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JINHA YU

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
9/4/2024 7:42 AM
By: Stephanie Garcia, DEPUTY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

COURTNEY HARDIN, on behalf of all other
aggrieved employees; JINHA YU, an
individual,

Plaintiffs,

v.

KEY COMMUNICATION SPEECH &
LANGUAGE SERVICES, INC., a California
Corporation; DAVID L. DEAN, an individual;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: CIVSB2422734

FIRST AMENDED COMPLAINT:

- 1. MINIMUM WAGES**
- 2. OVERTIME WAGES**
- 3. MEAL PERIODS**
- 4. REST PERIODS**
- 5. WAGE STATEMENTS**
- 6. WAITING TIME PENALTIES**
- 7. REIMBURSEMENT**
- 8. UNFAIR BUSINES PRACTICES**
- 9. VIOLATION OF LABOR CODE**
- PRIVATE ATTORNEYS GENERAL**
- ACT OF 2004, LABOR SECTION**
- 2698, ET SEQ. (PAGA)**

DEMAND FOR JURY TRIAL

PARTIES

2. Plaintiff Courtney Hardin is an individual residing in the State of California. Plaintiff Jinha Yu is an individual residing in the State of California. Plaintiff Courtney Hardin and Plaintiff Jinha Yu will collectively be referred to as “Plaintiffs” unless otherwise stated.

3. Defendant Key Communication Speech & Language Services, Inc. was and is a California corporation, and at all times herein mentioned, was the “employer” – as that term is defined in the California Labor Code and the applicable California Industrial Wage Commission (“IWC”) Order(s) – of Plaintiff and other aggrieved employees who were and/or are engaged throughout the State of California, including the County of San Bernardino.

5. Plaintiffs are informed and believe that Defendant David L. Dean is the CEO and CFO of Defendant Key Communication Speech & Language Services, Inc. Defendant David L. Dean was and is an “employer” – as defined by the California Labor Code and the applicable California Industrial Wage Commission (“IWC”) Order(s) – of Plaintiffs and other aggrieved employees who were and/or are engaged throughout the State of California, including the County of San Bernardino.

7. Plaintiffs are not aware of the true names and capacities of the Defendants sued

herein as DOES 1 through 50, whether individual, corporate, associate, or otherwise and therefore sues such Defendants by these fictitious names. Plaintiffs will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the Labor Code violations alleged herein and were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

8. Plaintiffs are informed and believe and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

9. Plaintiffs further allege that Defendants, including each Doe Defendant identified as DOES, directly or indirectly controlled or affected the terms, wages, working hours, and conditions of employment of Plaintiffs and the other aggrieved employees so as to make each of said Defendants employers and as employers liable under the statutory provisions set forth herein.

10. Defendant Key Communication Speech & Language Services, Inc. and Defendant David L. Dean and DOES 1 through 50 will hereinafter collectively be referred to as "Defendants."

JURISDICTION AND VENUE

11. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

12. This is an individual action, and a representative action brought under California Labor Code section 2698, et seq. The damages and civil penalties in controversy exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof.

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

10 15. Venue is proper in this Court because, upon information and belief,
11 Defendants maintain offices, have agents, and/or transact business in the State of
12 California, including the County of San Bernardino. The acts and omissions alleged herein
13 relating to Plaintiffs and the other aggrieved employees took place in the State of
14 California, including the County of San Bernardino.

16 16. Plaintiffs incorporate all preceding paragraphs as if fully alleged herein.

17 17. At all relevant times set forth herein, Defendants employed Plaintiffs and other
18 aggrieved employees in the State of California.

18. Defendants, jointly and severally, employed Plaintiffs as nonexempt employees. Defendants employed Plaintiff Courtney Hardin from approximately April 2023 to January 2024 in the State of California, County of San Bernardino. Defendants employed Plaintiff Jinha Yu from approximately April 2022 to March 2023, and then from June 2023 to August 2024 in the State of California, County of San Bernardino.

19. Defendants hired Plaintiffs and other aggrieved employees and permitted and suffered them to work, but failed to compensate them for all hours worked, failed to provide proper meal periods and rest breaks or premium compensation in lieu thereof, failed to provide accurate itemized wage statements, failed to pay all wages at the time of termination, and failed to reimburse all business expenses, among other violations described herein.

20. Defendants had the authority to hire and fire Plaintiffs and other aggrieved employees, establish the terms and conditions of their employment, and determine their compensation and manage their daily employment activities. Defendants exercised sufficient authority over Plaintiffs' and the other aggrieved employees' employment for them to be joint employers of Plaintiffs and the other aggrieved employees.

21. Defendants hired and paid wages and benefits to Plaintiffs and the other aggrieved employees, and Defendants continue to employ non-exempt employees within the State of California.

22. Plaintiffs are informed and believe, and based thereon allege, that Defendants subjected their non-exempt employees to uniform wage and hour policies and practices that deprived them of full compensation for all hours worked, including reimbursement. The practices included, but are not limited to, failing to accurately record and pay Plaintiffs and other aggrieved employees for all hours worked and/or at the correct rate of pay, provide and/or compensate them for improper (i.e., short, late, interrupted, and altogether missed) meal periods and rest periods, as well as reimburse them for necessary business expenditures, all in in violation of California law.

23. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other aggrieved employees were entitled to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for all hours worked. Upon information and belief, Defendants paid Plaintiffs and other aggrieved employees a set number of hours regardless of the number of hours Plaintiffs and other aggrieved employees worked. Plaintiffs also worked off-the-clock, performing work at home, before the start of their shifts, and after their normal shifts ended, for which they were not paid at least minimum wages. Moreover, upon information and belief, Defendants also told Plaintiffs and other aggrieved employees that their positions were salaried positions when in fact they were not. Defendants also failed to compensate Plaintiffs during rest periods. Defendants did not record Plaintiffs' and other aggrieved employees work hours and they were not paid for all hours worked and/or at the correct regular rate of pay.

24. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other aggrieved employees were entitled to receive certain wages for overtime compensation. Plaintiffs and the other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week and, thus, were entitled to receive overtime compensation. But Plaintiffs and aggrieved employees were not paid for all overtime hours worked and/or at the appropriate overtime rate. Upon information and belief, Defendants paid Plaintiffs and other aggrieved employees a set number of hour regardless of the number of hours Plaintiffs worked. Plaintiffs and other aggrieved employees performed work off-the-clock, such as completing paperwork and communicating and scheduling with clients as described herein, but Defendants failed to pay Plaintiffs and aggrieved employees for all hours worked and/or at the correct regular rate of pay in violation of California law.

25. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other aggrieved employees were entitled to receive all meal periods or payment of one additional hour of pay at Plaintiffs' and the other aggrieved employee's regular rate of pay when a meal period was missed, late or interrupted, and they did not receive all meal periods or payment of one additional hour of pay at Plaintiffs' and the other aggrieved employee's regular rate of pay when an improper meal period occurred. Moreover, upon information and belief, Defendants lack legally complaint meal and rest period policies and practices. Defendants required Plaintiffs and other aggrieved employees to work during their meal and rest breaks and failed to compensate them properly for non-compliant meal and rest breaks.

26. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other aggrieved employees were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiffs' and the other aggrieved employees' regular rate of pay when a rest period was missed, late or interrupted, and they did not receive all timely and uninterrupted rest periods or payment of one additional hour of pay at Plaintiffs' and the other aggrieved employees' regular rate of pay when an improper rest period occurred. Moreover, upon information and belief, Defendants required Plaintiffs and

1 other aggrieved employees to combine their rest periods, and Defendants did not treat rest period
2 time as hours worked, in violation of California law.

3 27. Plaintiffs are informed and believe, and based thereon allege, that Defendants
4 failed to provide Plaintiffs and the other aggrieved employees with proper meal periods and rest
5 periods during the relevant time period as required under the Industrial Welfare Commission
6 Wage Orders and thus they are entitled to any and all applicable penalties.

7 28. Plaintiffs are informed and believe, and based thereon allege, that Defendants
8 knew or should have known that Plaintiffs and the other aggrieved employees were entitled
9 to receive all wages owed to them during their employment. Plaintiffs and the other
10 aggrieved employees did not receive payment of all wages, including overtime and
11 minimum wages and meal and rest period premiums, within any time permissible under
12 California Labor Code section 204.

13 29. Plaintiffs are informed and believe, and based thereon allege, that Defendants
14 knew or should have known that Plaintiffs and the other aggrieved employees were entitled to
15 receive all wages owed to them upon discharge or resignation, including overtime and minimum
16 wages and meal and rest period premiums, and they did not, in fact, receive all such wages owed
17 to them at the time of discharge or separation of employment.

18 30. Plaintiffs are informed and believe, and based thereon allege, that Defendants
19 knew or should have known that Plaintiffs and the other aggrieved employees were
20 entitled to receive complete and accurate wage statements in accordance with California
21 law, but they did not receive complete and accurate wage statements from Defendants.
22 The deficiencies included, but were not limited to, the failure to include the total number
23 of hours worked by Plaintiffs and the other aggrieved employees as well as all hourly
24 rates in effect during the applicable pay period, among other violations.

25 31. Plaintiffs are informed and believe, and based thereon allege, that Defendants
26 knew or should have known that Defendants had to keep complete and accurate payroll
27 records for Plaintiffs and the other aggrieved employees in accordance with California
28 law, but Defendants did not keep complete and accurate payroll records.

1 32. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have known that Plaintiffs and the other aggrieved employees were entitled to
3 reimbursement for necessary business-related expenses and costs, but they were not reimbursed
4 for all business expenses incurred discharging their duties. Upon information and belief,
5 Plaintiffs and aggrieved employees incurred expenses in direct consequence of the discharge of
6 their duties, including having to use their personal cell phones and computers for business
7 purposes such as client correspondence, communications, scheduling, notes, and business travel
8 expenses. Defendants have not reimbursed Plaintiffs and aggrieved employees for these and
9 other expenses in violation of California law.

10 33. Plaintiffs are informed and believe, and based thereon allege, that Defendants
11 knew or should have known that they had a duty to compensate Plaintiffs and the other
12 aggrieved employees pursuant to California law, and that Defendants had the financial
13 ability to pay such compensation, but willfully, knowingly, and intentionally failed to do
14 so, and falsely represented to Plaintiffs and the other aggrieved employees that they were
15 properly paid wages.

16 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants
17 knew or should have known that they had a duty to provide Plaintiffs and other aggrieved
18 employees with written notice of important employment information at the time of hire as
19 required by Labor Code section 2810.5, but, upon information and belief, Defendants failed
20 to provide Plaintiffs and other aggrieved employees with written notice of all the
21 information required by Labor Code section 2810.5 at the time of hire in violation of
22 California law. Upon information and belief, Defendants have a policy and practice of not
23 complying with Labor Code section 2810.5 in violation of California law.

24 35. Plaintiffs are informed and believe, and based thereon allege, that Defendants
25 knew or should have known that they had a duty to allow Plaintiffs and other aggrieved
26 employees to accrue and use their paid sick days and/or sick leave for the reasons specified
27 in section 246.5 of the California Labor Code, but that Defendants unlawfully denied
28 Plaintiffs and other aggrieved employees the right to accrue paid sick leave “at the rate not

1 less than one hour per every 30 hours worked” and have unlawfully and unreasonably
2 restricted the reasons for use of their paid sick days. Upon information and belief,
3 Defendants maintain policies and practices that unlawfully limit the use of paid sick days
4 in violation of California law. Upon information and belief, Defendants have also violated
5 Labor Code section 245 et seq. and 233 by denying Plaintiffs and other aggrieved
6 employees the right to determine for themselves the amount of paid sick days and/or sick
7 leave to use and the reasons therefore, all in violation of California law.

8 36. Plaintiffs are informed and believe, and based thereon allege, that Defendants
9 knew or should have known that they had a duty not to retaliate against an employee for
10 disclosing information the employee had reason to believe discloses a violation of or
11 noncompliance with a local, state, or federal rule or regulation. Upon information and belief,
12 Plaintiff Courtney Hardin complained and disclosed to Defendants her belief that Defendants
13 were violating the law by performing, charging, and receiving monies for services
14 performed for which they were unlicensed and needed to be licensed; disclosing to
15 Defendants that they were violating the law by posting, distributing, and circulating images
16 of minors receiving Defendants’ services without approval or authorization; and disclosing
17 to Defendants many of the wage and hour violations identified herein. Plaintiff Hardin had
18 reasonable cause to believe the conduct was unfair, unlawful, and noncompliant with
19 federal and state laws, rules, and regulations. Defendants thereafter retaliated against Plaintiff
20 Hardin and other aggrieved employees and wrongfully terminated her employment.

21 37. At all material times set forth herein, Defendants failed to provide timely and
22 uninterrupted meal periods and rest periods to Plaintiffs and the other aggrieved employees;
23 failed to pay Plaintiffs and the other aggrieved employees at least minimum wages for all hours
24 worked, and overtime where applicable; failed to pay Plaintiffs and the other aggrieved
25 employees all wages owed to them upon discharge or resignation; failed to pay Plaintiffs and
26 the other aggrieved employees’ wages within any time permissible under California law,
27 including, *inter alia*, California Labor Code section 204; failed to provide complete and accurate
28 wage statements to Plaintiffs and the other aggrieved employees; failed to keep complete and

1 accurate payroll records for Plaintiffs and the other aggrieved employees; failed to reimburse
2 Plaintiffs and the other aggrieved employees for necessary business-related expenses and costs;
3 and failed to properly compensate Plaintiffs and the other aggrieved employees in compliance
4 with California law in order to enrich themselves at the expense of Plaintiffs and the other
5 aggrieved employees.

6 38. California Labor Code section 218 states that nothing in Article 1 of the Labor
7 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
8 due to him [or her] under this article."

9 **FIRST CAUSE OF ACTION**

10 **RECOVERY OF UNPAID MINIMUM WAGES**

11 **(Against All Defendants)**

12 39. Plaintiff Yu incorporates all preceding paragraphs as if fully alleged herein.

13 40. California law provides that employees must be paid for all hours worked, up to
14 40 per week or 8 per day, at a regular time rate no less than the mandated minimum wage.
15 Plaintiff Yu regularly worked time for which Defendants failed to compensate her at a rate not
16 less than the prevailing minimum wage. Specifically, upon information and belief, Defendants
17 required, suffered or permitted Plaintiff Yu to perform work off-the-clock and during off-duty
18 meal periods for which Plaintiff Yu was not compensated. As a result, Defendants failed to pay
19 Plaintiff Yu for all hours worked at a rate not less than the prevailing minimum wage.

20 41. Pursuant to Labor Code section 1194 and 1194.2, Plaintiff Yu is entitled to recover
21 all unpaid wages and liquidated damages, plus attorney's fees and costs, in an amount to be
22 proved at trial.

23 **SECOND CAUSE OF ACTION**

24 **RECOVERY OF UNPAID OVERTIME WAGES**

25 **(Against All Defendants)**

26 42. Plaintiff Yu incorporates all preceding paragraphs as if fully alleged herein.

27 43. California law provides that employees must be paid overtime, equal to 1.5 times
28 the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per

workday, and be paid double time, equal to 2 times the employee's regular rate of pay, for all hours worked in excess of 12 per workday.

44. Plaintiff Yu regularly worked more than 40 hours per week, 8 hours per workday, and/or more than 12 hours per workday, and/or in excess of seven (7) consecutive days, but was not paid all overtime wages and double time wages due and owing under California law. Plaintiff Yu was not paid for all overtime hours worked for all the reasons asserted herein.

45. Pursuant to Labor Code section 1194, Plaintiff Yu is entitled to recover all unpaid overtime, pre-judgment interest, plus reasonable attorney's fees and costs, in an amount to be proved at trial.

THIRD CAUSE OF ACTION

MEAL PERIODS OR COMPENSATION IN LIEU THEREOF

(Against ALL Defendants)

46. Plaintiff Yu incorporates all preceding paragraphs as if fully alleged herein.

47. Under the Labor Code and IWC Wage Orders, employers are required to provide employees with one 30-minute meal break free from all duties for all shifts longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (as discussed above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed the meal period was not provided.

48. Plaintiff Yu worked periods of more than five hours in a workday without being provided a mandatory thirty-minute, duty-free meal period, and/or would work periods of more than ten hours in a workday without being provided a mandatory second thirty-minute, duty-

1 free meal period. Upon information and belief, Defendants did not maintain meal period policies
2 and practices that complied with California law. Defendants did not always authorize and permit
3 Plaintiff Yu to take off-duty meal periods and Defendants interrupted her meal periods or
4 required her to work through them. Defendants further failed to compensate her properly for all
5 non-compliant meal periods including, inter alia, short, late, interrupted and missed meal
6 periods.

7 49. Defendants failed to provide Plaintiff Yu with all required meal periods, or with
8 compensation in lieu thereof. As a result, under Labor Code section 226.7, Plaintiff Yu is entitled
9 to one additional hour's pay for each day a meal period was missed, late or interrupted, all in an
10 amount to be proved at trial.

11 **FOURTH CAUSE OF ACTION**

12 **REST PERIODS OR COMPENSATION IN LIEU THEREOF**

13 **(Against ALL Defendants)**

14 50. Plaintiff Yu incorporates all preceding paragraphs as if fully alleged herein.

15 51. California law requires an employer to authorize or permit an employee to take a
16 rest period of ten net minutes for every four hours worked, or major fraction thereof, and such
17 rest periods must be in the middle of the four-hour period insofar as practicable. If the employer
18 fails to provide any required rest periods, or fails to provide a fully compliant rest break for a
19 net 10 minutes wherein the employee is fully relieved of all duties and all employer control, the
20 employer must pay the employee one hour of pay at the employee's regular rate of compensation
21 for each workday a legally required and/or fully compliant rest period was not provided.

22 52. Defendants failed to provide Plaintiff Yu all required and/or fully compliant rest
23 periods, or compensation in lieu thereof. Defendant employed policies and procedures that
24 ensured Plaintiff Yu would not receive all legally required rest periods, such as not relieving
25 employees of all duties and employer control during their rest breaks. Defendants did not
26 authorize and permit all required rest periods in strict accordance to, and in compliance with,
27 the timing requirements of all applicable Wage Orders. Defendants further employed policies
28 and practices where Plaintiff Yu did not receive premium wages to compensate her for workdays

1 she did not receive all legally required and fully compliant rest periods.

2 53. Defendants failed to provide Plaintiff Yu with all required rest periods, or with
3 compensation in lieu thereof. As a result, under Labor Code section 226.7, Plaintiff Yu is entitled
4 to one additional hour's pay for each day a rest period was missed, all in an amount to be proved
5 at trial.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

8 **(Against All Defendants)**

9 54. Plaintiff Yu incorporates all preceding paragraphs as if fully alleged herein.

10 55. The California Labor Code provides that, at the time of each payment of wages,
11 the employer must provide each employee with an itemized statement showing, inter alia, gross
12 wages earned, total hours worked, all deductions taken, net wages earned, the inclusive dates
13 for which the employee is being paid, the employee's name and last four digits of their social
14 security number, the name and address of the legal entity that it is the employer, and all
15 applicable hourly rates in effect during the pay period and all hours worked at each rate.

16 56. Defendants knowingly and intentionally failed to provide Plaintiff Yu with
17 proper, itemized wage statements as the wage statements provided did not accurately state, *inter*
18 *alia*, gross wages earned, total hours worked, net wages earned and the proper hourly rate for
19 each hour worked. Defendants did not provide accurate itemized wage statements to Plaintiff
20 Yu for all the reasons asserted herein, including failure to pay all minimum and overtime wages
21 and provide meal and rest periods.

22 57. Accordingly, under Labor Code section 226, Plaintiff Yu is entitled to statutory
23 penalties in the amount of \$50.00 for the initial pay period in which a violation occurred, and
24 \$100.00 for each subsequent pay period in which a violation occurred, up to an aggregate penalty
25 of \$4,000.00, plus attorney's fees and costs, all in an amount to be proved at trial.

26 **SIXTH CAUSE OF ACTION**

27 **WAITING TIME PENALTIES**

28 **(Against All Defendants)**

2802. Pursuant to those sections, Plaintiff Yu is entitled to recover from Defendants her business-related expenses and costs incurred during the course and scope of her employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgment in civil action in the State of California, as well as costs and attorney's fees.

EIGHTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES – Cal Bus. & Prof. Code Sec. 17200

(Against All Defendants)

67. Plaintiff Yu incorporates all preceding paragraphs as if fully alleged herein.

68. At all times relevant hereto, by and through the conduct described herein, Defendants engaged in unfair and unlawful practices by failing pay all wages, provide reimbursement of business expenses, and/or provide meal and rest periods or premium compensation in lieu thereof pursuant to the applicable Labor Code and Industrial Welfare Commission requirements, in violation of California Business and Professions Code § 17200, et. seq., and have thereby deprived Plaintiff Yu of fundamental rights and privileges and caused Plaintiff Yu to suffer economic injury as herein alleged. Defendants engaged in unfair competition by withholding compensation for hours worked and withholding reimbursement for expenses incurred, and Defendants further engaged in unfair and unlawful business practices by failing to keep accurate information and time records and failing to accurately itemize the total hours worked by Plaintiff Yu in violation of California law.

69. In doing the forgoing acts, Defendants gained an unfair business advantage by means of these unlawful practices and gained an unfair competitive advantage with respect to competing businesses, which adhered to lawful business practices. Defendants have, therefore, been unjustly enriched and Plaintiff Yu and others have been systematically harmed. Defendants have uniformly violated California law and regulations including, but not limited to, Labor Code §§ 201, 202, 203, 216, 218, 226, 226.7, 510, 512, 1174, 1198, 2802, and other sections of the California Labor Code and IWC Orders.

70. Plaintiff Yu is entitled to all relief available under Business and Professions Code

§ 17200 and Defendants should be restrained from continuing to engage in these unfair and unlawful business practices, and in addition, should be required to disgorge the unpaid monies and ill-gotten gains to Plaintiff Yu herein.

NINTH CAUSE OF ACTION

**(Violation of Labor Code Private Attorneys General Act, Labor Code §§ 2698, et seq.)
(Against All Defendants)**

71. Plaintiff Hardin incorporates all preceding paragraphs as if fully alleged herein.

72. At all times herein set forth, PAGA applied to Plaintiff Hardin's employment with Defendants.

73. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

74. Plaintiff Hardin is an "Aggrieved Employee" under PAGA, as Plaintiff was employed by Defendants during the applicable statutory limitations period and suffered one or more of the Labor Code violations set forth herein. Plaintiff and the other employees are "aggrieved employees", including Plaintiff Yu, as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them. Accordingly, Plaintiff Hardin seeks to recover on behalf of herself and all other current and former aggrieved employees the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

75. Plaintiff Hardin seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009).

76. Therefore, under the provisions of PAGA and Labor Code §§ 201-204, 223, 226, 226.3, 226.7, 233, 245, 246, 246.5, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1194, 1194.2,

1197, 1197.1 1198, 1199, 2800, 2802, 2810.5, 2699 and all applicable Wage Orders, as well as all interpretations of these laws by California Courts and administrative bodies, and any other law that is enforceable through PAGA, Defendants are liable for: (1) All statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute; and (2) Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code Section 2699(f).

77. The proper measure of penalties under PAGA is the number of violations, whether those violations were committed as against Plaintiff or any aggrieved employee, whether a party to this action or not. Further, as a PAGA action, this claim need not be certified as a class action to proceed with a company-wide recovery. (*See generally, Arias v. Superior Court* (2009) 46 Cal.4th 969; *Williams v. Superior Court* (2017) 3 Cal.5th 531.)

78. Plaintiff Hardin complied with the procedures for bringing suit specified in Labor Code sections 2699.3 and 2699.5. By letter postmarked February 16, 2024, Plaintiff gave written notice to the California Labor and Workforce Development Agency (“LWDA”) via electronic mail at PAGAFilings@dir.ca.gov, and via certified mail to Defendants, of the specific provisions of the Labor Code and Wage Orders allegedly violated, including the facts and theories to support the alleged violations. A true and correct copy of Plaintiff Hardin’s PAGA letter is attached hereto as **Exhibit 1**.

79. Under Labor Code section 2699.3, the LWDA must give written notice by certified mail to the parties that it intends to investigate the alleged violations within 65 days of the date of the Plaintiff Hardin’s written notice. As of the date of the operative Complaint, the LWDA has not provided the parties any notice of its intention to investigate Plaintiff Hardin’s claims on behalf of herself and other aggrieved employees. Defendants further have not responded to Plaintiff Hardin’s PAGA notice in an attempt to cure. Accordingly, Plaintiff Hardin has satisfied the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants for violations of the

California Labor Code sections alleged herein. Plaintiff Hardin has exhausted all administrative remedies required by law.

80. Pursuant to Labor Code § 2699(g), and/or any and all other applicable laws, Plaintiff Hardin is entitled to recover civil penalties, costs, and attorney's fees.

PRAYER

WHEREFORE, Plaintiff Yu, individually, and Plaintiff Hardin, individually, and on behalf of all other aggrieved employees pursuant to the Private Attorneys General Act, pray for judgment against each Defendant, jointly and severally, as follows:

1. For all general damages in an amount within the jurisdictional limits of this Court;
2. For all special damages, according to proof;
3. For all loss of earnings and wages, according to proof;
4. For all prejudgment interest, according to proof;
5. For all civil penalties according to proof;
6. For all reasonable attorney's fees;
7. For costs of suit incurred herein; and
8. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

DATED: September 4, 2024

LURTZ LEGAL, P.C.



By: _____
Marshall R. Lurtz
Attorneys for Plaintiff
Courtney Hardin
Jinha Yu

DEMAND FOR JURY TRIAL

Plaintiff Jinha Yu demands a trial by jury on all claims so triable.

DATED: September 4, 2024

Respectfully submitted,

LURTZ LEGAL, P.C.



By: _____
Marshall R. Lurtz
Attorneys for Plaintiff
Courtney Hardin
Jinha Yu

EXHIBIT 1



3511 CAMINO DEL RIO SOUTH, SUITE 101
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WWW.LURTZLEGAL.COM

February 16, 2024

FILED VIA LWDA'S PAGA CLAIM NOTICE ONLINE FORM

COPY SENT VIA U.S. CERTIFIED MAIL TO:

David L. Dean
Jasmine Tatman
Key Communication Speech & Language Services, Inc.
2910 Inland Empire Blvd., Ste. 114
Ontario, CA 91764

RE: *Courtney Hardin v. Key Communication Speech & Language Services, Inc., et al.*
California Labor Code § 2699.3 – Notice of Intent to File Suit

Dear PAGA Administrator:

We represent Courtney Hardin and she seeks to commence a civil action pursuant to the Private Attorneys General Act of 2004 ("PAGA") against Key Communication Speech & Language Services, Inc., David L. Dean, and Jasmine Tatman (collectively, "Respondents") to recover civil penalties on behalf of the State of California and "aggrieved employees" for Labor Code violations. (*See generally* Cal. Lab. Code § 2698 *et seq.*) The "aggrieved employees" are all current and former non-exempt employees who worked for Respondents in the State of California. The purpose of this letter is to identify the Labor Code violations at issue and set forth the facts and theories underlying the violations.¹

Respondents own and operate a speech-language pathology and therapy business. Respondents employed Ms. Hardin from April 2023 to January 2024 to work as a non-exempt speech-language pathology assistant (SPLA) in the State of California, County of San Bernardino. During Ms. Hardin's employment, Respondents violated and/or continue to violate the Labor Code by engaging in unlawful conduct such as failing to pay Ms. Hardin and other aggrieved employees for all hours worked, including all overtime hours worked; failing to provide Ms. Hardin and other aggrieved employees with state mandated meal and rest periods or premium compensation in lieu

¹ Our investigation is ongoing and continuing. This letter reserves every right by Ms. Hardin to amend this notice upon discovery of additional violations of the California Labor Code. Additionally, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis per Labor sections such as 558, 558.1, and 1197.1— Ms. Hardin reserves all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Amendments shall relate back to the date of this notice.

thereof; failing to provide Ms. Hardin and other aggrieved employees with accurate itemized wage statements; failing to maintain accurate time records and payroll records showing the actual hours worked and wages paid to Ms. Hardin and other aggrieved employees; failing to reimburse Ms. Hardin and other aggrieved employees for necessary business expenses; failing to maintain sick pay policies and practices that comply with California law; and failing to timely compensate Ms. Hardin and other aggrieved employees all wages due and owing during their employment, as well as at the time of separation of employment. Respondents further violated the Labor Code by retaliating against and wrongfully terminating Ms. Hardin for disclosing and reporting suspected violations of state and federal law (among other unlawful reasons). Based on this and other conduct described herein, Respondents have violated and/or continue to violate California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.3, 226.7, 233, 245, 246, 246.5, 510, 512(a), 1102.5, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and IWC Wage Orders.

I. Violation of California Labor Code Sections 1194, 510 and 1198

California law mandates that employers pay employees at least minimum wage for all hours worked. (*See* Cal. Lab. Code §§ 1194, 1194.2 [“In any action under Section ... 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage ... employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...”].) California law requires that an overtime premium be paid at one and one-half times an employee’s regular rate of pay for all hours worked in excess of eight (8) hours in a day, forty (40) hours in a week, and for the first eight (8) hours on the seventh consecutive day of work. (Cal. Lab. Code § 510.) An overtime premium must be paid at twice the regular rate of pay for all hours worked in excess of twelve (12) hours in a day and for all hours in excess of eight (8) hours on the seventh consecutive day of work. (Cal. Lab. Code § 511(b).)

Here, Ms. Hardin and other aggrieved employees have not been paid for all hours worked and/or at the appropriate rate of pay. For example, on information and belief, Respondents falsely represented to Ms. Hardin and other aggrieved employees that they were salaried when in fact they regularly and primarily perform non-exempt duties and, thus, are entitled to compensation for all hours worked, including overtime pay where applicable. But Respondents did not pay Ms. Hardin and other aggrieved employees at least minimum wages for all hours worked, including overtime because Respondents paid them for a set number of hours regardless of the number of hours they worked, in violation of California law. Ms. Hardin and other aggrieved employees worked after hours and off-the-clock for which they have not been paid; and they worked more than eight (8) hours in a day and/or forty (40) hours in a week but have not been paid overtime wages. Moreover, on information and belief, Respondents did not record Ms. Hardin’s and other aggrieved employees’ work hours to accurately capture and pay appropriate wages, including overtime wages. As a result, Respondents have not fully compensated Ms. Hardin and other aggrieved employees for all minimum and overtime wages owed. Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

II. Violation of California Labor Code Sections 512 and 226.7

Employers must provide a meal period of at least thirty (30) minutes to employees who work more than five (5) hours in a workday, and an additional meal period of at least thirty (30) minutes if the employee works ten (10) hours or more in a single workday absent a written on-duty meal period agreement waiver. (Cal. Lab. Code § 512(a).) Employers must also authorize and permit rest periods for non-exempt employees of ten (10) minutes for every four (4) hours worked or major fraction thereof. No employer may require an employee to work during a meal or rest break. An employer who fails to provide meal and rest periods must pay the employee for one additional hour of pay at the employee’s regular rate of pay for each work day that a meal or rest period was not provided (*i.e.*, premium wages). (Cal. Lab. Code § 226.7.)

Here, Respondents did not provide Ms. Hardin and other aggrieved employees with timely uninterrupted meal and rest periods. Upon information and belief, Respondents did not maintain compliant meal and rest period policies and practices. Respondents did not record Ms. Hardin's and other aggrieved employees' meal periods. (*See Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004, 1053 [holding employers have "an obligation both to relieve their employees" for meal periods for shifts "over five hours and to record having done so."]; *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 74 [holding "time records showing noncompliant meal periods raise a rebuttable presumption of meal period violations"].) Ms. Hardin and aggrieved employees were never fully informed of their right to timely, off-duty and uninterrupted meal and rest periods. Moreover, Ms. Hardin and other aggrieved employees regularly worked through their meal periods and their rest periods, which Respondents were aware. In further violation of the law, Respondents failed to compensate Ms. Hardin and other aggrieved employees for the non-compliant meal and rest periods including, inter alia, short, late, interrupted, and missed meal and rest periods. (*See Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93 [holding premium wages are "wages that must be reported on statutorily required wage statements during employment and paid within statutory deadlines"].) Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

III. Violation of California Labor Code Sections 1194, 1197 and 1197.1

No employee shall be paid less than the applicable minimum wage or the applicable legal overtime wage. (Cal. Lab. Code §§ 1194, 1197, 1197.1.) Payment of a lesser wage is unlawful. During the relevant time period, as noted above and elsewhere herein, Respondents failed to pay Ms. Hardin and other aggrieved employees at least minimum wages for all hours worked and overtime wages where applicable. Respondents failed to record Ms. Hardin's and aggrieved employees' work hours. (*See Morales v. Factor Surfaces LLC* (2021) 70 Cal.App.5th 367, 372 ["where the employer has failed to keep records required by statute, the consequences for such failure fall on the employer, not the employee."].) Ms. Hardin and other aggrieved employees worked off-the-clock for which they have not been paid; and they worked more than eight (8) hours in a day and/or forty (40) hours in a week but have not been paid overtime wages. Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

IV. Violation of California Labor Code Section 1174(d)

Employers must keep "at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned." (Cal. Lab. Code § 1174(d).)

Here, Respondents failed to keep accurate and complete time and payroll records showing the actual hours worked and the wages earned daily by Ms. Hardin and other aggrieved employees, including earned and unpaid minimum wages, overtime wages, and premium wages as discussed above. Respondents did not record Ms. Hardin's and other aggrieved employees' actual work hours. Upon information and belief, Respondents intentionally failed to record their employees' work hours to avoid complying with California's wage and hour laws with respect to wages, and to enrich themselves. Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

V. Violation of California Labor Code Sections 226(a) and 226.3

Labor Code section 226(a) obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement providing information including, but not limited to: gross wages earned; total hours worked by the employee; all deductions; net wages earned; the inclusive dates of the period for which the employee is paid; the name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period and the corresponding number of hours at each hourly rate by the employee.

Here, given Respondents' failure to pay Ms. Hardin and aggrieved employees for all hours worked and/or at the appropriate regular rate of pay, failure to record all hours worked, and failure to provide proper meal and rest periods as detailed above, the wage statements issued by Respondents failed to reflect the correct amount of gross wages earned, total hours worked, net wages earned, or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of Labor Code § 226(a), among other violations of Labor Code § 226(a)(1)-(9). Ms. Hardin is therefore an aggrieved employee within the meaning of PAGA and Respondents have violated Labor Code § 226(a) with respect to Ms. Hardin and other aggrieved employees.

VI. Violation of California Labor Code Section 204

Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

Here, Respondents have not timely paid wages to Ms. Hardin and other aggrieved employees. Respondents failed to pay Ms. Hardin and other aggrieved employees all wages due to them within any time period specified by Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above. (*See Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93 [holding premium wages are “wages that must be reported ... and paid within statutory deadlines”].) Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

VII. Violation of California Labor Code Sections 201, 202, 203

If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Moreover, if an employer willfully fails to pay any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty for up to 30 days. (Cal. Lab. Code § 203.)

Here, Respondents do not and have not compensated Ms. Hardin and other aggrieved employees all wages due and owing, including all applicable minimum and overtime wages, and meal and rest period premiums as discussed herein, at the time of separation of employment. Further, upon information and belief, Respondents have not paid aggrieved employees all wages

due within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above. Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

VIII. Violation of California Labor Code Section 223

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages. As described above, Respondents have willfully and systematically denied Ms. Hardin and other aggrieved employees proper minimum and overtime wages which has resulted in the payment of less than statutorily required wages to them. Respondents have acted with the intent to deprive them of statutory wages, including, but not limited to, minimum and overtime wages, to which they are entitled to under California law. Thus, Respondents have paid Ms. Hardin and other aggrieved employees lower wages than those they were entitled to while purporting that Ms. Hardin and aggrieved employees have been properly paid for all the reasons discussed herein. Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

IX. Violation of California Labor Code Sections 2800 and 2802

Employers must indemnify employees for all necessary expenditures or losses incurred by the employees in direct consequence of the discharge of their duties, or their obedience to the directions of the employer. (Cal. Lab. Code § 2802.) Here, Ms. Hardin and aggrieved employees have incurred and continue to incur expenses in direct consequence of the discharge of their duties, including expenses related to the use of their personal cell phones for business communications and client scheduling, laptop computers for therapy notes, communications, and scheduling, as well as business travel expenses. (*See Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144 [employer must reimburse for cell phone, “reimbursement is always required.”].) Respondents have not reimbursed Ms. Hardin and other aggrieved employees for these and other expenses. Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

X. Violation of California Labor Code Sections 233, 234, 245, 246, and 246.5

The Healthy Workplaces, Healthy Families Act of 2014 (*i.e.*, Cal. Lab. Code § 245 *et seq.* (“Act”)) mandates that employers provide their employees with paid sick days. Sick days may be used for many purposes, including the “[d]iagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s family member.” (Cal. Lab. Code § 246.5(a).) Critically, the Act empowers employees, rather than employers, to “determine how much paid sick leave they need to use.” (Cal. Lab. Code § 246(k).) Moreover, the Act specifically states that an “employee shall accrue paid sick days at the rate not less than one hour per every 30 hours worked”. (Cal. Lab. Code § 246.5(b).) There is further a rebuttable presumption of unlawful retaliation if an employer “denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days” of, among other things, “opposition by the employee to a policy, practice, or act that is prohibited by” the Act. (Cal. Lab. Code § 246.5(c)(2).) Aggrieved employees may enforce violations of the Act through PAGA. (*See Ana Wood v. Kaiser Found. Hospitals* (2023) 88 Cal.App.5th 742.)

Here, Respondents have violated and/or continue to violate the forgoing Labor Code sections by denying Ms. Hardin and, upon information and belief, other aggrieved employees, their rights to accrue paid sick leave and to use their paid sick days and/or sick leave for the reasons specified in section 246.5 of the California Labor Code. Instead, Respondents have unlawfully and

unreasonably denied Ms. Hardin and other aggrieved employees the right to accrue paid sick leave “at the rate not less than one hour per every 30 hours worked” and have unlawfully and unreasonably restricted the reasons for use of their paid sick days. Upon information and belief, Respondents maintain policies and practices that unlawfully limit the use of paid sick days to “illnesses” rather than all the reasons specified by California law. Upon information and belief, Respondents have also violated Labor Code section 245 et seq. and 233 by denying Ms. Hardin and other aggrieved employees the right to determine for themselves the amount of paid sick days and/or sick leave to use and the reasons therefore. Respondents have further violated Labor Code sections 245 et seq. and 233 by discriminating and retaliating against aggrieved employees for using their paid sick days and/or sick leave, as well as exercising their right to use their paid sick days and/or sick leave. Accordingly, Respondents have violated the Labor Code with respect to Ms. Hardin and other aggrieved employees.

XI. Violation of California Labor Code Section 2810.5

Section 2810.5 mandates that employers provide to each employee at the time of hire a written notice containing important employment information. The written notice must set forth the applicable rates of pay, allowances, the regular payday, the name, physical address and telephone number of the employer, as well as the name, address, and telephone number of the employer’s workers’ compensation insurance carrier. (*See* Cal. Lab. Code § 2810.5(a).) Here, upon information and belief, Respondents failed to provide Ms. Hardin with a Labor Code section 2810.5 notice at the time of hire or anything similar that contained the requisite information as required by section 2810.5. Ms. Hardin is informed and believes, and based thereon alleges, that Respondents have a uniform policy and practice of not providing written notice of all the required information in section 2810.5 to employees at the time of hire. Upon information and belief, Respondents failed to provide Ms. Hardin and similarly aggrieved employees with a Labor Code Section 2810.5 notice at the time of hire. Accordingly, Respondents have violated the Labor Code with respect Ms. Hardin and other aggrieved employees.

XII. Violation of California Labor Code Sections 1102.5(b) and 1102.5(c)

An employer shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation. (Cal. Lab. Code § 1102.5(b).) An employer further shall not retaliate against an employee for refusing to participate in an activity that would result in the violation of a federal, state, or local rule or regulation. (Cal. Lab. Code § 1102.5(c).)

Here, Respondents retaliated against Ms. Hardin and, upon information and belief, other aggrieved employees for reporting and disclosing to Respondents information they believed disclosed violations of multiple state and federal laws and regulations, including, but not limited to: (1) disclosing to Respondents her belief that Respondents, including Respondents David Dean and Jasmine Tatman, were violating the law by performing, charging, and receiving monies for services performed for which they were unlicensed and needed to be licensed; (2) disclosing to Respondents, including Respondents David Dean and Jasmine Tatman, that Respondents were violating the law by posting, distributing, and circulating images of minors receiving Respondents’ services without approval or authorization; and (3) disclosing to Respondents many of the wage and hour violations identified herein. Ms. Hardin had reasonable cause to believe the conduct was unfair, unlawful, and noncompliant with federal and state laws, rules, and regulations. Respondents then retaliated and wrongfully terminated Ms. Hardin. Respondents have violated the Labor Code with respect to Ms. Hardin and aggrieved employees.

XIII. Violation of California Labor Code Sections 558 and 558.1

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

Labor Code section 558.1 (a) also states that “(a)ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, sections 203, 226, 226.7, 1194, or 2802, may be held liable as the employer for such violation.” (Cal. Lab. Code § 558.1; *see also*, *Atempa v. Peddrezani* (2018) 27 Cal.App.5th 809.)

Upon information and belief, Mr. David Dean and Ms. Jasmine Tatman were owner(s) and/or agent(s) of Respondents during all times relevant herein. They have violated, or caused to be violated, Labor Code sections and Wage Orders including, but not limited to, those requiring: payment for all hours worked at the correct rate of pay, payment of wages due at the time of separation, reimbursement of business expenses, maintenance of accurate time and payroll records, and payment of meal and rest period premiums, alleged herein. Mr. Dean and Ms. Tatman are therefore individually and personally liable for various Labor Code violations alleged herein. Accordingly, Ms. Hardin and other aggrieved employees are entitled to recovery of such penalties as set forth in Labor Code sections 558 and 558.1 against each defendant, and all of them.

CONCLUSION

Therefore, Ms. Hardin, acting in her individual capacity and on behalf of other aggrieved employees, respectfully requests that the Labor & Workforce Development Agency (“LWDA”) initiate an enforcement action with respect to the aforementioned violations. If the LWDA declines to pursue enforcement, Ms. Hardin fully intends to bring a Superior Court action on her behalf and in a representative capacity on behalf of all other current and former aggrieved employees, for all applicable civil penalties arising out of the above-referenced violations, or which could be assessed and collected by the Labor and Workforce Development Agency (“LWDA”), for violations of the California Labor Code pursuant to PAGA.

Thank you for your time and attention to this matter. If you have any questions or require additional information, please do not hesitate to contact us.

Best regards,

LURTZ LEGAL, P.C.

A handwritten signature in dark ink, appearing to read 'M. R. Lurtz', is written over a light blue horizontal line.

Marshall R. Lurtz, Esq.