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County of Stanislaus
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Attorneys for Plaintiff JOSHUA JACOPETTI

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

JOSHUA JACOPETTI, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

VALLEY MEDICAL SYSTEMS, INC., a
California Corporation; WARREN R
WHEELOCK, an individual; JONATHAN B
CRIST, an individual; and DOES 1 to 100,
inclusive,

Defendants.

Case No. CV-24-000339

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

- 1. Failure to Pay Overtime Wages**
- 2. Failure to Pay Minimum Wages**
- 3. Failure to Pay Non-Productive Time**
- 4. Meal Period Violations**
- 5. Rest Period Violations**
- 6. Wage Statement Violations**
- 7. Waiting Time Penalties**
- 8. Failure to Reimburse Expenses**
- 9. Unfair Competition**
- 10. Private Attorneys General Act**

DEMAND FOR JURY TRIAL

Plaintiff JOSHUA JACOPETTI ("Plaintiff"), on behalf of himself and all other similarly
situated employees, hereby files this First Amended Complaint against Defendants VALLEY
MEDICAL SYSTEMS, INC., a California Corporation; WARREN R WHEELOCK, an individual;
JONATHAN B CRIST, an individual; and DOES 1 to 100, inclusive (hereinafter all collectively
referred to as ("Defendants")). On information and belief, Plaintiff allege the following:

1 **INTRODUCTION**

2 1. This is a class action and Private Attorneys General Act (“PAGA”) lawsuit brought by
3 Plaintiff for failure to provide overtime wages, failure to provide minimum wages, failure to pay non-
4 productive time, meal and rest period violations, wage statement violations, waiting time penalties,
5 failure to reimburse expenses, untimely payment of wages, and unfair competition.

6 **JURISDICTION AND VENUE**

7 2. The Stanislaus County Superior Court has jurisdiction in this matter pursuant to
8 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
9 Labor Code, California Business and Professions Code, and Wage Order No. 4.

10 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that some of
11 the wrongful acts and violations of law asserted herein occurred within Stanislaus County, and
12 Defendants' obligation to pay wages arose in Stanislaus County pursuant to *Madera Police Officers*
13 *Assn. v. City of Madera*, 36 Cal.3d 403, 414 (1984).

14 4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
15 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
16 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
17 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
18 (“LWDA”) on approximately January 11, 2024. Plaintiff provided facts and legal basis for his claims
19 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
20 of action. Plaintiff also submitted the \$75.00 filing fee. The January 11, 2024, notice was also sent via
21 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
22 Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
23 pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of himself
24 and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),
25 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).
26 Aggrieved Employees include, but is not limited to the following: all non-exempt employees who
27 worked for, or continue to work for, Defendants in California between January 11, 2023 to the present.

28 **PARTIES**

1 5. JOSHUA JACOPETTI is an individual over the age of eighteen (18) and is a resident
2 of the State of California.

3 6. On information and belief, Plaintiff alleges, VALLEY MEDICAL SYSTEMS, INC.,
4 is now and/or at all times mentioned in this Complaint was a California Corporation and the owner
5 and operator of an industry, business and/or facility doing business in the State of California.

6 7. On information and belief, Plaintiff alleges, WARREN R WHEELock, is now
7 and/or at all times mentioned in this Complaint was an individual and the owner and operator of an
8 industry, business and/or facility doing business in the State of California. Plaintiff is informed and
9 believes, and thereupon alleges, that WARREN R WHEELock is an individual over the age of
10 eighteen (18) and is a resident of the State of California. Plaintiff further alleges that is an owner,
11 director, officer, and/or managing agent of VALLEY MEDICAL SYSTEMS, INC., responsible for
12 causing the violations outlined in the (first) through (ninth) causes of action. As such WARREN R
13 WHEELock is individually liable pursuant to California Labor Code section 558.1. Pursuant to
14 California Labor Code section 558.1, VALLEY MEDICAL SYSTEMS, INC., and WARREN R
15 WHEELock, are jointly and severally liable for each cause of action asserted herein. On
16 information and belief, Plaintiff alleges that WARREN R WHEELock trained subordinate staff to
17 implement and carry out the policies and practices identified herein. As a result, whether directly or
18 indirectly, WARREN R WHEELock caused the violations identified herein. WARREN R
19 WHEELock was responsible for the violations stated herein as he was in a position of authority
20 with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but
21 chose to ratify them instead.

22 8. On information and belief, Plaintiff alleges, JONATHAN B CRIST, is now and/or at
23 all times mentioned in this Complaint was an individual and the owner and operator of an industry,
24 business and/or facility doing business in the State of California. Plaintiff is informed and believes,
25 and thereupon alleges, that JONATHAN B CRIST is an individual over the age of eighteen (18) and
26 is a resident of the State of California. Plaintiff further alleges that is an owner, director, officer,
27 and/or managing agent of VALLEY MEDICAL SYSTEMS, INC., responsible for causing the
28 violations outlined in the (first) through (ninth) causes of action. As such JONATHAN B CRIST is

1 individually liable pursuant to California Labor Code section 558.1. Pursuant to California Labor
2 Code section 558.1, VALLEY MEDICAL SYSTEMS, INC., and JONATHAN B CRIST, are jointly
3 and severally liable for each cause of action asserted herein. On information and belief, Plaintiff
4 alleges that JONATHAN B CRIST trained subordinate staff to implement and carry out the policies
5 and practices identified herein. As a result, whether directly or indirectly, JONATHAN B CRIST
6 caused the violations identified herein. JONATHAN B CRIST was responsible for the violations
7 stated herein as he was in a position of authority with the power and responsibility to monitor,
8 institute, and/or modify the unlawful practices, but chose to ratify them instead.

9 9. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
10 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
11 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
12 names and capacities of these DOE Defendants when they are ascertained.

13 10. At all times mentioned herein, each Defendant was the agent or employee of each of the
14 other Defendants and was acting within the course and scope of such agency or employment. The
15 Defendants are jointly and severally liable to Plaintiff.

16 11. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
17 were members of and/or engaged in a joint employment, joint venture, partnership and common
18 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
19 joint venture, partnership and common enterprise.

20 12. Defendants, and each of them, now and/or at all times mentioned in this Complaint
21 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

22 13. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
23 wrongs, complaints, injuries and/or damages alleged in this Complaint.

24 **CLASS ALLEGATIONS**

25 14. Plaintiff bring the First through Ninth Causes of Action on behalf of himself and all
26 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
27 The class which Plaintiff seeks to represent is composed of, and defined, as follows:
28

1 All non-exempt employees who worked for, or continue to work for,
2 Defendants in California at any time between January 11, 2020, to the
3 present.

4 15. This action has been brought and may be properly maintained as a class action,
5 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
6 defined community of interests in the litigation and the proposed class is easily ascertainable.

7 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
8 is impracticable under the circumstances of this case. While the exact number of class
9 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
10 Defendants have employed as many as fifty (50) individuals falling within the above
11 stated class definition throughout the State of California during the applicable statute of
12 limitations, who were subjected to the policies and practices outlined in this Complaint.
13 As such, joinder of all members of the putative class is not practicable.

14 (b) Common Questions Predominate: Common questions of law and fact exist as to all
15 members of the putative class and predominate over questions that affect only individual
16 members of the class. These common questions of law and fact include, without
17 limitation, the following:

- 18 (1) Whether Defendants maintained accurate payroll records;
- 19 (2) Whether, as a result of Defendants' policies and practices, Plaintiff and putative
20 class members were not paid all overtime wages owed;
- 21 (3) Whether Defendants paid Plaintiff and putative class members for all hours
22 worked;
- 23 (4) Whether Defendants paid Plaintiff and putative class members for non-productive
24 time;
- 25 (5) Whether Defendants failed to pay meal and rest period premiums for meal and
26 rest period violations;
- 27 (6) Whether Defendants failed to reimburse Plaintiff and putative class members for
28 the use of personal cell phones, internet, printers, supplies, and personal cars for
work purposes;

(7) Whether as a result of Defendants' policies and practices Plaintiff's and putative class members received all wages, due and owing, at the time of their termination or separation; and

(8) Whether Defendants provided Plaintiff's and putative class members with wage statements that complied with Labor Code section 226.

(c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative class. The putative class also sustained damages arising out of Defendants' common course of conduct in violation of the law as complained of herein. Plaintiff and all members of the putative class were non-exempt employees who were not paid all minimum wages owed, non-productive time, overtime wages owed, meal and rest period premiums, as a result of Defendants' policies and practices resulting in inaccurate wage statements that did not itemize the accurate minimum wages owed, overtime wages owed, meal and rest period premiums, and sick leave wages. Additionally, Defendants issued Plaintiff and all members of the putative class wage statements that did not comply with Labor Code section 226. As a result, Plaintiff and each member of the putative class will have suffered the same type of harm and seek the same type of recovery based on the same legal theories.

(d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the putative class. For all relevant times, Plaintiff resided in California and worked for Defendants in California. Moreover, Plaintiff is an adequate representative of the putative class as Plaintiff has no interests that are adverse to those of putative class members. Additionally, Plaintiff has retained counsel who has substantial experience in complex civil litigation and wage and hour matters.

(e) Superiority: A class action is superior to other available means for the fair and efficient adjudication of the controversy since individual joinder of all members of the putative class is impracticable. Class action treatment will permit a larger number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous

individual actions would engender. Further, as damages suffered by each individual member of the class may be relatively small, the expenses and burden of the individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, and an important public interest will be served by addressing the matter as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

16. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

GENERAL ALLEGATIONS

17. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 16 as though fully set forth herein.

18. Plaintiff was employed by Defendants from August 2020 to October 2023 as a non-exempt employee. Defendants provide home health services for patients and have offices in Modesto and Fresno, California. Plaintiff traveled and performed home health visits to patients in Stanislaus County and Merced County. Plaintiff worked out of his home. Defendants primarily paid Plaintiff and similarly situated employees based on the tasks they performed and completed. For example, Defendants paid Plaintiff and similarly situated employees a set amount per task for home health visits, home health evaluations, discharge visits, case conference, and for home health visits that were over twenty-five (25) miles away from health provider's home location. Although Defendants paid a small amount towards a gas allowance for some employees, they did not reimburse Plaintiff and similarly situated employees for all expenses incurred, including, but not limited to, the cost of gas beyond what could be afforded by the small gas allowance payment.

19. Defendants did not pay Plaintiff and similarly situated employees for all hours worked. Plaintiff and similarly situated employees had to perform tasks that were not directly compensated by the per-task compensation policies, *i.e.* regardless of the number of times or amount of times these tasks were performed, it would not result in any compensation because it was outside of a pre-determined

1 compensation task category. For example, Defendants did not pay Plaintiff and similarly situated
2 employees for time driving to and from patient's homes, waiting time between home health visits,
3 missed home health visits, if patients cancelled or did not show up, lab drops, driving to patients' homes
4 for wellness checks, phone calls to patients and medical doctors related to patient care and issues, phone
5 calls to patients' family members, time spent communicating with supervisors and/or managers
6 regarding patients, time spent on filling out patient charts, time spent on writing patient notes, and time
7 responding to patient questions and concerns regarding their healthcare or issues.

8 20. Plaintiff and similarly situated employees worked over eight (8) hours per day and over
9 forty (4) hours per week performing paid tasks as well as unpaid tasks that are listed above. Defendants
10 did not pay Plaintiff and similarly situated employees for all hours worked which includes the time that
11 Plaintiff and Defendant spent on unpaid tasks at the direction of the Defendants. At times, Plaintiff and
12 similarly situated employees worked seven days per week. Plaintiff and similarly situated employees did
13 not have a set schedule, but typically they would perform home health visits between 8:00 a.m. and 6:00
14 p.m. Additionally, Defendants would text, call, and e-mail Plaintiff and similarly situated employees at
15 different times during the day, including after business hours and on weekends, regarding work issues or
16 patient issues. Defendants did not pay Plaintiff and similarly situated employees for the time spent
17 reading and responding to such texts, emails, and phone calls, including overtime hours. Furthermore,
18 Defendants did not provide a clocking in and out system for Plaintiff and similarly situated employees to
19 clock in and out to keep track of their hours.

20 21. Defendants did not pay Plaintiff and similarly situated employees overtime premiums.
21 Defendants did not pay Plaintiff and similarly situated employees for non-paid tasks, for off-the clock
22 work as explained above and for the time that they spent being on call and responding to texts, emails,
23 and calls. Defendants did not attempt to recalculate the regular rate of pay for any bonuses they paid to
24 Plaintiff and similarly situated employees for purposes of premium wage payments.

25 22. Moreover, Defendants failed to authorize and permit Plaintiff and similarly situated
26 employees to take meal periods in a timely manner, completely free from duty, and uninterrupted due to
27 the fast pace of the work, the number of patients to be seen, and the number of tasks to be performed.
28 Plaintiff and similarly situated employees regularly missed their meal periods, were unable to take

1 timely meal periods, and were interrupted for those meal periods they attempted. Similarly, Defendants
2 did not provide Plaintiff and similarly situated employees with a second meal period for shifts of more
3 than ten (10) hours, even where those shifts were in excess of twelve (12) hours. Because Defendants
4 paid Plaintiff and similarly situated employees on a per task basis and, therefore, Plaintiff and similarly
5 situated employees could only earn wages by continuing to work, any and all rest periods were unpaid.
6 Defendants did not provide any separate compensation outside of the per task compensation policies for
7 time spent on rest periods. Defendants did not pay Plaintiff and similarly situated employees' meal
8 and/or rest period premiums for non-compliant meal and/or rest periods.

9 23. Furthermore, Defendants also did not have a policy to reimburse Plaintiff and similarly
10 situated employees for all business expenses incurred as a result of the use of their personal cell phones,
11 personal computers, internet, printer, papers, and various office supplies for work purposes. Defendants
12 required Plaintiff and similarly situated employees to work from their home and to travel to patients'
13 homes for health visits. However, Defendants did not provide phones, computers, printers, paper, or
14 office supplies for Plaintiff and similarly situated employees. Plaintiff and similarly situated employees
15 used their personal cell phones to communicate with their managers and co-workers, and used their
16 personal computer, internet, printer, and paper, and office supplies for work purposes.

17 24. Additionally, Defendants required Plaintiff and similarly situated employees to pick up
18 supplies to use in their home health visits. Defendants did not reimburse Plaintiff and similarly situated
19 employees for the driving time or for the costs of all expenses incurred in the use of their personal cars
20 to pick up these supplies. Sometimes, the office would be closed or would not provide all the supplies
21 needed. As a result, Plaintiff would buy certain supplies from the Dollar Store or Walgreens to use for
22 his patient visits. Defendants did not reimburse Plaintiff for buying such supplies. Plaintiff is informed
23 and believes that Defendants did not reimburse similarly situated employees for supplies that they
24 bought to use for patient visits.

25 25. Finally, Defendants failed to provide Plaintiff and similarly situated employees with all
26 their earned sick pay. Because Defendants required Plaintiff and similarly situated employees to work
27 off-the-clock and did not pay them for unpaid tasks and hours spent on performing unpaid tasks.
28 Plaintiff and similarly situated employees did not accrue the appropriate amount of sick leave based on

1 actual hours worked. Also, Defendants failed to incorporate the value of bonuses into the calculations
2 for paid sick leave wage premiums. This resulted in the failure to pay Plaintiff and similarly situated
3 employees all sick leave wages they would have otherwise been due and prevented Plaintiff and
4 similarly situated employees from taking all their earned sick days.

5 26. As a result of Defendants' failure to pay Plaintiff and similarly situated employees all
6 minimum wages, overtime wages, meal and rest period premiums, and sick leave wages, the wage
7 statements Defendants issued were inaccurate. The paystubs that Defendants issued did not accurately
8 itemize all hours worked, the accurate rates of pay, minimum and overtime wages earned, the number of
9 meal and rest period premiums owed, the total amount of rest and recovery periods, the rate of pay for
10 rest and recovery periods, gross wages earned for rest and recovery periods, total hours of non-
11 productive time, the rate of compensation for that non-productive time, and the gross wages paid for that
12 non-productive time, and the accurate total gross and net wages earned.

13 27. As a further result of Defendants' failure to pay Plaintiff and similarly situated employees
14 for all regular and overtime hours worked, meal and rest period premiums, sick leave wages, rest and
15 recovery periods, and non-productive time, Defendants failed to provide all final wages owed to Plaintiff
16 and Similarly situated employees within twenty-four (24) hours of their termination or seventy-two (72)
17 hours of their resignation. These amounts were not paid to similarly situated employees at the time of
18 their separation and remain unpaid to date.

19 28. Plaintiff is informed and believes that WARREN R WHEELLOCK was the Chief
20 Executive Officer and JONATHAN B CRIST was the Secretary and Chief Financial Officer of
21 VALLEY MEDICAL SYSTEMS, INC. during the time that Plaintiff worked for Defendants. Mr.
22 WHEELLOCK and Mr. CRIST were responsible for creating, implementing, and overseeing the wage
23 and hour policies and practices outlined herein that resulted in the violation of the California Labor
24 Code.

25 29. Defendant VALLEY MEDICAL SYSTEMS, INC., identified Defendant WARREN R
26 WHEELLOCK in its filings with the California Secretary of State from at least June 15, 2023, to the
27 present as its Chief Executive Officer. Plaintiff is informed and believes that WARREN R
28 WHEELLOCK was responsible for creating and electing to implement VALLEY MEDICAL SYSTEMS,

1 INC.'s payroll and compensation policies and practices or that WARREN R WHEELLOCK was aware of
2 such policies and practices and ratified them.

3 30. Defendant VALLEY MEDICAL SYSTEMS, INC., identified Defendant JONATHAN B
4 CRIST in its filings with the California Secretary of State from at least June 15, 2023, to the present as
5 its Secretary and Chief Financial Officer. Plaintiff is informed and believes that JONATHAN B CRIST
6 was responsible for creating and electing to implement VALLEY MEDICAL SYSTEMS, INC.'s payroll
7 and compensation policies and practices or that JONATHAN B CRIST was aware of such policies and
8 practices and ratified them.

9 **CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**
11 **FAILURE TO PAY OVERTIME WAGES**
12 **(As to all Defendants)**

13 31. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 30 as though fully
14 set forth herein.

15 32. During the period Plaintiff was employed by Defendants, Defendants were required to
16 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
17 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
18 hours worked in excess of twelve (12) hours per day. *See, e.g.,* IWC Wage Order No. 4, section (3)(A);
19 Cal. Lab. Code §§ 510, 1194.

20 33. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
21 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
22 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
23 worked at their regular rate of pay.

24 34. Plaintiff and similarly situated employees were not exempt from overtime protections
25 employees under the California Wage Orders and Labor Code.

26 35. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
27 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
28 the extent pertinent as if set forth here in full.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

36. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 35 as though fully set forth herein.

37. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff and similarly situated employees with at least California's applicable minimum for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 4, section 4(A); Cal. Lab. Code § 1194.

38. Plaintiff was not exempt from the State's Minimum Wage Order. Defendants were aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

39. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

THIRD CAUSE OF ACTION
FAILURE TO PAY NON-PRODUCTIVE TIME
(As to all Defendants)

40. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 39 as though fully set forth herein.

41. Labor Code section 226.2 requires employers to separately compensate piece rate employees for rest and recovery periods as well as any other nonproductive time at rate that is the higher of an average hourly rate or the applicable minimum wage. Defendants completely failed to pay Plaintiff any compensation for rest and recovery periods and other non-productive time as outlined above.

42. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

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FOURTH CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

43. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 42 as though fully set forth herein.

44. An employer must provide an employee with a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

45. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

46. California Labor Code section 512 and Wage Order No. 4 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

47. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated employees to take their first meal period before the completion of their fifth hour of work and failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

48. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

49. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FIFTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

50. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 49 as though fully set forth herein.

51. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

52. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

53. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly situated employees to take paid rest periods of at least ten (10) minutes for each work period that they worked more than four (4) hours or a major fraction thereof.

54. Defendants further failed to pay Plaintiff and similarly situated employees the applicable rest period premiums for any such missed rest periods.

55. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SIXTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

56. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 55 as though fully set forth herein.

57. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and

1 *the last four digits of his or her social security number or an employee*
2 *identification number other than a social security number, (8) the name*
3 *and address of the legal entity that is the employer and, if the employer is*
4 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
5 *name and address of the legal entity that secured the services of the*
6 *employer, and (9) all applicable hourly rates in effect during the pay*
7 *period and the corresponding number of hours worked at each hourly rate*
8 *by the employee. The deductions made from payment of wages shall be*
9 *recorded in ink or other indelible form, properly dated, showing the*
10 *month, day, and year, and a copy of the statement and the record of the*
11 *deductions shall be kept on file by the employer for at least three years at*
12 *the place of employment or at a central location within the State of*
13 *California.*

14 58. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
15 itemized statement or failed to provide an accurate and complete itemized statement showing the
16 requirements set forth in California Labor Code section 226(a). Plaintiff and similarly situated
17 employees were not able to promptly and easily determine their total hours worked from their
18 paystubs alone. Additionally, Plaintiff and similarly situated employees suffered confusion over
19 whether they received all wages owed and were prevented from effectively challenging information
20 on their wage statements.

21 59. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
22 employees have been damaged as stated in the section below entitled "DAMAGES," which is
23 incorporated here to the extent pertinent as if set forth here in full.

24 **SEVENTH CAUSE OF ACTION**
25 **WAITING TIME PENALTIES**
26 **(As to all Defendants)**

27 60. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 59 as though fully
28 set forth herein.

61. An employer must pay an employee who is terminated all unpaid wages immediately
upon termination. *See* Cal. Lab. Code § 201.

62. An employer must pay an employee who resigns all unpaid wages within seventy-two
(72) hours of their resignation. *See* Cal. Lab. Code § 202.

63. Plaintiff and similarly situated employees did not receive all wages, including minimum and overtime wages, non-productive time, meal and rest period premiums, or all sick leave pay owed at their termination or within the required time after their separation from employment.

64. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. *See* Cal. Lab. Code § 203.

65. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees' their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff and similarly situated employees drove to patients' homes for health visits, spent time waiting between home health visits, missed home health visits, spent time if patients cancelled or did not show up, performed lab drops, drove to patients' homes for wellness checks, made phone calls to patients and medical doctors related to patient care and issues, made phone calls to patients' family members, spent time texting, calling, or emailing Defendants in regard to patients, spent time on filling out patient charts, spent time on writing patient notes, spent time responding to patient questions and concerns regarding their healthcare or issues, worked from home and used their personal cell phones, cars, computers, printers, paper, and supplies for work purposes. Despite all of this, Defendants did not pay Plaintiff and similarly situated employees for all the above tasks, for the hours worked while performing these tasks, as well as for non-productive time.

66. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages owed.

67. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

EIGHTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(As to all Defendants)

68. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 67 as though fully set forth herein.

69. California Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

70. Defendants required Plaintiff and similarly situated employees to use their personal cell phones, personal computers, internet, printer, paper, personal cars, and different supplies for work purposes, but failed to reimburse them for such use. Defendants required Plaintiff and similarly situated employees to drive to the offices to pick up supplies to use in their home health visits. Defendants did not reimburse Plaintiff and similarly situated employees for the driving time and for the use of their personal cars to pick up supplies. Sometimes, the office would be closed or would not provide all the supplies needed. As a result, Plaintiff and similarly situated employees would buy certain supplies from the Dollar Store or Walgreens to use for his patient visits. Defendants did not reimburse Plaintiff and similarly situated employees for such supplies.

71. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

NINTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to VALLEY MEDICAL SYSTEMS, INC. and DOES 1 to 100)

72. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 71 as though fully set forth herein.

73. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See California Business and Professions (“B&P”) Code § 17200.*

74. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, non-productive time, and meal and rest period premiums, paid sick leave, or reimbursed for business expenses, during their employment or any time thereafter. Moreover,

1 through Defendants conduct Plaintiff and similarly situated employees were denied statutory protections
2 regarding meal and rest periods.

3 75. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
4 California Unfair Competition Law (“UCL”) (Business and Professions Code 17200 *et seq.*) pursuant to
5 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

6 76. As a direct and legal result of the Defendants’ conduct, as alleged herein, pursuant to the
7 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
8 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code
9 sections 17203, 17208, and violations of the California Labor Code in an amount as yet unascertained
10 but subject to proof at trial, for four (4) years from the filing of this Action.

11
12 **TENTH CAUSE OF ACTION**
PRIVATE ATTORNEYS GENERAL ACT
13 **(As to all Defendants)**

14 77. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 76 as though
15 fully set forth herein.

16 78. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
17 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
18 current and former employees:

- 19 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime
20 Wages)
- 21 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay
22 Minimum Wages)
- 23 • Violation of Labor Code § 226.2 (Failure to Pay Non-Productive Time)
- 24 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B)
25 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 26 • Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest
27 Periods or Pay Premiums in Lieu Thereof)
- 28 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)

79. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

80. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

81. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;

- d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:
- a. All wages earned and owing;
- b. Interest, attorneys' fees, and costs pursuant to Labor Code section 218.5 and 218.6
5. As to the Fourth Cause of Action:
- a. Wages in an amount to be proven at trial;
- b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
6. As to the Fifth Cause of Action:
- a. Wages in an amount to be proven at trial;
- b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
7. As to the Sixth Cause of Action:
- a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);
- b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);
8. As to the Eighth Cause of Action:
- a. An amount to be proven at trial;
- b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
9. As to the Tenth Cause of Action:
- a. For civil penalties as provided in the Labor Code for each enumerated violation;

- 1 b. For those Labor Code sections where there is no civil penalty provided for their
2 violation, the default penalty provided in Labor Code section 2699(f): for any
3 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
4 period; For any subsequent violation, two hundred dollars (\$200) for each
5 aggrieved employee per pay period;
6 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
7 d. For any other remedies as allowed by law and/or deemed appropriate by the
8 Court;

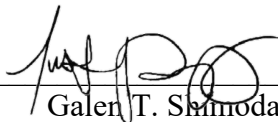
9 10. For such other and further relief as this Court may deem just and proper,
10 including, but not limited to:

- 11 a. Wages as proved at trial;
12 b. Injunctive and Declaratory relief;
13 c. Attorney's fees and costs as provided for by law; and
14 d. Interest.

15
16 Dated: March 18, 2024

Shimoda & Rodriguez Law, PC

17
18 By: _____



Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Attorneys for Plaintiff