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San Luis Obispo Superior Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO

DAWN ZIMMERLE, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

CENTRAL COAST HOME HEALTH, INC.,
a California Corporation; and DOES 1
through 20, inclusive;

Defendants.

Case No.: 26CVP-0012

*[Assigned to Hon. Tana L. Coates, Dept 4, for
all purposes]*

FIRST AMENDED COMPLAINT

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Pay for Rest and Recovery
Periods Under Labor Code § 226.2;
- (4) Failure to Provide Meal Periods;
- (5) Failure to Provide Rest Breaks;
- (6) Failure to Reimburse Bus. Expenses;
- (7) Failure to Pay Vested Vacation;
- (8) Failure to Timely Pay Final Wages;
- (9) Failure to Provide Accurate Itemized
Wage Statements;
- (10) Unfair and Unlawful Competition; and
- (11) PAGA Assessment for Violations of the
Labor Code

JURY TRIAL DEMANDED

1 Plaintiff Dawn Zimmerle (“Plaintiff”) on behalf of herself, on a representative basis, and
2 on behalf of others similarly situated, complains and alleges as follows.

3 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

4 1. Plaintiff brings this action against her employers, Defendant Central Coast Home
5 Health, Inc., and DOES 1 through 20, inclusive, (collectively, the “Defendants”) on behalf of
6 herself and all other current and former nonexempt employees employed by Defendants in
7 California within the last four years (the “Represented Employees”), for Defendants’ violations
8 of the California Labor Code stemming from Defendants’ failure to pay all wages owed,
9 including minimum, regular, and overtime wages, failure to pay for rest and recovery periods
10 and other nonproductive time under Labor Code § 226.2, failure to provide meal periods, failure
11 to provide rest breaks, failure to reimburse business expenses, failure to pay vested vacation,
12 failure to timely pay wages upon separation of employment, and failure to provide accurate
13 itemized wage statements, among other claims.

14 2. Plaintiff was employed by Defendants and alleges on information and belief that
15 the Represented Employees were subjected to the same policies, working conditions, and
16 corresponding wage and hour violations to which Plaintiff was subjected during employment.

17 3. Plaintiff and the Represented Employees were not provided all minimum, regular,
18 and overtime wages due to Defendants’ piece-rate compensation policy, which only paid the
19 Represented Employees on a “per-patient” basis. Under this policy and practice, the
20 Represented Employees did not receive separate hourly compensation at no less than the
21 minimum wage for unpaid, on-duty time including tasks such as scheduling appointments,
22 completing paperwork (*e.g.*, documenting each patient’s care in the patient’s medical chart –
23 “charting”), and travel time to/from each patient’s visit. Also, the piece-rate compensation paid
24 to Plaintiff and the Represented Employees often resulted in a payment of wages at less than the
25 required California minimum wage for all hours worked. Thus, Defendants’ piece-rate pay
26 policy violated Labor Code § 226.2, which requires employers to provide separate hourly
27 compensation to piece-rate employees for rest and recovery periods and nonproductive time.
28

1 4. Additionally, at all relevant times, Plaintiff and the Represented Employees were
2 not provided proper minimum and overtime wages due to the Defendants' failure to accurately
3 record and compensate for all hours worked, which led to frequent and reoccurring unpaid
4 compensable time. In fact, pursuant to Defendants' piece-rate policy, Plaintiff and the
5 Represented Employees were not paid *any* overtime, even when working over 8 hours per day
6 and/or 40 hours per week, in violation of California law.

7 5. Also, Plaintiff and the Represented Employees are/were employees of Defendants
8 who were paid on a piece-rate basis. However, Defendants did not comply with the
9 requirements of Labor Code § 226.2 when it failed to provide separate payments to its piece-rate
10 employees for rest and recovery periods and other nonproductive time.

11 6. Plaintiff and the Represented Employees were also denied 30-minute off-duty
12 meal periods, as mandated by California law. As a result of Defendants' policies and practices,
13 the Represented Employees were subjected to meal period violations when they were: (1) unable
14 to take a meal period due to workload, (2) forced to take an on-duty meal period while under the
15 control of Defendants, (3) forced to take a shortened meal period, (4) forced to take a meal
16 period after the 5th hour of work, and (5) not provided mandated second meal periods for shifts
17 in excess of 10 hours. Moreover, Defendants failed to record or keep accurate information
18 regarding when Plaintiff and the Represented Employees took their meal periods, in violation of
19 the applicable IWC Wage Order § 7(A)(3).

20 7. Defendants also failed to provide Plaintiff and the Represented Employees with
21 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
22 mandated by California law. Defendants did not schedule rest breaks for Plaintiff and the
23 Represented Employees and the Represented Employees were often not authorized and/or
24 permitted to take mandated rest breaks due to being overwhelmed by their hectic workload.

25 8. Also, at all relevant times, Plaintiff and the Represented Employees were denied
26 paid rest breaks by virtue of the Defendants' policy that only paid its nonexempt employees on a
27 piece-rate per-patient basis, regardless of time spent. As Plaintiff and the Represented
28 Employees could not earn income during a rest break (*i.e.*, they could not simultaneously take an

1 off-duty rest break *and* treat a patient), Plaintiff and the Represented Employees were illegally
2 denied paid rest breaks. This violates California law, which requires employers that pay on a
3 piece-rate basis to provide separate *hourly* compensation for mandated paid rest breaks. *See*
4 Labor Code § 226.2; *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal.App.4th 864, 872.

5 9. Also, Defendants required Plaintiff and the Represented Employees to incur
6 substantial business-related expenses and costs without reimbursement to perform their duties for
7 Defendants. Plaintiff and the Represented Employees were also required to incur expenses to
8 perform their charting tasks and other paperwork, without reimbursement.

9 10. Also, at all relevant times, Defendants utilized a policy and practice through
10 which Plaintiff and the Represented Employees accrued vacation and/or paid time off hours
11 (collectively, “PTO”). However, on the occasions when Plaintiff and the Class Members had
12 accrued but unused vacation hours upon separation of employment, Defendants failed to pay for
13 these earned wages and, further, failed to pay for vested and unused vacation at the “final rate”
14 as required by Labor Code § 227.3.

15 11. Plaintiff also alleges that she and the Represented Employees were not paid all
16 wages due and owing upon separation of employment within the time required by Labor Code §§
17 201 – 203. Plaintiff further alleges that Defendants engaged in the practice of failing to pay all
18 wages due and owing to Plaintiff and the Represented Employees at the time their employment
19 ended with Defendants, including, but not limited to minimum wages and regular wages.

20 12. Plaintiff further alleges that Defendants failed to provide accurate itemized wage
21 statements that fully complied with the requirements of Labor Code § 226(a).

22 13. Plaintiff alleges that Defendants’ violations of the wage and hour components of
23 the Labor Code and IWC Wage Orders enabled it to decrease expenses and to increase its level
24 of productivity and profits, thereby allowing Defendants to gain an unfair advantage over its
25 competitors.

26 14. At all material times, Defendants and DOES 1 through 10 were and/or are
27 Represented Employees’ employers or persons acting on behalf of Represented Employees’
28 employer, within the meaning of California Labor Code § 558, who violated or caused to be

1 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
2 hours and days of work in any Order of the Industrial Welfare Commission and, as such, are
3 subject to penalties for each underpaid employee as set forth in Labor Code § 558 and under
4 California law.

5 15. Plaintiff brings this lawsuit seeking declaratory, equitable, and monetary relief
6 against Defendants and each of them, on behalf of herself and the Represented Employees to
7 recover, among other things, unpaid wages and benefits, interest, attorneys' fees, penalties, costs
8 and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6,
9 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 1199, 2698,
10 2699, and 2802, among other sections inadvertently omitted. Plaintiff also reserves the right to
11 name additional representatives throughout the State of California.

12 **II. JURISDICTION**

13 16. This Court has jurisdiction over the claims for relief of Plaintiff and the
14 Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

15 **III. VENUE**

16 17. Venue as to each Defendant is proper in this Court pursuant to Code of Civil
17 Procedure § 395(a). Defendants transact business in San Luis Obispo County and the unlawful
18 acts alleged herein have a direct effect on Plaintiff and the Represented Employees in San Luis
19 Obispo County. Furthermore, Defendants employed or employ Plaintiff and Represented
20 Employees in San Luis Obispo County.

21 **IV. PARTIES**

22 **Plaintiff**

23 18. Plaintiff and Class Representative Dawn Simmerle was employed by Defendants
24 and performed work for Defendants in San Luis Obispo County.

25 **Defendants**

26 19. Plaintiff is informed and believes and thereon alleges that Defendant Central
27 Coast Home Health, Inc., is a California corporation authorized to and doing business in San
28 Luis Obispo County, California, and is and/or was the legal employer of Plaintiff and the

1 Represented Employees during the applicable statutory periods.

2 20. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
3 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
4 inclusive, but on information and belief alleges that those Defendants are legally responsible for
5 the payment of penalties and damages to Plaintiff and all Represented Employees by virtue of
6 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
7 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
8 Defendants when ascertained.

9 21. Plaintiff is informed and believes and thereon alleges that she worked under the
10 joint direction and control of Defendants and that Defendants, and each of them, acted in all
11 respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
12 business plan or policy in all respect pertinent hereto, and the acts of each Defendant are legally
13 attributable to the other Defendants. On information and belief, a unity of interest and ownership
14 between each Defendant exists such that all Defendants acted as a single employer of Plaintiff
15 and other similarly situated employees.

16 22. Plaintiff is informed and believes and thereon alleges that, in conducting
17 themselves in the manner described herein, Defendants, and each of them, were acting in active
18 concert with one another such that the acts of each were and are fully attributable to the others in
19 all material respects. Plaintiff is further informed and believes that at all relevant times
20 Defendants and each of them are now, and at all material times herein mentioned were, the
21 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
22 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
23 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
24 their remaining co-Defendants.

25 23. Furthermore, Plaintiff is informed and believes and thereon alleges that
26 Defendants, and each of them, are an integrated enterprise and should be treated as a single
27 employer because these entities share an interrelation of operations, with common human
28 resources and personnel policies and shared common offices and facilities. Additionally,

Defendants also have a shared website, common management, a centralized control of labor operations, and common ownership or financial control.

24. Plaintiff is further informed and believes that at all relevant times, Defendants have been inadequately capitalized to conduct business, have failed to follow appropriate corporate formalities, and have simply been a shell and instrumentality through which Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly, the corporate veil should be pierced and any liability attached, Defendants should be imposed jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the separate existence of these corporate entities would permit abuse of the corporate privilege, thereby sanctioning fraud and promoting injustice.

V. CLASS ACTION ALLEGATIONS

25. Plaintiff incorporates the preceding paragraphs of the First Amended Complaint (the “Complaint”) as if fully alleged herein.

26. Plaintiff brings this action on behalf of herself and all others similarly situated as a class action, pursuant to Code of Civil Procedure § 382.

27. The relevant time period for this class action is defined as the time period beginning four years prior to the filing of this action until class certification (the “Relevant Time Period”).

28. The Class, also referred to as the “Represented Employees,” that Plaintiff seeks to represent is defined as follows:

All current and former nonexempt employees employed by
Defendants in California during the Relevant Time Period.

29. Plaintiff also seeks to represent the following subclasses:

Piece-Rate Subclass

All Represented Employees who were paid by Defendants
on a piece-rate basis during the Relevant Time Period.

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1 **Meal Break Subclass**

2 All Represented Employees who worked a shift in excess of
3 5 hours during the Relevant Time Period.

4 **Rest Break Subclass**

5 All Represented Employees who worked a shift of at least
6 3.5 hours during the Relevant Time Period.

7 **Unreimbursed Expense Subclass**

8 All Represented Employees who were required to incur
9 expenses to discharge their duties for Defendants without
10 reimbursement during the Relevant Time Period.

11 **Vested Vacation Subclass**

12 All Represented Employees who had accrued but unused
13 vacation upon separation of employment during the period
14 four years before the filing of this action and ending when
15 final judgment is entered.

16 **Waiting Time Penalties Subclass**

17 All Represented Employees who separated from their
18 employment with Defendants during the period three years
19 before the filing of this action and ending when final
20 judgment is entered.

21 **Wage Statement Penalties Subclass**

22 All Represented Employees during the period one year
23 before the filing of this action and ending when final
24 judgment is entered.

25 30. Plaintiff reserves the right to amend or modify the class description with greater
26 specificity or further division into subclasses or limitation to particular issues as appropriate.

27 31. Plaintiff, as Class Representative, is a member of the class and subclasses that she
28 seeks to represent.

1 32. This action has been brought and may properly be maintained as a class action
2 under Code of Civil Procedure § 382 because there is a well-defined community of interest in the
3 litigation and the proposed class is easily ascertainable from Defendants' personnel and payroll
4 records.

5 33. **Numerosity:** The potential members of the Class as defined are so numerous that
6 a joinder of all Represented Employees is impracticable. Although the exact number is currently
7 unknown to Plaintiff, this information is easily ascertainable from Defendants' payroll and
8 personnel records.

9 34. **Commonality:** There are questions of law and fact common to the class which
10 predominate over any questions affecting only individual members of the class, including
11 without limitation:

12 i. Whether Defendants violated the California Labor Code and applicable
13 IWC Wage Order by failing to pay wages to Plaintiff and the Represented Employees for all
14 hours worked;

15 ii. Whether Defendants violated the California Labor Code and applicable
16 IWC Wage Order by failing to pay proper overtime wages to Plaintiff and the Represented
17 Employees for hours above 8 and/or 12 per day and/or 40 per week;

18 iii. Whether Defendants violated California Labor Code and IWC Wage
19 Order by paying the Represented Employees on a piece-rate basis yet not providing separate
20 hourly compensation for rest periods and other nonproductive time;

21 iv. Whether Defendants violated the California Labor Code and applicable
22 IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break
23 Subclass and whether Defendants failed to compensate Plaintiff and the Meal Break Subclass
24 with one additional hour of wages at the regular rate of pay for each instance when a compliant
25 meal period was not provided;

26 v. Whether Defendants violated the California Labor Code and applicable
27 IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break
28 Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass

1 with one additional hour of wages at the regular rate of pay for each instance when a paid rest
2 break was not provided;

3 vi. Whether Defendants violated the Labor Code and applicable IWC Wage
4 Order by failing to reimburse Plaintiff and the Unreimbursed Expense Subclass for business
5 expenses incurred discharging their duties or in obedience to the directions of their employer;

6 vii. Whether Defendants violated the California Labor Code by failing to
7 compensate Plaintiff and the Vested Vacation Subclass for all accrued but unused vacation hours
8 upon separation of employment;

9 viii. Whether Defendants violated the California Labor Code by failing to
10 timely pay all wages due upon separation of employment between Defendants and Plaintiff and
11 the Waiting Time Penalties Subclass, whether such separation was voluntary or involuntary;

12 ix. Whether Defendants violated the California Labor Code by failing to
13 provide Plaintiff and the Wage Statement Penalties Subclass with complete, accurate, itemized
14 wage statements;

15 x. Whether Defendants violated California Business & Professions Code §§
16 17200 *et seq.* due to the: failure to pay all wages owed, failure to provide mandated paid rest
17 breaks, failure to provide mandated meal periods, failure to pay all vested vacation, failure to
18 reimburse business expenses, and failure to timely pay final wages; and

19 xi. Whether Plaintiff and Represented Employees are entitled to equitable
20 relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

21 35. **Typicality:** Plaintiff's claims, as the Class Representative, are typical of the
22 claims of The Class. Plaintiff, like other members of The Class, was subjected to Defendants'
23 ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all
24 wages owed, failure to reimburse business expenses, failure to pay vested vacation, unlawful
25 deduction of wages, failure to timely pay final wages, and failure to provide accurate itemized
26 wage statements.

27 36. **Adequacy of Representation.** Plaintiff, as the Class Representative, will fairly
28 and adequately represent and protect the interests of the Class. Plaintiff's interests are not in

1 conflict with those of the Class. Class Representative's counsel are competent and experienced in
2 litigating large employment class actions and other complex litigation matters, including cases
3 like this case.

4 37. **Superiority of Class Action.** Class certification is appropriate because a class
5 action is superior to other available means for the fair and efficient adjudication of this
6 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
7 law and fact common to the Class predominate over any questions affecting only individual
8 members of the Class. Each Represented Employee has been damaged and is entitled to
9 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
10 treatment will allow those similarly situated persons to litigate their claims in the manner that is
11 most efficient and economical for the parties and the judicial system.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PAY MINIMUM WAGES**

14 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

15 *Plaintiff and the Represented Employees Against All Defendants*

16 38. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
17 alleged herein.

18 39. Plaintiff and the Represented Employees were not exempt from the requirement
19 to be paid at least the applicable California minimum wage throughout the statutory period for
20 each hour worked.

21 40. As a result of the policies and practices described in this Complaint, Plaintiff and
22 the Represented Employees were not compensated for all required minimum wages.

23 41. Consequently, Defendants violated California Labor Code laws and minimum
24 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
25 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

26 42. Plaintiff is informed and believes and thereon alleges that Defendants
27 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Represented
28 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

1 43. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
2 Represented Employees were entitled to be paid wages throughout the statutory period for each
3 hour worked, including proper minimum wages, yet Defendants chose not to pay them in
4 accordance thereto.

5 44. At all material times, Defendants DOES 1 through 20 were and/or are Plaintiff's
6 and the Represented Employees' employers or persons acting on behalf of Plaintiff and the
7 Represented Employees' employer, within the meaning of California Labor Code § 558, who
8 violated or caused to be violated Labor Code § 204 and a provision or provisions of Part 2,
9 Chapter 1 of the California Labor Code regulating hours and days of work respectively.

10 45. During employment of Plaintiff and the Represented Employees, Defendants
11 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

12 46. As a result of the Defendants' wrongful conduct, Plaintiff and the Represented
13 Employees have been damaged in amounts to be proven at trial.

14 47. Plaintiff, on behalf of herself and the Represented Employees, seeks recovery of
15 all unpaid wages, liquidated damages, penalties, interest, attorneys' fees and costs, pursuant to
16 Labor Code §§ 1194 and 1194.2, against Defendants in an amount to be proven at trial.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME WAGES**

19 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

20 *Plaintiff and the Represented Employees Against All Defendants*

21 48. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
22 alleged herein.

23 49. Plaintiff and the Represented Employees were employees of Defendants who did
24 not receive proper protections and benefits of the laws governing payment of overtime wages.

25 50. Labor Code § 204 requires that the employer timely pay all overtime wages to its
26 employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any
27 work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in
28 any one workweek shall be compensated at the rate of no less than one and one-half times the

1 regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12)
2 in one workday shall be compensated at twice the regular rate of pay for an employee.

3 51. At all relevant times, Plaintiff and the Represented Employees were required by
4 Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, as a
5 result of the policies and practices described in this Complaint, Defendants failed to pay Plaintiff
6 and the Represented Employees proper overtime wages for all overtime hours worked.

7 52. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
8 Order § 3(A) every pay period with respect to Plaintiff and the Represented Employees because
9 Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per
10 week without proper overtime compensation.

11 53. Plaintiff is informed and believes and thereon alleges that Defendants
12 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the
13 Represented Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

14 54. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
15 Represented Employees were entitled to be paid proper overtime wages throughout the statutory
16 period, yet Defendants chose not to pay them in accordance thereto.

17 55. At all material times, Defendants DOES 1 through 20 were and/or are the
18 employer of Plaintiff and the Represented Employees or were persons acting on behalf of said
19 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be
20 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California
21 Labor Code regulating hours and days of work respectively.

22 56. During the employment of Plaintiff and the Represented Employees, Defendants
23 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

24 57. As a result of Defendants' wrongful conduct, Plaintiff and the Represented
25 Employees have been damaged in amounts to be proven at trial.

26 58. Plaintiff, on behalf of herself and the Represented Employees, seeks recovery of
27 all unpaid overtime wages, penalties, interest, attorneys' fees, and costs of suit against
28 Defendants in an amount to be proven at trial.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY FOR REST AND RECOVERY PERIODS AND OTHER**
3 **NONPRODUCTIVE TIME**

4 (Labor Code § 226.2)

5 *Plaintiff and the Piece-Rate Subclass Against All Defendants*

6 59. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
7 alleged herein.

8 60. Plaintiff and the Piece-Rate Subclass are and/or were employees of Defendants
9 who were paid on a piece-rate basis.

10 61. Labor Code § 226.2 requires employers that pay their employees on a piece-rate
11 basis to provide separate payment for rest and recovery periods at a regular hourly rate that is no
12 less than the higher of the applicable minimum wage or “an average hourly rate determined by
13 dividing the total compensation for the workweek, exclusive of compensation for rest and
14 recovery periods and any premium compensation for overtime, by the total hours worked during
15 the workweek, exclusive of rest and recovery periods.” Labor Code § 226.2(a)(3)(A).

16 62. Furthermore, Labor Code § 226.2 requires employers that pay their employees on
17 a piece-rate basis to provide separate payment for nonproductive time at an hourly rate that is no
18 less than the applicable minimum wage. Labor Code § 226.2(a)(4).

19 63. At all relevant times herein, Defendants failed to compensate the Piece-Rate
20 Subclass, including Plaintiff, for all rest and recovery periods and all other nonproductive time
21 separate from any piece-rate compensation at the rate required by Labor Code § 226.2.
22 Therefore, Defendants violates Labor Code § 226.2 every pay period with respect to Plaintiff and
23 each and every one of the Represented Employees.

24 64. As a result of Defendant’s violation of Labor Code § 226.2, Plaintiff and the
25 Piece-Rate Subclass seek to recover, in a civil action, the unpaid balance of the full amount of
26 unpaid payments for rest and recovery periods and other nonproductive time, including interest
27 thereon, reasonable attorneys’ fees, and costs of suit.

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 (Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

4 *Plaintiff and the Meal Break Subclass Against All Defendants*

5 65. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 66. Plaintiff and the Meal Break Subclass are and/or were employees of Defendants
8 who did not receive proper protections and benefits of laws governing mandatory meal periods.

9 67. Labor Code § 226.7 requires employers, including Defendants, to provide
10 employees with meal periods as mandated by the Industrial Welfare Commission.

11 68. Labor Code § 512(a), in part, provides that employers, including Defendants, may
12 not employ an employee for a work period of more than five hours per day without providing an
13 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
14 except that if the total work period per day of the employee is no more than six hours, the meal
15 period may be waived by mutual consent of both the employer and the employee. Employers
16 may not employ an employee for a work period more than 10 hours per day without providing
17 the employee with a second meal period of not less than 30 minutes.

18 69. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
19 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
20 pay for each meal period that is missed.

21 70. At all relevant times, and as a result of the policies and practices described in this
22 Complaint, Plaintiff and the Meal Break Subclass were denied the 30-minute meal periods to
23 which they were entitled.

24 71. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
25 Order every pay period because Plaintiff and the Meal Break Subclass were not provided with all
26 mandatory meal periods and Defendants failed to pay Plaintiff and the Meal Break Subclass one
27 additional hour of compensation at the regular rate of pay in lieu thereof.
28

1 72. On information and belief, Plaintiff and the Meal Break Subclass did not
2 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
3 obtained from Plaintiff and the Meal Break Subclass were not willfully obtained, were not
4 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
5 unlawful adherence. Defendants did not permit or authorize Plaintiff and the Meal Break Subclass
6 to take meal periods in accordance with California law.

7 73. At all relevant times herein, Defendants failed to provide Plaintiff and the Meal
8 Break Subclass all mandated meal breaks and failed to pay wage premiums in lieu of mandated
9 meal breaks, thereby receiving an economic benefit.

10 74. By their failure to provide Plaintiff and the Meal Break Subclass with meal
11 periods as required by California law and failing to pay one hour of additional wages in lieu of
12 each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and
13 IWC Wage Order § 11. Accordingly, Defendants are liable for one hour of additional wages at
14 the employee's regular rate of compensation for each work day that a meal period was not
15 lawfully provided in an amount to be proven at time of trial.

16 75. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
17 and IWC Wage Order § 11, Defendants, and each of them, are liable to Plaintiff and the Meal
18 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO PROVIDE REST BREAKS**

21 (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

22 *Plaintiff and the Rest Break Subclass Against All Defendants*

23 76. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
24 alleged herein.

25 77. Plaintiff and the Rest Break Subclass are and/or were employees of Defendants
26 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

27 78. Labor Code § 226.7 requires employers, including Defendants, to provide rest
28 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

1 79. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
2 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
3 each work period. Employees shall receive a 10-minute rest period every four hours or major
4 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
5 hours worked, for which there shall be no deduction from wages.

6 80. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
7 Order, Defendants shall pay Plaintiff and the Rest Break Subclass one additional hour of pay at
8 their regular rate of compensation for each day that the rest period is not provided.

9 81. At all relevant times, and as a result of the policies and practices described in this
10 Complaint, Plaintiff and the Rest Break Subclass were denied mandated paid rest breaks.

11 82. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
12 Order every pay period because Plaintiff and the Represented Employees were not provided with
13 all mandatory rest periods and Defendants failed to pay Plaintiff and the Rest Break Subclass one
14 additional hour of compensation in lieu thereof.

15 83. At all relevant times herein, Defendants failed to provide Plaintiff and the Rest
16 Break Subclass all mandated rest breaks and failed to pay wage premiums in lieu of mandated
17 rest periods, thereby receiving an economic benefit.

18 84. By their failure to provide Plaintiff and the Rest Break Subclass with rest breaks
19 as required by California law, and failing to pay one hour of additional wages in lieu of each rest
20 break not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage
21 Order § 12. Accordingly, Defendants are liable for one hour of additional wages at the
22 employee's regular rate of compensation for each workday that a paid rest break was not
23 lawfully provided in an amount to be proven at time of trial.

24 85. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
25 and IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiff and the Rest
26 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

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1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 (Labor Code § 2802)

4 *Plaintiff and the Unreimbursed Expense Subclass Against All Defendants*

5 86. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 87. Plaintiff and the Unreimbursed Expense Subclass are and/or were employees of
8 Defendants who did not receive proper protections and benefits of the laws governing
9 reimbursement of business expenses.

10 88. Labor Code § 2802(a) requires that the employer indemnify its employees for
11 expenses and losses incurred while discharging their duties or in obedience to the directions of
12 their employer.

13 89. At all relevant times herein mentioned, Defendants violated Labor Code § 2802(a)
14 when they failed to reimburse Plaintiff and the Unreimbursed Expense Subclass for expenses
15 incurred as a direct consequence of employment with Defendants and/or under the direction of
16 Defendants.

17 90. As a direct result of Defendants' violation of Labor Code § 2802 and IWC Wage
18 Order § 9(B), Plaintiff and the Unreimbursed Expense Subclass have suffered, and continue to
19 suffer, substantial losses related to such incurred expenses, expenses, and attorney's fees in
20 seeking to compel Defendants to fully perform their obligations under the law, all in an amount
21 to be proved at time of trial.

22 91. Pursuant to Labor Code § 2802, Plaintiff and the Represented Employees seek to
23 recover the unreimbursed expenses, interest on the unreimbursed expenses, and the costs and
24 attorney's fees necessarily incurred in pursuing same. The exact amount of reimbursements,
25 interest, costs, and attorney's fees will be in an amount to be proved at the time of trial.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PAY VESTED VACATION**

3 (Labor Code § 227.3)

4 *Plaintiff and the Vested Vacation Subclass Against All Defendants*

5 92. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 93. Plaintiff and the Vested Vacation Subclass were employees of Defendants who
8 did not receive proper protections and benefits of the laws governing the payment of vested
9 vacation time and/or paid time off upon separation of employment.

10 94. Pursuant to Labor Code § 227.3, an employer that has implemented a paid
11 vacation, paid time off, or compensated time off policy must, upon an employee's separation
12 from employment, pay to the employee all vested but unused vacation and/or paid time off at her
13 final rate of pay.

14 95. As a result of the policies and practices described in this Complaint, Plaintiff and
15 the Vested Vacation Subclass did not receive compensation for all accrued but unused vacation
16 hours as required by Labor Code § 227.3.

17 96. At all relevant times herein, Defendants failed to pay the Vested Vacation
18 Subclass, including Plaintiff, all vested but unused vacation time and/or paid time off upon
19 separation from employment, thereby receiving an economic benefit.

20 97. Plaintiff is informed and believes and thereon alleges that Defendants, and each of
21 them, knowingly refused to perform their obligations to compensate the Vested Vacation
22 Subclass for all vested but unused vacation time and/or paid time off upon separation from
23 employment.

24 98. As a result of Defendants' violations of Labor Code § 227.3, Plaintiff and the
25 Vested Vacation Subclass seek to recover the unpaid vacation hours, as well as penalties,
26 interest, attorneys' fees, and costs as permitted under California law.

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1 **EIGHTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY FINAL WAGES**

3 (Labor Code §§ 201 – 203)

4 *Plaintiff and the Waiting Time Penalties Subclass Against All Defendants*

5 99. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 100. Plaintiff and the Waiting Time Penalties Subclass are and/or were employees of
8 Defendants who did not receive proper protections and benefits of the laws governing the timing
9 and payment of wages.

10 101. Labor Code § 201 requires that the employer immediately pay any wages, without
11 abatement or reduction, to any employee who is discharged.

12 102. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
13 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
14 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

15 103. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
16 penalty from the due date thereof at the same rate until paid or until an action therefore is
17 commenced, but the wages shall not continue for more than thirty (30) days.

18 104. At all relevant times, Defendants employed a policy and practice whereby
19 Plaintiff and the Waiting Time Penalties Subclass were not paid all wages due and owing upon
20 separation of employment within the time required by Labor Code §§ 201 and 202.

21 105. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
22 wages due and owing to Plaintiff and the Waiting Time Penalties Subclass upon separation of
23 employment, including, but not limited to, minimum, regular, and overtime wages, and meal and
24 rest period premiums.

25 106. Additionally, at all relevant times, Defendants failed to pay all mandated sick
26 wages owed to the Waiting Time Penalties Subclass at the proper rate of pay under Labor Code §
27 246(l), leading to a failure to pay all wages owed upon separation of employment.
28

1 107. Plaintiff alleges that, at all times material to this action, Defendants had a planned
2 pattern and practice of failing to timely pay Plaintiff and the Waiting Time Penalties Subclass all
3 wages due and owing upon separation of employment as required by Labor Code §§ 201 and
4 202. Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiff and the Waiting
5 Time Penalties Subclass the above-described waiting time penalty, all in an amount to be shown
6 according to proof at trial and within the jurisdiction of this Court.

7 **NINTH CAUSE OF ACTION**

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

9 (Labor Code § 226)

10 *Plaintiff and the Wage Statement Penalties Subclass Against All Defendants*

11 108. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
12 alleged herein.

13 109. Plaintiff and the Wage Statement Penalties Subclass are and/or were employees of
14 Defendants who did not receive proper protections and benefits of the laws governing the
15 provision of accurate itemized wage statements.

16 110. Labor Code § 226(a) requires an employer to provide its employees with itemized
17 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
18 inclusive dates of the pay period, the employee's name and the last four digits of his or her
19 Social Security number (or employee identification number), the name and address of the legal
20 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
21 corresponding number of hours worked at each hourly rate by the employee.

22 111. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
23 and the Wage Statement Penalties Subclass due to violations including: failure to accurately state
24 total hours worked (for example, the wage statements failed to accurately state total hours
25 worked and/or reflect the correct compensable hours); failure to accurately state gross wages
26 earned, all deductions, and net wages earned (due to, for example, the failure to pay all required
27 minimum and overtime wages); failure to state the applicable hourly rates (including the accurate
28 overtime rate of pay); failure to state the inclusive dates of the pay period; failure to accurately

1 state the name and address of the legal entity of the employer; and failure to accurately state the
2 corresponding number of hours worked at each hourly rate. The California Supreme Court
3 recently confirmed that these “derivative” violations violate Labor Code § 226. *See Naranjo v.*
4 *Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, 119 (approving of “derivative” wage
5 statement claims based on failure to pay all wages owed and holding that: (1) § 226 requires
6 employers to accurately report “all amounts earned and now owing, not just those amounts
7 actually paid,” and (2) a “[wage] statement that conceals the amounts earned [including premium
8 pay for missed breaks], on the ground that they also were not paid, is not an accurate [wage]
9 statement, and it does not comply with [§ 226]”).

10 112. Moreover, Defendants’ wage statements directly violated Labor Code § 226(a)
11 each period due to the failure to pay and report premium wages for denied meal periods and rest
12 breaks under § 226.7.

13 113. Furthermore, Labor Code § 226.2(a) states “[f]or employees compensated on a
14 piece-rate basis during a pay period, the following shall apply for that pay period: [...] (2) the
15 itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items
16 specified in that subdivision, separately state the following, to which the provisions of Section
17 226 shall also be applicable: (A) the total hours of compensable rest and recovery periods, the
18 rate of compensation, and the gross wages paid for those periods during the pay period [and] (B)
19 [...] the total hours of other nonproductive time, [...] the rate of compensation, and the gross
20 wages paid for that time during the pay period.”

21 114. At all relevant times, Defendants failed to provide a wage statement to Plaintiff
22 and the Represented Employees that complied with the requirements of Labor Code §
23 226.2(a)(2) because the wage statements did not include any information regarding compensable
24 rest and recovery periods, nonproductive time, or the rates of pay and compensation for the
25 same. As such, Defendants violate Labor Code § 226 and § 226.2 every pay period with respect
26 to Plaintiff and the Represented Employees.

27 115. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
28 to Plaintiff and the Wage Statement Penalties Subclass because Defendants failed to provide a

1 wage statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
2 requirements of Labor Code § 226(a).

3 116. Defendants' failure to provide the required writing deprived Plaintiff and the
4 Wage Statement Penalties Subclass of the ability to know, understand, and question the rate of
5 pay and hours used to calculate the wages paid by Defendants. Therefore, Plaintiff and the Wage
6 Statement Penalties Subclass had no way to dispute the resulting miscalculation of wages, all of
7 which resulted in an unjustified economic enrichment to said Defendants. As a direct result,
8 Plaintiff and the Wage Statement Penalties Subclass have suffered and continue to suffer,
9 substantial losses related to the use and enjoyment of such wages, lost interest on such wages and
10 expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation
11 under state law, all to their respective damages in amounts according to proof at trial.

12 117. As a result of Defendants' knowing and intentional failure to comply with Labor
13 Code § 226(a), Plaintiff and the Wage Statement Penalties Subclass have suffered an injury in
14 that each was prevented from knowing, understanding and disputing the wage payments paid to
15 them. Furthermore, Plaintiff and the Wage Statement Penalties Subclass have each suffered an
16 injury in that the failure to show all wages earned on the itemized wage statements resulted in
17 Plaintiff and the Represented Employees being denied all necessary deductions, payments, and
18 withholdings owed by the employer, including, but not limited to, the failure to make all
19 necessary contributions for unemployment benefits, social security benefits, proper payment of
20 taxes and withholdings, and other mandated state and federal benefits.

21 118. Plaintiff has also been injured as a result of having to bring this action to attempt
22 to obtain correct wage information following Defendants' refusal to comply with many of the
23 mandates of California's Labor Code and related laws and regulations.

24 119. Labor Code § 226(e) requires Defendants to pay the greater of all actual damages
25 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
26 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
27 attorney's fees and costs, to Plaintiff and the Wage Statement Penalties Subclass who were
28 injured by Defendants' failure to comply with Labor Code § 226(a). The exact amount of the

1 applicable penalty is all in an amount to be shown according to proof at trial.

2 **TENTH CAUSE OF ACTION**

3 **UNFAIR AND UNLAWFUL COMPETITION**

4 (Business and Professions Code § 17200 *et seq.*)

5 *Plaintiff and the Represented Employees Against All Defendants*

6 120. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
7 alleged herein.

8 121. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
9 competition, which includes any “unlawful, unfair or fraudulent business act or practice.” The
10 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
11 due to the unfair and unlawful business practices of Defendants as alleged herein.

12 122. Defendants, and each of them, are “persons” as defined under Business &
13 Professions Code § 17021.

14 123. As alleged herein, Defendants engaged in conduct that violated California’s wage
15 and hour laws, including failure to pay minimum, regular, and overtime wages, failure to provide
16 mandated meal periods and rest breaks, failure to reimburse business expenses, failure to pay
17 vested vacation, and failure to timely pay wages upon separation of employment, all to decrease
18 their costs and increase profits.

19 124. At all times relevant herein, Defendants did not pay Plaintiff and the Represented
20 Employees wages and monies and other financial obligations to which they were entitled.

21 125. As a result of Defendants’ failure to comply with the Labor Code and IWC
22 Orders, Represented Employees, including Plaintiff, suffered a loss of wages and monies, all in
23 an amount to be shown according to proof at trial. Defendants’ ongoing violations of the
24 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

25 126. Defendants’ violations of the California Labor Code and IWC Wage Orders and
26 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
27 practices because it was done in a systematic manner over a period of time to the detriment of the
28 Plaintiff and all others similarly-situated.

1 127. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
2 unlawful, and harmful to Plaintiff, other Represented Employees, and to the general public.
3 Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code
4 of Civil Procedure § 1021.5.

5 128. A violation of California Business & Professions Code § 17200, et seq. may be
6 predicated on the violation of any state or federal law. All of the acts described herein as
7 violations of, among other things, the California Labor Code and IWC Wage Orders, are
8 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
9 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
10 practices in violation of California Business and Professions Code §§ 17200, et seq.

11 129. Plaintiff, individually, and on behalf of the Represented Employees, is entitled to,
12 and does, seek such relief as may be necessary to disgorge the profits which Defendants have
13 acquired, or of which Plaintiff and Represented Employees have been deprived, by means of the
14 above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the
15 Represented Employees are not obligated to establish individual knowledge of the unfair
16 practices of Defendants in order to recover restitution.

17 130. Plaintiff, individually, and on behalf of the Represented Employees, is further
18 entitled to and does seek a declaration that the above described business practices are unfair,
19 unlawful and/or fraudulent.

20 131. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiff and
21 Represented Employees are entitled to restitution of the wages withheld and retained by
22 Defendants during a period that commences four years prior to the filing of this complaint; an
23 order requiring Defendants to pay all outstanding wages due to Plaintiff and Represented
24 Employees; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5
25 and other applicable laws; and an award of costs.

26 **VI. PAGA CAUSE OF ACTION (*Cal. Lab. Code.* §§ 2698 – 2699.5)**

27 132. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
28 herein.

1 133. Plaintiff is an “aggrieved employee” under the PAGA as she was employed by
2 Defendants during the applicable statutory period and suffered the Labor Code violations alleged
3 herein. As such, Plaintiff may recover the remedies described herein in a civil action filed on
4 behalf of herself and all other similarly situated current and former aggrieved employees in
5 California against whom one or more of the alleged violations was committed (hereinafter the
6 “Aggrieved Employees”).

7 134. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to
8 Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by
9 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
10 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor
11 does he, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

12 135. Pursuant to Labor Code § 2699.3(a), Plaintiff gave written notice by online filing
13 to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to
14 Defendants of the specific provisions of the Labor Code alleged to have been violated, including
15 the facts and theories to support the alleged violations. More than sixty-five (65) days have
16 elapsed since the date Plaintiff provided the written notice of the claims alleged herein without
17 the LWDA assuming jurisdiction over the claims alleged. Accordingly, Plaintiff has fully
18 satisfied the administrative prerequisites to suit under the PAGA.

19 **ELEVENTH CAUSE OF ACTION**

20 **PAGA ASSESSMENT FOR VIOLATIONS OF THE LABOR CODE**

21 (Labor Code § 2698, *et seq.*)

22 *Plaintiff and the Aggrieved Employees Against All Defendants*

23 136. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
24 herein.

25 137. As alleged above, Plaintiff and the Aggrieved Employees were subjected to
26 Defendants’ failure to pay all wages owed, including minimum, regular, and overtime wages,
27 failure to pay for rest and recovery periods and other nonproductive time under Labor Code §
28 226.2, failure to provide meal periods, failure to provide rest breaks, failure to reimburse

business expenses, failure to pay vested vacation, failure to timely pay wages upon separation of employment, and failure to provide accurate itemized wage statements, among other claims.

138. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

VII. PRAYER FOR RELIEF

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

1. That the First through Tenth Causes of Action be certified as a class action;
2. That Plaintiff be appointed as Class Representative;
3. That counsel for Plaintiff be appointed Class Counsel;
4. For all applicable statutory penalties recoverable under the First through Tenth Causes of Action to the extent permitted by law, including those pursuant to Labor Code and Orders of the Industrial Welfare Commission;
5. As to the Eleventh Cause of Action, the assessment of all applicable and available remedies under PAGA;
6. For reasonable attorneys' fees and costs as permitted under PAGA;
7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by law, including those pursuant to the Labor Code;
8. For restitution and other relief as provided by the Labor Code and Business and Professions Code § 17200, *et seq.*;
9. For a declaratory judgment that Defendants have violated Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 1199, and 2802, among other sections inadvertently omitted;
10. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, benefits, and penalties according to proof, including interest;

- 1 11. For pre- and post-judgment interest; and
2 12. For such other relief as the Court deems just and proper.

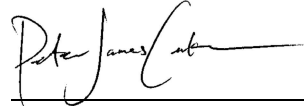
3 **DEMAND FOR JURY TRIAL**

4 WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, hereby
5 demand a jury trial as to the First through Tenth Causes of Action pled herein.

6 Dated: September 3, 2026

LAUBY, MANKIN & LAUBY LLP

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8 BY:



9 Brian J. Mankin, Esq.
10 Peter J. Carlson, Esq.
11 Attorneys for Plaintiff
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PROOF OF SERVICE
(Pursuant to CCP §§ 1013(a)(1) and 2015.5)

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, CA 92504.

On September 8, 2026, I caused to be served the foregoing document(s) described as follows:

FIRST AMENDED COMPLAINT

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was mailed with postage thereon fully prepaid.

☐ **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

☐ **By Overnight Service** I deposited such envelope in a facility regularly maintained by the United Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses prepaid, addressed to the person to be served.

☒ **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties to accept service by email or electronic transmission, I caused the document(s) to be sent from email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was not successful.

☐ **By Certified Mail-Return Receipt Requested** I caused such envelope with postage fully prepaid thereon, to be placed in the United States mail at Riverside, California

☐ **By Personal Service** I caused said document(s) to be personally served by hand on the parties listed on the attached service list.

☒ **State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 8, 2026, Riverside, California.

☐ **Federal** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Tracie Chiarito, Declarant

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