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SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

YOLANDA SOTO, individually and on
behalf of all individuals similarly situated,

Plaintiff,

vs.

MD HYDRATION INC., a California
corporation; BRETT FLORIE, an
individual; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 24STCV02956

**FIRST AMENDED CLASS ACTION
COMPLAINT**

- 1. FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND CAL. LABOR CODE §§ 200, 226, 500, 510, 1194, 1197, AND 1198;**
- 2. FAILURE TO PROVIDE PROPER WAGE STATEMENTS IN VIOLATION OF CAL. LABOR CODE § 226;**
- 3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§ 1182.12, 1194, 1194.2, 1197;**
- 4. FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE § 1194, ET SEQ.;**
- 5. MISSED REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§ 200, 226.7, 512, 516, 558, and 1198 AND 12 CALIFORNIA CODE OF REGULATIONS § 11050;**

6. **FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF LABOR CODE § 2802**
7. **VIOLATIONS OF CAL. B&P CODE §§ 17200, ET SEQ.;**
8. **VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)**

DEMAND FOR JURY TRIAL

PLAINTIFF YOLANDA SOTO, an individual and on behalf of all individuals similarly situated (“PLAINTIFF”), hereby brings this First Amended Class Action Complaint for Damages against DEFENDANTS MD HYDRATION INC. (“MD”), a California corporation; BRETT FLORIE (“FLORIE”), an individual; and DOES 1 through 50, inclusive, (collectively, “DEFENDANTS”) and states and alleges as follows:

THE PARTIES

1. PLAINTIFF was, at all times relevant to this Complaint, an adult individual living and working in Los Angeles County, California.

2. At all times relevant to this Complaint, DEFENDANT MD is and was a California corporation operating a business within the State of California, specifically in the County of Los Angeles.

3. PLAINTIFF is unaware of the true names or capacities of DEFENDANTS sued herein under the fictitious names DOES 1–50 but prays for leave to amend and serve such fictitiously named DEFENDANTS pursuant to California Code of Civil Procedure section 474 once their names and capacities become known.

4. PLAINTIFF is informed and believes, and thereon alleges, that DOES 1–50 are the partners, agents, owners, shareholders, managers, principals or employees of DEFENDANTS and/or were acting on behalf of DEFENDANTS. 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 DEFENDANTS and/or DOES 1–50, each acting as the agent for the other, with legal authority to act on the other’s behalf. The acts of any and all DEFENDANTS were in accordance with, and represent

1 the policy of, all DEFENDANTS.

2 5. At all times herein mentioned, DEFENDANTS, and each of them, ratified each and
3 every act or omission complained of herein. At all times herein mentioned, DEFENDANTS, and each
4 of them, aided and abetted the acts and omissions of each and all of the other DEFENDANTS in
5 proximately causing the damages herein alleged.

6 6. PLAINTIFF is informed and believes, and thereon alleges, that each of said
7 DEFENDANTS is in some manner intentionally, negligently or otherwise responsible for the acts,
8 omissions, occurrences and transactions alleged herein.

9 **JURISDICTION**

10 7. This action is properly filed in Los Angeles County because the acts and omissions that
11 give rise to PLAINTIFF's claims took place in Los Angeles County, California, as PLAINTIFF was
12 employed by DEFENDANTS in Los Angeles County, California, and DEFENDANTS transact
13 business in this County.

14 8. This Court has jurisdiction over DEFENDANTS because DEFENDANTS have
15 sufficient minimum contacts with and regularly conduct business within the State of California,
16 specifically in the County of Los Angeles.

17 **ALTER EGO, AGENCY, AND JOINT EMPLOYER**

18 9. FLORIE owned and/or controlled the businesses operated by MD, and furthermore,
19 FLORIE exercised control over the labor practices of each and every one of the employees (inclusive
20 of PLAINTIFF) of each and every one of their said interests, and caused the violations at issue in this
21 Complaint.

22 10. Based on the foregoing allegations, FLORIE, in fact, caused violations at-issue in this
23 Complaint, thereby creating individual liability under Labor Code § 558.1.

24 11. Pursuant to the provisions of Labor Code § 558, the liability of FLORIE would include
25 any and all amounts sufficient to recover any and all missed rest break premiums, unpaid wages, and
26 failure to reimburse necessary business expenses to PLAINTIFF and the Class Members.

27 12. As further referenced hereinbelow, the viability of obtaining liability of individuals by
28 this method was discussed by the California Supreme Court in *Reynolds v. Bement* (2005) 36 Cal.4th

1 1075, 1089 where the court noted that individual liability against non-employers could be obtained
2 through the use of § 558.

3 13. PLAINTIFF is informed and believes, and based thereon alleges, that there exists such
4 a unity of interest and ownership between MD, FLORIE, and DOES 1-50 that the individuality and
5 separateness of defendants has ceased to exist.

6 14. PLAINTIFF is informed and believes, and based thereon alleges, that despite the
7 formation of purported corporate existence, MD, FLORIE, and DOES 1-50 are, in reality, one and the
8 same, including, but not limited to because:

9 a. MD is or was completely dominated and controlled by FLORIE and DOES 1-50, who
10 personally committed the frauds and violated the laws as set forth in this complaint, and who
11 have hidden and currently hide behind MD to perpetrate frauds, circumvent statutes, or
12 accomplish some other wrongful or inequitable purpose.

13 b. FLORIE and DOES 1-50 have acted on behalf of MD, who violate, or cause to be
14 violated, the provisions regulating minimum wages or hours and days of work in any order of
15 the Industrial Welfare Commission, or violate, or cause to be violated, California Labor Code
16 Sections 203, 226, 226.7, 510, 1194, 1197, or 2802.

17 c. FLORIE and DOES 1-50 have acted on behalf of MD, who violate, or cause to be
18 violated, the provisions regulating rest breaks in any order of the Industrial Welfare
19 Commission, or violate, or cause to be violated, California Labor Code Sections 226.7, and 512.

20 d. FLORIE and DOES 1-50 have acted on behalf of MD, who violate, or cause to be
21 violated, the provisions regulating reimbursement of necessary business expenses in any order
22 of the Industrial Welfare Commission, or violate, or cause to be violated, California Labor Code
23 Sections 2802.

24 e. FLORIE and DOES 1-50 derive actual and significant monetary benefits by and through
25 MD as the funding source for their own personal expenditures.

26 f. PLAINTIFF is informed and believes that FLORIE, MD, and DOES 1-50, while really
27 one and the same, were segregated to appear as though separate and distinct for purposes of
28 perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or

inequitable purpose.

g. PLAINTIFF is informed and believes that MD does not or did not comply with all requisite corporate formalities to maintain a legal and separate corporate existence.

h. PLAINTIFF is informed and believes, and based thereon alleges, that the business affairs of FLORIE, MD, and DOES 1-50 are, and at all times relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in inextricable confusion.

i. MD is, and at all times relevant hereto was, used by FLORIE and DOES 1-50 as a mere shell and conduit for the conduct of certain of DEFENDANTS' affairs, and is, and was, the alter ego of FLORIE and DOES 1-50. The recognition of the separate existence of MD, and/or FLORIE would not promote justice, in that it would permit DEFENDANTS to insulate themselves from liability to PLAINTIFFs for violations of the Labor Code. The corporate existence of FLORIE, MD, and DOES 1-50 should be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to PLAINTIFF herein.

15. Accordingly, MD constitutes the alter egos of FLORIE and DOES 1-50, and the fiction of their separate corporate existence must be disregarded.

16. As a result of the aforementioned facts, PLAINTIFF is informed and believes, and based thereon alleges that MD, FLORIE, and DOES 1-50 are PLAINTIFF's joint employers by virtue of a joint enterprise, and that PLAINTIFF was an employee of MD, FLORIE, and DOES 1-50. PLAINTIFF performed services for each and every one of DEFENDANTS, and to the mutual benefit of all DEFENDANTS, and all DEFENDANTS shared control of PLAINTIFF as an employee, either directly or indirectly, and the manner in which DEFENDANTS' business was and is conducted.

FACTUAL ALLEGATIONS

17. PLAINTIFF works for DEFENDANTS as an hourly, non-exempt employee in the position of "Registered Nurse" and has been employed by DEFENDANT since in or around February 2023. PLAINTIFF works primarily at DEFENDANTS' workplace located at 977 E Colorado Blvd, Pasadena, CA 91106.

1 18. PLAINTIFF's job duties include but are not limited to administering IV and injection
2 therapies, maintaining reports and health records, and modifying patient treatments based on their
3 responses. PLAINTIFF's regularly scheduled shift is from 8 a.m. to 6 p.m. on Wednesdays and Fridays,
4 and from 9 a.m. to 5 p.m. on Saturdays as well.

5 19. DEFENDANTS purportedly maintain a 4/10 alternative workweek schedule pursuant
6 to an agreement passed in 2016. However, as described above, PLAINTIFF and the Class Members
7 are regularly scheduled for shifts exceeding 8 hours but less than 10 hours. As such, PLAINTIFF and
8 the Class Members are entitled to overtime compensation for all hours worked in excess of 8 hours on
9 days they are scheduled to work fewer than 10 hours. However, DEFENDANTS do not properly
10 compensate PLAINTIFF and the Class Members at their overtime rates for these hours.

11 20. Throughout her employment with DEFENDANTS, PLAINTIFF and the Class
12 Members have been contacted through their personal cell phones by DEFENDANTS. Despite this,
13 PLAINTIFF and the Class Members are never reimbursed for their out-of-pocket expenses.

14 21. Additionally, throughout their employment with DEFENDANTS, PLAINTIFF and the
15 Class Members routinely work for DEFENDANTS without being provided with a timely, off-duty ten-
16 minute paid rest period for every four (4) hours worked or major fraction thereof. Specifically,
17 DEFENDANTS told PLAINTIFF that the rest breaks were part of a mandatory one-hour break period,
18 despite the entire hour being unpaid.

19 22. Despite the aforementioned, during their employment with DEFENDANTS,
20 PLAINTIFF and the Class Members are not paid one (1) hour of pay at their regular rate of
21 compensation for each work day where a legally compliant rest period was not provided.

22 23. As a result of DEFENDANTS' failure to pay all hours worked, failure to pay proper
23 overtime wages, and failure to pay all rest period premiums, DEFENDANTS maintained inaccurate
24 payroll records, and issue inaccurate wage statements to PLAINTIFF and the Class Members.

25 24. DEFENDANTS have engaged in, and continue to engage in, unfair business practices
26 in California by practicing, employing, and utilizing the employment practices and policies outlined
27 above. DEFENDANTS' utilization of such unfair business practices constitutes unfair competition and
28 provides an unfair advantage over DEFENDANTS' competitors. DEFENDANTS' utilization of such

unfair business practices deprives PLAINTIFF and the Class Members of the general minimum working standards and entitlements due to them under California law and the Industrial Welfare Commission wage orders as described herein.

25. As a direct result of the wage and hour violations herein alleged, PLAINTIFF and the Class Members have suffered, and continue to suffer, substantial losses related to the use and enjoyment of wages, lost interest on such wages, and expenses and attorney's fees in seeking to compel DEFENDANTS to fully perform their obligations under state law, all to their respective damage in amounts according to proof at the time of trial.

CLASS ACTION ALLEGATIONS

26. PLAINTIFF brings this action as a class action on behalf of the following defined Class:

The Class: All individuals who have been, or currently are, employed by DEFENDANTS as “non-exempt employees” during the Class Period.

27. “Class Period” is defined as the time from February 2, 2020, through the date that judgment is entered, based upon information and belief that the violations, as described more fully hereinafter, began long before February 2, 2020, and are continuing. PLAINTIFF and members of Class herein reserve the right to amend this Complaint to reflect a different Class Period as discovery in this matter proceeds.

28. Numerosity: PLAINTIFF is informed and believes, and on that basis alleges, that during the Class Period, dozens of Class members have been employed by DEFENDANTS as non-exempt employees in the State of California. Because so many persons have been employed by DEFENDANTS in this capacity, the members of the PLAINTIFFS’ Class are so numerous that joinder of all members is impossible and/or impracticable.

29. Commonality: Common questions of law, in fact, exist as to all members of the PLAINTIFFS’ Class and predominate over any questions affecting solely individual members of the PLAINTIFFS’ Class. Among the questions of law and fact, that are relevant to the adjudication of Class members claims are as follows:

(a) Whether DEFENDANTS had/have policies and/or practices that result in hours worked not being properly compensated;

(b) Whether DEFENDANTS unlawfully failed to properly calculate and pay overtime compensation due and owing to the PLAINTIFFs and members of the Class in violation of Labor Code § 1194;

(c) Whether DEFENDANTS' policy and/or practice of failing to accurately pay overtime to PLAINTIFFs and members of the Class violates applicable provisions of California Law, including Labor Code sections, applicable Industrial Welfare Commission Orders, and applicable State Regulations;

(d) Whether DEFENDANTS had/have a policy and/or practice that results in the presentation of inaccurate wage statements to PLAINTIFF and the Class;

(e) Whether DEFENDANTS unlawfully and/or willfully failed to furnish PLAINTIFF and Class members with accurate, itemized wage statements upon payment of wages in violation of Labor Code § 226;

(f) Whether DEFENDANTS unlawfully and/or willfully deprived PLAINTIFF and Class Members of rest breaks and pay for missed breaks pursuant to Labor Code §§ 200, 226.7, 512, and 8 CCR § 11010;

(g) Whether PLAINTIFF and Class members sustained damages, and if so, the proper measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief; and,

(h) Whether DEFENDANT violated the Unfair Competition Law of California, §17200, *et seq.*, by violating the above-cited provisions, and treating PLAINTIFF and Class members unfairly by failing to pay all wages due and for all hours worked, failing to reimburse for business expenses; failing to provide rest breaks; failing to furnish an accurate, itemized wage statement upon payment of wages.

30. Typicality: PLAINTIFF's claims are typical of the members of the PLAINTIFF's Class. PLAINTIFF, like other members of the Class working for DEFENDANTS in California, was subjected to DEFENDANTS' policies and/or practices set forth above. PLAINTIFF's job duties were, and are, typical of those of other Class members.

reasonable attorneys' fees and costs of suit pursuant to Labor Code §§ 218.5, 1194, and penalties pursuant to Labor Code §§ 203 and 226.

40. In violation of state law, DEFENDANTS have knowingly and willfully refused to perform their obligations to compensate PLAINTIFF and the Class for all wages earned and all hours worked. As a direct result, PLAINTIFF and the Class have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel DEFENDANTS to fully perform their obligations under state law, all to their respective damage in amounts according to proof at time of trial.

41. PLAINTIFF and the Class are thus entitled to recover nominal, actual and compensatory damages in amount according to proof at time of trial, but in amounts in excess of the jurisdiction of this Court.

42. As a proximate result of the aforementioned violations, PLAINTIFF and the Class have been damaged in an amount according to proof at time of trial.

43. DEFENDANTS' conduct described herein violates Industrial Welfare Commission Order 4, and Labor Code §§ 200, 203, 218.5, 226, 558, 1194, and 1198. Therefore, pursuant to 8 CCR § 11010 and Labor Code §§ 203, 218.5, 226, 558, 1194 and 1198, PLAINTIFF and the Class are entitled to recover damages for the nonpayment of wages of all hours worked that were improperly deducted and/or not counted as a result of DEFENDANTS' policies, liquidated damages for underpayment of minimum wages, penalties, reasonable attorneys' fees, expenses, and costs of suit.

WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE PROPER WAGE STATEMENTS

IN VIOLATION OF CAL. LABOR CODE § 226

(BY PLAINTIFF AGAINST ALL DEFENDANTS)

44. PLAINTIFF hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

45. Labor Code §226(a) sets forth reporting requirements for employers when they pay wages, as follows: "Every employer shall . . . at the time of each payment of wages, furnish his or her

employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the employee . . . (8) the name and address of the legal entity that is the employer..."

Section (e) provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4000), and shall be entitled to an award of costs and reasonable attorneys' fees."

46. DEFENDANTS failed to accurately record the total wages due to PLAINTIFF and the Class, and total wages due.

47. PLAINTIFF and the Class were damaged by this failure to provide accurate wage statements because, among other things, PLAINTIFF was unable to determine the proper amount of wages actually owed to her, and whether she had received full compensation therefore.

48. PLAINTIFF requests recovery of Labor Code § 226(e) penalties according to proof, as well as interest, attorneys' fees and costs pursuant to Labor Code § 226(e), and all other damages, attorneys' fees, costs, expenses and interest permitted by statute.

WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

THIRD CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF

LABOR CODE §§ 1182.12, 1194, 1194.2, 1197

(BY PLAINTIFF AGAINST ALL DEFENDANTS)

49. PLAINTIFF hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

50. Pursuant to Labor Code § 1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage.

51. At all relevant times, DEFENDANTS failed and refused to pay PLAINTIFFs and the Class the legal minimum wage in the State of California, as set forth in Labor Code §1182.12, , due to

1 their not being paid at all during their mandated rest breaks. Under California law, PLAINTIFFs and
2 the Class are entitled to at least the minimum wage for every hour worked.

3 52. DEFENDANTS' failure to pay the legal minimum wage to PLAINTIFFs and the Class
4 as alleged herein is unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by
5 PLAINTIFFs and the Class in a civil action for the unpaid balance of the full amount of the unpaid
6 wages owed, calculated as the difference between the straight time compensation paid and applicable
7 minimum wage, including interest thereon.

8 53. As a direct result, PLAINTIFFs and the Class 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 attorneys' fees in seeking to compel DEFENDANTS to fully perform their obligations
11 under state law, all to his damage in amounts according to proof at time of trial, but in amounts in
12 excess of the minimum jurisdiction of this Court.

13 54. DEFENDANTS have committed the acts alleged herein knowingly and willfully, with
14 the wrongful and deliberate intention of injuring PLAINTIFFs and the Class, from improper motives
15 amounting to malice, and in conscious disregard of PLAINTIFFs and the Class' rights. PLAINTIFFs
16 and the Class are thus entitled to recover nominal, actual and compensatory damages in amounts
17 according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

18 55. Pursuant to Labor Code § 1194, PLAINTIFFs request that the court award reasonable
19 attorneys' fees and costs incurred by PLAINTIFFs in this action.

20 56. In addition, pursuant to Labor Code §1194.2, PLAINTIFFs and the Class are entitled to
21 recover liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest
22 thereon.

23 WHEREFORE, PLAINTIFFs request relief as hereinafter provided.

24 **FOURTH CAUSE OF ACTION**

25 **FAILURE TO PAY OVERTIME COMPENSATION**

26 **IN VIOLATION OF CAL. LABOR CODE SECTION 1194, ET SEQ.**

27 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

28 57. PLAINTIFF hereby re-alleges, and incorporates by reference as though set forth fully

1 herein, the allegations contained in all preceding paragraphs.

2 58. Pursuant to the applicable Industrial Welfare Commission Order and Labor Code §§
3 200, 226, 500, 510, 1194, and 1198, DEFENDANTS were required to compensate PLAINTIFFs and
4 the Class for all overtime work performed for the benefit of DEFENDANTS, which is calculated at
5 one and one-half (1-1/2) times the regular rate of pay for hours worked in excess of eight (8) hours per
6 day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive work
7 day.

8 59. DEFENDANTS supposedly operated according to a 4/10 alternative workweek
9 schedule adopted in 2016. However, since that time DEFENDANTS have consistently scheduled
10 PLAINTIFF and Class Members for shifts ranging from 9 to 9.5 hours. Because these shift times
11 require them to work fewer than 10 hours as agreed to, PLAINTIFF and Class Members are therefore
12 entitled to be paid at their overtime rate for all hours worked in excess of 8 hours pursuant to Cal. Code
13 Regs. tit. 8, § 11040(3)(B)(2).

14 60. PLAINTIFFs and the Class were non-exempt employees entitled to the protections of
15 the Industrial Welfare Commission and Labor Code §§ 200, 226, 500, 510, 1194, and 1198. During the
16 course of PLAINTIFF's and the Class' employment, DEFENDANTS failed to compensate
17 PLAINTIFFs and the Class for all overtime hours worked as required under the aforementioned labor
18 codes and regulations.

19 61. In violation of state law, DEFENDANTS have knowingly and willfully refused to
20 perform their obligations to compensate PLAINTIFFs and the Class for all overtime wages earned and
21 all hours worked.

22 62. As a direct result, PLAINTIFFs and the Class have suffered, and continue to suffer,
23 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and
24 expenses and attorneys' fees in seeking to compel DEFENDANTS to fully perform their obligations
25 under state law, all to his damage in amounts according to proof at time of trial, but in amounts in
26 excess of the minimum jurisdiction of this Court.

27 63. DEFENDANTS have committed the acts alleged herein knowingly and willfully, with
28 the wrongful and deliberate intention of injuring PLAINTIFFs, from improper motives amounting to

malice, and in conscious disregard of PLAINTIFFS' and the Class' rights. PLAINTIFFS and the Class are thus entitled to recover nominal, actual and compensatory damages in amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

64. DEFENDANTS' conduct described herein violates the Industrial Welfare Commission Orders and Labor Code §§ 200, 226, 500, 510, and 1198. Therefore, pursuant to Labor Code §§ 200, 203, 226, 226.7, 558 and 1194, PLAINTIFFS and the Class are entitled to recover the unpaid balance of overtime compensation DEFENDANTS owe PLAINTIFFS and the Class plus interest, penalties, attorneys' fees, expenses, and costs of suit.

WHEREFORE, PLAINTIFFS request relief as hereinafter provided.

FIFTH CAUSE OF ACTION

MISSED REST BREAKS IN VIOLATION OF LABOR CODE §§ 200, 226.7, 512, AND 12

CALIFORNIA CODE OF CIVIL REGULATIONS § 11050

(BY PLAINTIFF AGAINST ALL DEFENDANTS)

65. PLAINTIFF hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

66. Throughout the employment of PLAINTIFF and the Class, DEFENDANTS failed to provide all rest breaks as required by law.

67. In addition, DEFENDANTS failed to pay PLAINTIFF and the Class the full statutory penalty for all missed rest periods.

68. PLAINTIFF and the Class are entitled to recover additional compensation for all rest periods that were missed, but not paid for during her employment, plus penalties pursuant to Labor Code §§ 226.7 and 558.

69. DEFENDANTS' conduct described herein violates the Industrial Welfare Commission Order 1 sections 10 and 11, and Labor Code §§ 200, 226, 226.7, 512, 558, and 1198, and 12 California Code of Regulations § 11050.

70. As a proximate result of the aforementioned violations, PLAINTIFF and the Class have been damaged in an amount according to proof at time of trial and has suffered, and continue to suffer, substantial losses related to the use and enjoyment of such monies, and lost interest on such monies in

1 seeking to compel DEFENDANTS to fully perform their obligation under state law. PLAINTIFF and
2 the Class are thus entitled to recover nominal, actual, and compensatory damages in an amount
3 according to proof at time of trial.

4 WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

5 **SIXTH CAUSE OF ACTION**

6 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

7 **IN VIOLATION OF CAL. LABOR CODE § 2802**

8 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

9 71. PLAINTIFF repeats and re-alleges the allegations set forth above and incorporates the
10 same by reference as though fully set forth herein.

11 72. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee
12 for all necessary expenditures or losses incurred by the employee in direct consequences of the
13 discharge of his or her duties.”

14 73. PLAINTIFF and the Class have incurred reasonable and necessary expenses in the
15 course of completing their job duties, including using their personal phones, which were never
16 reimbursed by DEFENDANTS.

17 74. An employer that knows or has reason to know that an employee has incurred work-
18 related expenses must reimburse the employee, even if the employee does not request reimbursement.

19 75. PLAINTIFF and the Class are entitled to reimbursement for these necessary
20 expenditures, plus interest and attorneys’ fees and costs, under Labor Code § 2802.

21 WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

22 **SEVENTH CAUSE OF ACTION**

23 **VIOLATIONS OF CAL. B&P CODE §§ 17200, *et seq.***

24 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

25 76. PLAINTIFF hereby re-alleges, and incorporates by reference as though set forth fully
26 herein, the allegations contained in all preceding paragraphs.

27 77. Section 17200 of the California Business and Professions Code prohibits any unlawful,
28 unfair or fraudulent business act or practice.

1 78. PLAINTIFF and the Class have suffered and continues to suffer injury in fact and
2 monetary damages as a result of DEFENDANTS' actions. The actions by DEFENDANTS as herein
3 alleged amount to conduct which is unlawful and a violation of law. As such, said conduct amounts to
4 unfair business practices in violation of Business and Professions Code § 17200, *et seq.*

5 79. DEFENDANTS' conduct as herein alleged has damaged PLAINTIFF by denying her
6 wages due and payable, by failing to provide rest periods, and by failing to provide proper wage
7 statements. DEFENDANTS' actions are thus substantially injurious to PLAINTIFF causing her injury
8 in fact and loss of money.

9 80. As a result of such conduct, DEFENDANTS have unlawfully and unfairly obtained
10 monies due to PLAINTIFF.

11 81. The amount of wages due PLAINTIFF can be readily determined from DEFENDANTS'
12 records. PLAINTIFF is entitled to restitution of monies due and obtained by DEFENDANTS during
13 the last four years as a result of DEFENDANTS' unlawful and unfair conduct.

14 82. DEFENDANTS' course of conduct, acts, and practices in violation of the California
15 law as mentioned in each paragraph above constitutes a separate and independent violation of § 17200
16 *et seq.* of the Business and Professions Code.

17 83. The harm to PLAINTIFF of being wrongfully denied lawfully earned and unpaid wages
18 outweighs the utility, if any, of DEFENDANTS' policies and practices and, therefore, DEFENDANTS'
19 actions described herein constitute an unfair business practice or act within the meaning of Business
20 and Professions Code § 17200.

21 84. DEFENDANTS' conduct described herein threatens an incipient violation of
22 California's wage and hour laws, and/or violates the policy or MD of such laws, or otherwise
23 significantly threatens or harms competition.

24 85. DEFENDANTS' course of conduct described herein further violates Business and
25 Professions Code 17200 in that it is fraudulent, improper, and unfair.

26 86. The unlawful, unfair, and fraudulent business practices and acts of DEFENDANTS as
27 described herein above have injured PLAINTIFF in that she was wrongfully denied the timely and full
28 payment of wages due to her.

EIGHTH CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)

(By PLAINTIFF AGAINST ALL DEFENDANTS)

87. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

88. On December 1, 2023, Plaintiff filed a notice with the Labor Workforce and Development Agency (“LWDA”) at their website pursuant to the Private Attorney General Act, California Labor Code §§ 2698, et seq. (“PAGA”) regarding Defendants. This notice was also sent to the Defendants that same day via certified mail. PAGA permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. More than 65 days have elapsed since Plaintiff provided notice, but the Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants’ Labor Code violations discussed in the notice.

89. Accordingly, Plaintiff may commence a civil action to recover penalties under Labor Code § 2699, pursuant to § 2699.3, for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 1194, 2802, 226, and 2699(f)(2).

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

a. Defendants violated Industrial Welfare Commission Order No. 4 and Labor Code §§ 226.7 and 512, 516, 558 and 1198 by failing to provide all legally required meal and rest period premiums to Plaintiff and similarly aggrieved employees;

b. Defendants violated Industrial Welfare Commission Order No. 4 and Labor Code §§ 200, 226, 226.7, 500, 510, 1197, 1194, and 1198 by failing to pay Plaintiff and similarly aggrieved employees for all hours worked including overtime;

c. Defendants violated Labor Code § 226 by failing to provide Plaintiff and similarly aggrieved employees with accurate and compliant itemized wage statements;

91. California Labor Code section 1174 provides that “[e]very person employing labor in

1 this state shall ... [k]eep a record showing the names and addresses of all employees employed and
2 the ages of all minors” and “[keep, at a central location in the state or at the plants or establishments
3 at which employees are employed, payroll records showing the hours worked daily by and the wages
4 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
5 employed at the respective plants or establishments...”

6 92. Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf
7 of an employer who violates, or causes to be violated, a section of this chapter or any provision
8 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
9 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
10 employee for each pay period for which the employee was underpaid in addition to an amount
11 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100)
12 for each underpaid employee for each pay period for which the employee was underpaid in addition
13 to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section
14 shall be paid to the affected employee.” Labor Code section 558(c) provides “[t]he civil penalties
15 provided for in this section are in addition to any other civil or criminal penalty provided by law.”

16 93. Defendants, at all times relevant to this complaint, were employers or persons acting
17 on behalf of an employer(s) who violated Plaintiffs’ rights by violating various sections of the
18 California Labor Code as set forth above. As set forth above, Defendants have violated numerous
19 provisions of both the Labor Code sections regulating hours and days of work as well as the
20 applicable order of the IWC. Accordingly, Plaintiff seeks the remedies set forth in Labor Code
21 section 558 for herself, the State of California, and all other aggrieved employees.

22 94. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3,
23 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and
24 collection of unpaid wages and civil penalties for Plaintiff, all other aggrieved employees, and the
25 State of California against Defendant, in addition to other remedies, for violations of California Labor
26 Code sections 200, 201, 202, 203, 210, 226(a), 226.7, 510, 558, 1194, 1194.2, 1197, 1197.1, and
27 1198.

28 WHEREFORE, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

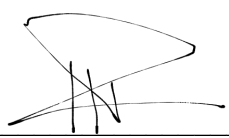
WHEREFORE, PLAINTIFF prays for judgment as follows:

1. For nominal damages;
2. For compensatory damages;
3. For equitable relief in the nature of declaratory relief, restitution of all monies due to PLAINTIFFs, and disgorgement of profits from the unlawful business practices of DEFENDANTS, and accounting;
4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 210, 226, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698 et seq. and all other applicable sections;
5. For interest accrued to date;
6. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226, 1194, and 2698;
7. For reasonable attorneys' fees pursuant to Labor Code §§ 218.6, 226, 226.7, 1194, and 2698; and
8. For all such other and further relief that the Court may deem just and proper.

DATED: February 9, 2024

LOYR, APC

By: _____


Young W. Ryu, Esq.
Zachariah E. Moura, Esq.
Kee Seok Mah, Esq.
Harley M. Phleger, Esq.
Attorneys for PLAINTIFF
YOLANDA SOTO

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DEMAND FOR JURY TRIAL

PLAINTIFF demands a trial by jury for themselves on all claims so triable.

DATED: February 9, 2024

LOYR, APC

By: 

Young W. Ryu, Esq.
Zachariah E. Moura, Esq.
Kee Seok Mah, Esq.
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YOLANDA SOTO