses);

55. For civil penalties pursuant to the California Labor Code, including sections 210, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), 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;

56. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' 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;

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

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

As to the Tenth Cause of Action

59. 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 include all forms of remuneration in the regular rate of pay for purposes of paying overtime wages and/or meal and rest period premiums to Plaintiff and class members, failing to provide Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and class members all meal periods, 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, failing to

properly calculate Plaintiff's and class members' sick leave rates of pay, 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.*;

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

61. 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.*;

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

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

As to the Eleventh Cause of Action

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

65. For restitution of the statutory benefits under section 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the day such amounts were due and payable;

66. 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.*;

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

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

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

Dated: March 25, 2024

Respectfully submitted,

Capstone Law APC

By: Roxanna Tabatabaeepour

Roxanna Tabatabaeepour
Ryan Tish
Alexander Wallin

Attorneys for Plaintiff Evelyn Lambert

EXHIBIT "1"

Capstone LAW APC

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November 22, 2023

VIA ONLINE SUBMISSION

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

Subject: *Evelyn Lambert v. PSL Associates, LLC, et al.*

Dear PAGA Administrator:

This office represents Evelyn Lambert in connection with her claims under the California Labor Code. Ms. Lambert was an employee of PSL ASSOCIATES, LLC; PEGASUS SENIOR LIVING, LLC; WELLTOWER PEGASUS TENANT, LLC; OASIS AHR, LLC; and/or OASIS OUTSOURCING III, LLC. For the purpose of this letter, Ms. Lambert collectively refers to these entities as "PSL."

The employers may be contacted directly at the addresses below:

PSL ASSOCIATES, LLC
611 S. MAIN STREET STE 400
GRAPEVINE, TX 76051

PEGASUS SENIOR LIVING, LLC
611 S MAIN ST STE 400
GRAPEVINE, TX 76051

WELLTOWER PEGASUS TENANT, LLC
611 S. MAIN ST STE 400
GRAPEVINE, TX 76051

OASIS AHR, LLC
2054 VISTA PARKWAY SUITE 300
WEST PALM BEACH, FL 33411

OASIS OUTSOURCING III, LLC
2054 VISTA PARKWAY, SUITE 300
WEST PALM BEACH, FL 33411

Ms. Lambert 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. Lambert seeks relief on behalf of herself, the State of California, and other persons who are or were employed by PSL 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.

Ms. Lambert worked for PSL as a Care Partner, Medication Technician, and Shift Supervisor at its facility in Lancaster, California, from approximately December 2019 to June 2023. During her employment, Ms. Lambert typically worked eight (8) hours or more per day and five (5) days per week. At the time her employment ended, Ms. Lambert was compensated approximately $17.04 per hour. Ms. Lambert's primary job duties included, without limitation, administrating medication to residents, helping residents with daily living activities), cleaning (laundry, mopping, vacuuming), documenting residents' care, and delivering residents' mail.

PSL committed one or more of the following Labor Code violations against Ms. Lambert, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c): [1]

PSL's Company-Wide and Uniform Payroll and HR Practices

PSL owns and operates senior assisted living and memory care communities in the United States. Upon information and belief, PSL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Grapevine, Texas, or West Palm Beach, Florida, for all non-exempt, hourly paid employees working for PSL in California, including Ms. Lambert and other aggrieved employees. At all relevant times, PSL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Lambert and other aggrieved employees, regardless of their location or position.

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

[1] These facts, theories, and claims are based on Ms. Lambert's experience and counsel's review of those records currently available relating to Ms. Lambert'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. Lambert 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.

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

PSL willfully failed to pay all overtime wages owed to Ms. Lambert and other aggrieved employees. During the relevant time period, Ms. Lambert and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, PSL had a policy and/or practice of discouraging and impeding Ms. Lambert and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. In doing so, PSL failed to implement a reliable timekeeping system to track and record Ms. Lambert's and other aggrieved employees' hours worked. PSL's timekeeping software often malfunctioned, had connectivity issues, or would undergo maintenance for long periods of time, which impeded Ms. Lambert and other aggrieved employees from accurately recording their hours worked. When PSL's timekeeping system malfunctioned, had connectivity issues, or underwent maintenance, PSL's policy and/or practice was to require employees, including Ms. Lambert and other aggrieved employees, to fill out handwritten timesheets and submit them to management at the end of each shift for review and approval. Upon information and belief, PSL's management often interlineated, altered, and/or falsified Ms. Lambert's and other aggrieved employees' time records. Essentially, PSL's supervisors maintained control and/or discretion over employees' clock-in and clock-out times reported on their handwritten timesheets.

Because PSL discouraged overtime accrual by, among other things, altering and/or falsifying timesheets, Ms. Lambert and other aggrieved employees were required to complete assigned tasks outside of their scheduled shifts without being compensated for the time they worked. This policy of limiting overtime, coupled with PSL's understaffing and assignment of heavy workloads (*see infra*), led Ms. Lambert and other aggrieved employees to work off-the-clock before and after their scheduled shift times. For example, Ms. Lambert spent 5-10 minutes before her shifts getting updates on residents from the previous shift's Medication Technician and Care Partner. As a further example, upon pressure from her supervisors to clock out, Ms. Lambert subsequently spent 30-60 minutes completing work-related tasks, such as helping residents dress, making sure they had their meals, or cleaning resident rooms, time for which she was not paid. When Ms. Lambert attempted to record this time spent working, on information and belief, PSL's management would later change her timesheets and shave off the time spent working after the shift to avoid payment of additional wages. This off-the-clock work could have been recorded by PSL, but it refused to do so to avoid payment of additional wages to Ms. Lambert and other aggrieved employees.

Second, PSL had, and continues to have, company-wide policies and/or practices of understaffing and assigning heavy workloads, including adopting a single-staffing model for certain positions, including Medication Technicians, which resulted in a lack of meal period coverage and prevented Ms. Lambert and other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. As a result of PSL's policy of understaffing and/or single-staffing, Ms. Lambert and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Moreover, PSL has a practice of failing to schedule meal periods, which further caused Ms. Lambert and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Ms. Lambert missed her meal period entirely 1-2 times per week to meet the demands of her workload, such as administering and documenting medications to more than 20 residents per shift, helping residents with activities of daily living (dressing, bathing, and cleaning rooms), and preparing shift reports to pass on to the next shift, among other tasks. Consequently, Ms. Lambert and other aggrieved employees were required to work through their meal periods and/or had their unpaid meal periods interrupted in order to complete their assigned duties, time for which they were not paid.

Third, PSL had, and continues to have, a policy and/or practice of requiring that Ms. Lambert and other aggrieved employees carry their personal mobile devices and respond to requests on a walkie-talkie application (called "Two Way"), at all times. As a result, PSL's management contacted Ms. Lambert and other aggrieved employees through the Two Way application during unpaid meal periods to discuss work-related matters. For example, during almost every meal period, Ms. Lambert was required to spend 5-10 minutes answering requests to assist with urgent resident needs and responding to coworkers' questions. PSL knew or should have known that Ms. Lambert and other aggrieved employees were performing work while off-the-clock in order to meet PSL's expectations, but failed to compensate them for this time.

Fourth, PSL maintained a company-wide on-premises meal period policy, which mandated that Ms. Lambert and other aggrieved employees remain on PSL's premises during their unpaid meal periods. Because Ms. Lambert and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, PSL effectively maintained control over Ms. Lambert and other aggrieved employees during their unpaid meal periods.

Fifth, on information and belief, PSL's company-wide timekeeping system prevented Ms. Lambert and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because, when the electronic timekeeping system was operating, the system locked out Ms. Lambert and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, PSL did not record all hours worked during meal periods and Ms. Lambert and other aggrieved employees performed work during meal periods for which they were not paid.

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

Moreover, PSL did not pay Ms. Lambert and/or other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, PSL paid Ms. Lambert and other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, on information and belief, PSL failed to incorporate all compensation, including shift differential pay, 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 and/or double-time wage rates. Therefore, during times when Ms. Lambert and/or other aggrieved employees worked overtime and received these other forms of pay, PSL failed to pay all overtime and/or double-time wages by paying a lower overtime rate than required.

PSL's failure to pay Ms. Lambert 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. Lambert 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. 5-2001 as "the time during which an employee suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act." Cal. Code Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

First, as set forth above, due to PSL's restrictions on overtime accrual, PSL systematically failed to pay Ms. Lambert and other aggrieved employees for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. As stated, because PSL discouraged and impeded Ms. Lambert and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, Ms. Lambert and other aggrieved employees were required to work off-the-clock before and after their scheduled shift start and end times, such as assisting residents, getting updates on residents from the previous shift, helping residents dress, making sure they had their meals, and/or cleaning rooms. As also set forth above, PSL's timekeeping system restricted Ms. Lambert and other aggrieved employees from accurately recording their hours worked due to frequent malfunctions and maintenance outages. Instead, Ms. Lambert and other aggrieved employees filled out handwritten timesheets, which were subject to PSL's supervisors altering and/or falsifying time punches to reflect scheduled hours rather than hours actually worked, thereby shorting Ms. Lambert and other aggrieved employees for work performed outside their scheduled shifts.

Second, as stated above, due to PSL's uniform practices of understaffing (including adopting a single-staffing model for certain positions), assignment of heavy workloads, failure to schedule meal periods, resultant lack of meal period coverage, and policy requiring employees respond to their personal mobile devices (through the Two Way application), Ms. Lambert and other aggrieved employees were prevented from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Further, as also stated, due to PSL's company-wide policy requiring employees to stay on the work premises during meal periods, Ms. Lambert and other aggrieved employees were not relieved of all duties during unpaid meal periods.

Moreover, as stated, PSL systematically failed to pay Ms. Lambert and other aggrieved employees for actual hours worked during unpaid meal periods, because, even when PSL's timekeeping system was working, it locked out Ms. Lambert and other aggrieved employees for 30 minutes when they clocked out for a meal period. Thus, PSL systematically failed to pay Ms. Lambert and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Accordingly, PSL regularly failed to pay at least minimum wages to Ms. Lambert 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. Lambert 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. The applicable IWC Wage Order further provides that employees in the health care industry who work shifts in excess of eight (8) hours in a workday may waive one of their two meal periods, if the waiver is signed by both the employee and employer. Cal. Code Regs. tit. 8, § 11050(11)(D).

Under California law, an employer cannot evade meal period requirements via the use of "on-duty" meal agreements because it understaffs its locations. *Abdullah v. U.S. Sec. Assocs.*, 731 F.3d 952, 963 (9th Cir. Cal. 2013). In addition, an employee must be provided with the opportunity to eat his or her meal while performing the duties required and any on-duty meal period must, like any off-duty meal period, be at least 30 minutes long. *L'Chaim House, Inc., et al. v. Division of Labor Standards Enforcement*, 38 Cal. App. 5th 141 (2019).

First, during the relevant time period, as stated, PSL had, and continues to have, a company-wide policy and/or practice of understaffing including adopting a single-staffing model for certain positions, while assigning heavy workloads, which has resulted in a lack of meal period coverage and prevented Ms. Lambert and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, PSL had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Ms. Lambert and other aggrieved employees to not be relieved of their duties for compliant meal periods.

PSL's practices and polices prevented Ms. Lambert and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Ms. Lambert and 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. For example, Ms. Lambert missed her meal period entirely 1-2 times per week to meet the demands of her workload, such as administering and documenting medications to more than 20 residents per shift, helping residents with activities of daily living (dressing, bathing, and cleaning rooms), and preparing a shift report to pass on to the next Medication Technician on shift, among other tasks. For the same reasons, Ms.

Lambert would often have to take her meal periods late, and have her meal periods interrupted or cut short to provide immediate assistance to residents.

Moreover, as stated, PSL had, and continues to have, a company-wide policy and/or practice of requiring that Ms. Lambert and other aggrieved employees respond to requests through the Two Way walkie-talkie application on their personal mobile devices at all times, including during meal periods. As a result, PSL's management contacted Ms. Lambert and other aggrieved employees on their personal phones during meal periods to discuss work-related matters.

Second, as stated, PSL, maintained and implemented a company-wide on-premises meal period policy, which mandated that Ms. Lambert and other aggrieved employees remain on the work premises during the meal periods. Because Ms. Lambert and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, PSL effectively maintained control over Ms. Lambert and other aggrieved employees during meal periods.

Third, as described above, due to malfunctions, connectivity issues, and long periods of maintenance, PSL's electronic timekeeping system was often offline, which forced Ms. Lambert and other aggrieved employees to record their meal periods on handwritten timesheets, which, on information and belief, were subject to alterations by PSL's management. Also, as stated, even when PSL's company-wide timekeeping system was operable, it prevented Ms. Lambert and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. Lambert and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed.

Fourth, PSL did not provide Ms. Lambert and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During her employment, Ms. Lambert often worked shifts in excess of ten (10) or more hours per day but was not provided a second 30-minute meal period. PSL did not present Ms. Lambert and other aggrieved employees with the opportunity to voluntarily choose whether to waive their second 30-minute meal period on any given day. Ms. Lambert and 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.

Fifth, to the extent that PSL utilized "on-duty" meal period agreements, upon information and belief, its practices and/or policies do not comply with IWC Wage Order No. 5-2001's requirements for on-duty meal periods. IWC Wage Order No. 5-2001 permits on-duty meal periods only when (a) the employees eat with the clients during their meals and are provided with the same meal the clients eat at no charge; or (b) the employee is the sole person in charge and, on the day shift, is provided a meal at no charge. Cal. Code Regs., tit. 8, § 11050(11)(E). Further, an on-duty meal period permitted by IWC Wage Order No. 5-2001 does not absolve employers of the duty to provide timely, 30-minute meal periods. *L'Chaim*, 38 Cal. App. 5th at 147 ("an employee subject to subdivision 11(E) is still entitled to a 30-minute meal period even though that meal period may be on-duty instead of off-duty."). Throughout her employment, Ms. Lambert did not eat with patients during meals and was not provided with the same meal the patients ate at no charge. Further, Ms. Lambert was not the sole person in charge, and if working a day shift, was not provided a meal at no charge. Rather, during her employment, Ms. Lambert ate separately from patients; always worked with one (1) Care Partner or other employee; and ate meals that she brought from home.

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

Furthermore, PSL engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods were not provided. Because of this practice and/or policy, Ms. Lambert and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that PSL did pay Ms. Lambert and other aggrieved employees premium pay for missed, late, and interrupted meal periods, they did so at the incorrect rates. In addition to an hourly wage, PSL paid Ms. Lambert and other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, PSL failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. Therefore, during times when Ms. Lambert and other aggrieved employees received meal period premiums and these other forms of pay, PSL failed to pay full meal period premiums by paying a lower rate than required. Specifically, PSL paid Ms. Lambert and other aggrieved employees meal period premiums at their straight hourly rate of pay instead of at their regular rate of pay.

Accordingly, PSL failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Lambert 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).

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

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, PSL regularly failed to authorize and permit Ms. Lambert and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, PSL's company-wide practices, including understaffing/single-staffing and assigning heavy workloads, prevented Ms. Lambert and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, PSL failed to schedule rest periods, which, coupled with PSL's failure to provide adequate rest period coverage, further led to Ms. Lambert and other aggrieved employees not being authorized and permitted to take rest periods. Moreover, Ms. Lambert and other aggrieved employees were required to respond to requests from management and other employees through the Two Way walkie-talkie application on their personal mobile devices, resulting in interrupted rest periods.

Furthermore, PSL maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Lambert and other aggrieved employees remain on the premises during their rest periods. Because Ms. Lambert and other aggrieved employees were restricted from leaving PSL's premises during rest periods, even when they were not in sole charge of residents, they were denied the ability to use their rest periods freely for their own purposes, such as completing personal errands. Thus, PSL effectively maintained control over Ms. Lambert and other aggrieved employees during rest periods.

As a result of PSL's practices and policies, Ms. Lambert 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 rest periods to which they were entitled. For example, Ms. Lambert worked through nearly all of her rest periods because of the heavy workload, lack of coverage, and PSL's failure to schedule rest periods for employees. PSL failed to authorize and permit Ms. Lambert and other aggrieved employees to take another rest period when their rest periods were interrupted to respond to the needs of residents.

PSL 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. Lambert and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that PSL did pay Ms. Lambert and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, PSL did not pay Ms. Lambert and other aggrieved employees at the correct rate of pay for premiums because PSL failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PSL failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Lambert 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. PSL has not provided Ms. Lambert 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, PSL has knowingly and intentionally provided Ms. Lambert and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PSL issued uniform wage statements to Ms. Lambert and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; 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, PSL violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because PSL did not record the time Ms. Lambert and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), PSL did not list the correct amount of gross wages and net wages earned by Ms. Lambert and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, PSL failed to accurately list the total number of hours worked by Ms. Lambert 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)).

In addition, because PSL did not calculate Ms. Lambert's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, PSL did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, PSL failed to list the correct amount of net wages in violation of section 226(a)(5). PSL 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).

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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating 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), PSL willfully failed to maintain accurate payroll records for Ms. Lambert 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, PSL 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 meal period start and end times for Ms. Lambert and other aggrieved employees, in violation of section 1198. Also, in light of PSL's failure to provide Ms. Lambert and other aggrieved employees with second 30-minute meal periods to which they were entitled, PSL kept no records of meal start and end times for second meal periods.

Because PSL failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Lambert 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. Lambert 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. Lambert 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, PSL willfully failed to pay Ms. Lambert and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within the time periods specified by California Labor Code section 204.

Ms. Lambert 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).

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

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.

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

Ms. Lambert 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).

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

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. 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, PSL did not pay Ms. Lambert and other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, PSL paid Ms. Lambert and other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, PSL failed to incorporate all remunerations, including shift differential pay, 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 Ms. Lambert and other aggrieved employees took sick leave and received these other forms of pay, PSL failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, PSL paid Ms. Lambert and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

PSL'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 Ms. Lambert and other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l) and 248.6(b)(3)(A).

Ms. Lambert and 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. 5-2001, 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, PSL, on a company-wide basis, required Ms. Lambert and other aggrieved employees 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, Ms. Lambert was required to use her personal cellular phone to contact residents' families and physicians, and to call 911 for residents because the company phone would often be inoperable. Ms. Lambert was also required to use her personal cellular phone and mobile data to download and use the walkie-talkie application, Two Way, to stay in contact with coworkers during her shifts. Although PSL required Ms. Lambert and other aggrieved employees to use their personal mobile devices and mobile data to carry out their work-related duties, PSL failed to reimburse them for their costs incurred.

Additionally, during the relevant time period, PSL required Ms. Lambert and other aggrieved employees to purchase supplies and/or equipment necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. For example, throughout her employment, Ms. Lambert spent about $30 per year on hand sanitizer, pens, masks, and gloves because PSL failed to provide her with the necessary supplies and/or equipment which were required to perform her duties.

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

Thus, PSL 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. Lambert 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." PSL, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Lambert's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Lambert 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. Lambert, 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 PSL 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. Lambert 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:

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

Best Regards,

Anthony Castillo

Copy: PSL ASSOCIATES, LLC (via U.S. Certified Mail); PEGASUS SENIOR LIVING, LLC (via U.S. Certified Mail); WELLTOWER PEGASUS TENANT, LLC (via U.S. Certified Mail); OASIS AHR, LLC (via U.S. Certified Mail); OASIS OUTSOURCING III, LLC (via U.S. Certified Mail)

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2054 VISTA PARKWAY SUITE 300
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2054 VISTA PARKWAY, SUITE 300
WEST PALM BEACH, FL 33411

OASIS OUTSOURCING III, LLC
2054 VISTA PARKWAY, SUITE 300
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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 **March 25, 2024,** I served the documents 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:

Will Lawther wlawther@foley.com Krista Cabrera kCabrera@foley.com Kevin Jackson kjackson@foley.com Sonia Moreno Smoreno@foley.com Foley & Lardner LLP 555 S Flower St, Suite 3300, Los Angeles, CA 90071-2411 Phone 213.972.4537 | Cell 203.434.3776	*Attorneys for PSL ASSOCIATE, LLC, Pegasus Senior Living, LLC, Welltower Pegasus Tenant, LLC*
Andrew Crane acrane@fisherphillips.com Genevieve Villanueva gvillanueva@fisherphillips.com Jeffery Thirrell jthurrell@fisherphillips.com Nicole Simpson nsimpson@fisherphillips.com Fisher & Phillips LLP 2050 Main Street, Suite 1000 Irvine, CA 92614	*Attorneys for OASIS AHR, LLC and OASIS OUTSOURCING III, LLC*

[ ] **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.

[X] **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 OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **March 25, 2024,** at Los Angeles, California.

Riley McIntire Type/Print Name	Signature