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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GHASSAN ABDELLATIF,
individually, and as a representative
of other aggrieved employees,

Plaintiff,

vs.

MOLINA HEALTHCARE, INC., a
Corporation, and DOES 1 through
250, inclusive,

Defendants.

Case No.: 2:23-cv-09145-WLH-JPR

**SECOND AMENDED CLASS ACTION
COMPLAINT**

- (1) Violation of California Labor Code §§ 510, 1194, 1198 (Unpaid Overtime and Minimum Wages);
- (2) Violation of California Labor Code §§ 226(a) and 1174 (Non-compliant Wage Statements);
- (3) Violation of California Labor Code §§ 201-203 (Failure to Pay All Wages and on a Timely Basis);
- (4) Violation of Labor Code §226.7, 512(a) (Unpaid Meal Period Premiums);
- (5) Violation of Labor Code §226.7 (Unpaid Rest Period Premiums)
- (6) Violation of Labor Code §2802 (Unreimbursed Business Expenses)
- (7) Violation of California Business & Professions Code §§ 17200, et seq.
- (8) Violation of Private Attorney General Act (Labor Code §2698, et seq)

1 Plaintiff Ghassan Abdellatif (“Plaintiff”) individually, and as a
2 representative of other aggrieved employees, allege as follows:

3 4 **INTRODUCTION**

5 1. This is an action brought by the Plaintiff, pursuant to California
6 statutory, decisional, and regulatory laws. Plaintiff was an employee of Defendant
7 Molina Healthcare, Inc. (“Defendant”) at all times herein mentioned, until he was
8 separated in August of 2023.

9 2. Plaintiff alleges that California statutory, decisional and regulatory
10 laws prohibit the conduct by Defendants herein alleged, and therefore Plaintiff has
11 an entitlement to monetary relief on the basis that Defendants violated such
12 statutes, decisional law and regulations.

13 14 **JURISDICTION AND VENUE**

15 3. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, § 10, which grants the Superior Court “original
17 jurisdiction in all causes except those given by statute to other courts.” The
18 statutes under which this action is brought do not specify any other basis for
19 jurisdiction.

20 4. This Court has jurisdiction over all Defendants because, upon
21 information and belief, each party is either a citizen of California, has sufficient
22 minimum contacts in California, or otherwise intentionally avails itself of the
23 California market so as to render the exercise of jurisdiction over it by the
24 California courts consistent with traditional notions of fair play and substantial
25 justice.

26 5. Venue is proper in this Court because, upon information and belief,
27 one or more of the named Defendants reside, transact business, or have offices in
28 this county and the acts and omissions alleged herein took place in this county.

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employees in the State of California.

12. At all times mentioned herein, each Defendant was the agent, servant, joint employer, alter ego, parent, subsidiary or employee of the other Defendants and in acting and omitting to act as alleged herein did so within the course and scope of that agency or employment.

13. Defendant MOLINA HEALTHCARE, INC. ("MOLINA") and DOES 1 through 250 are collectively referred to herein as "Defendants."

14. Plaintiffs are informed and believe that Defendants currently employ, and during the Class period have employed at least one hundred employees in the State of California in non-exempt and/or hourly positions, some of whom are jointly employed with temporary agencies.

FACTUAL ALLEGATIONS

15. Claimant was a National Benefits Advisor. He worked remotely from his home office, and used his home internet and data to conduct the company's business on a full-time basis. Initially, Molina paid nothing for reimbursement of this expense, but after employees protested, the aggrieved employees were provided a stipend of approximately \$22 per month, which was much less than the proportional cost of the home office as it related to business use, including employee's subsidizing the internet and data costs of the company in carrying out company business over the phone and by e-mail. Molina under-reimbursed all non-exempt employees for their business expenses during the class period. This failure to adequately reimburse plaintiff and other class members violates Labor Code §2802.

16. Additionally, the National Benefits Advisors and other class members were routinely forced to work through their meal breaks due to lengthy conversations with potential customers and/or other reasons related to the press of work. The Respondent did routinely pay meal period premiums,

1 but it did so at the base hourly rate of pay, rather than at the “regular rate of
2 pay.” This resulted in significant underpayments, because Claimant and other
3 class members earned a combination of hourly pay, bilingual differential pay,
4 sales commissions and other forms of non-discretionary compensation, which
5 meant that the “regular rate of pay,” was much higher than the base rate of pay.
6 As a result, there were repeated instances where Molina underpaid the meal
7 period and/or rest period premium.

8 17. Additionally, Molina paid COVID Supplemental Sick Pay at the
9 base rate of pay, rather than at the regular rate of pay as required by the
10 applicable regulation.

11 18. Plaintiff is informed and believes that the Respondent also failed to
12 correctly calculate overtime premiums by failing to include commissions,
13 differentials and additional pay for things like being bilingual in the overtime
14 calculation.

15 19. As a result of these underpayments, the Defendant failed to pay all
16 wages when due during the pay cycle in violation of Labor Code §204, as well
17 failed to pay all wages due upon separation, in violation of Labor Code §201-
18 203.

19 20. Additionally, at least with respect to the National Benefits Advisors,
20 they were instructed to only use the restroom during rest breaks and at no other
21 time. As a result, the aggrieved employees were deprived of a lawful rest break
22 where they could use their 10 minutes as they saw fit. This is a violation of
23 Labor Code §226.7.

24 21. Further, by failing to report all wages, or detailing the rates of pay,
25 and the correct hours on a paystub Molina has violated Labor Code §226.3. The
26 paystubs that are issued are deficient because they falsely report the wages
27 earned Also See Labor Code §226(a).

28 22. The paystubs are also defective for the completely separate reason

that the payments described are nearly indecipherable to the employees. For example, the differential pay rate for bilingual employees is not shown on the paystub. Instead, the base rate is shown and when that is multiplied by the number of hours indicated that are worked at the base rate, the math does not coincide with the earnings column for the differential pay. The end result is confusion for the employee.

23. Similarly, with regard to meal premiums, the rate of pay is listed as the base rate, and when you multiply that number by the number of meal period violations identified on the paystub, it does not coincide with the earnings column for the meal period premiums earned. This is in clear violation of Labor Code Section 226(a), which requires a paystub to accurately and in a straightforward manner describe the rates of pay that were in effect, the number of hours worked at that rate, and the earnings for those hours. Molina's paystubs repeatedly demonstrate math that is simply wrong and unworkable.

CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action individually, as well as on behalf of each and all other persons similarly situated in a concerted effort to improve wages and working conditions for other non-exempt and/or hourly employees (as well as exempt employees with regard to the Labor Code 2802 claim), and thus seeks class certification under Code of Civil Procedure § 382.

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

26. The proposed Class consists of and is defined as:
All current and former California employees of Defendant, including any temporary employees assigned by agencies, who worked in non-exempt positions during the 4 years preceding the filing of this Complaint, as well as exempt employees during this period who were not properly reimbursed for business expenses. The proposed sub-classes consist of and are defined as:

OVERTIME SUB-CLASS: All members of the Class who were not paid accurate overtime compensation for all hours worked in excess of eight hours per day and/or forty hours per week.

MEAL AND REST SUB-CLASS: All members of the Class who were denied meal and rest period premiums when they were entitled to them under the meal and rest period laws.

WAITING TIME SUB-CLASS: All members of the Class who, at any time after the date three years prior to the filing of this Complaint, separated their employment from Defendants and were not paid wages within the times specified by California Labor Code §§ 201-203 and are owed restitution for waiting time penalties deriving from wages.

BUSINESS EXPENSES SUB-CLASS: All members of the Class who, at any time after three years prior to the filing of his Complaint were not properly reimbursed for necessary business expenses.

27. Plaintiff reserves the right to establish additional sub-classes as appropriate.

28. At all material times, Plaintiff was a member of the Class.

29. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

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

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with

1 whom there is a shared, well-defined community of interest.
2 Plaintiff's claims (or defenses, if any) are typical of all Class
3 members as demonstrated herein.

4 (c) Adequacy: Plaintiff is qualified to, and will, fairly and
5 adequately protect the interests of each Class member with
6 whom there is a shared, well-defined community of interest
7 and typicality of claims, as demonstrated herein. Plaintiff
8 acknowledges that Plaintiff has an obligation to make known
9 to the Court any relationship, conflicts or differences with any
10 Class member. Plaintiff's attorneys, the proposed Class
11 counsel, are versed in the rules governing class action
12 discovery, certification, and settlement.

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

19 (e) Public Policy Considerations: Employers in the State of
20 California violate employment and labor laws every day.
21 Current employees are often afraid to assert their rights out of
22 fear of direct or indirect retaliation. Former employees are
23 fearful of bringing actions because they believe their former
24 employers might damage their future endeavors through
25 negative references and/or other means. Class actions provide
26 the Class members who are not named in the complaint with a
27 type of anonymity that allows for the vindication of their
28 rights at the same time as their privacy is protected.

1 30. There are common questions of law and fact as to the Class (and
2 each subclass) that predominate over questions affecting only individual
3 members, including but not limited to:

- 4 (a) Whether Defendants' failure to pay overtime wages, without
5 abatement or reduction, in accordance with the California
6 Labor Code, was willful;
- 7 (b) Whether Defendants' timekeeping system and policies failed
8 to record all hours worked by Plaintiffs and Class members;
- 9 (c) Whether Defendants owe Plaintiffs and Class members
10 overtime pay for work over eight hours per day and/or over
11 forty hours per week;
- 12 (d) Whether Defendants' conduct was willful or reckless;
- 13 (e) Whether Defendants violated California Labor Code § 226 by
14 failing to timely furnish Plaintiff and Class members with
15 accurate wage statements or appropriate meal and rest
16 periods;
- 17 (f) Whether Defendants failed to timely pay all wages due to
18 Plaintiff and Class members upon their discharge or
19 resignation;
- 20 (g) Whether Defendants engaged in unfair business practices in
21 violation of California Business & Professions Code § 17200,
22 et seq.; and
- 23 (h) The appropriate amount of damages, restitution, or monetary
24 penalties resulting from Defendants' violations of California
25 law.

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FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510—Unpaid Overtime

(By the Plaintiff and Class against All Defendants)

31. Plaintiff incorporates all paragraphs above as though fully set forth herein.

32. California Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law. California Labor Code § 510 further provides that any work in excess of twelve hours in one day and for all hours worked in excess of eight hours on the seventh consecutive day of work in a workweek shall be compensated at the rate of no less than twice the regular rate of pay for an employee.

33. California Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, California Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful. The governing Wage Order of the IWC requires, among other things, payment of a premium wage rate for all hours worked in excess of eight hours per day or forty hours per week.

34. At all times relevant hereto, Defendants failed to pay Plaintiff and Class members accurate overtime compensation for the hours they have worked in excess of the maximum hours permissible by law as required by California Labor Code § 510 and 1198 as described in more detail above. The overtime rate was repeatedly miscalculated, as well as the double-time rate by failing to include commissions, bonuses and other forms of non-hourly remuneration in the “regular rate” calculation.

35. By virtue of Defendants' unlawful failure to pay additional, premium rate compensation to Plaintiff and Class members for their overtime hours worked, Plaintiff and Class members have suffered, and will continue to suffer, damages in amounts which are presently unknown to them but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

36. Plaintiff and Class members request recovery of overtime compensation and minimum wage compensation according to proof, interest, attorney's fees and costs pursuant to California Labor Code § 1194(a), liquidated damages under Labor Code § 1194.2, as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other statutes. Further, Plaintiff and Class members are entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code § 1194.

SECOND CAUSE OF ACTION

Violation of California Labor Code §§ 226(a)—

Non-compliant Wage Statements

(By the Plaintiff and Class and against all Defendants)

37. Plaintiff incorporates all paragraphs above as though fully set forth herein.

38. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (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

1 and shown as one item, (5) net wages earned, (6) the inclusive dates of the
2 period for which the employee is paid, (7) the name of the employee and the last
3 four digits of his or her social security number or an employee identification
4 number other than a social security number, (8) the name and address of the
5 legal entity that is the employer, and (9) all applicable hourly rates in effect
6 during the pay period and the corresponding number of hours worked at each
7 hourly rate by the employee.

8 39. Defendants have intentionally and willfully failed to provide
9 employees with complete and accurate wage statements. The deficiencies
10 include, among other things, the failure to correctly identify the total hours
11 worked and the gross wages earned by Plaintiff and Class members; the correct
12 deductions; differential rates, meal period rates, meal and rest break premiums;
13 overtime rates; and the overtime hours worked by Plaintiff and Class members.

14 40. Additionally, as a result of Defendants conduct as alleged herein,
15 Defendants failed to maintain accurate records on actual hours worked by
16 Plaintiff and Class members. Therefore, Defendants have also violated
17 California Labor Code § 1174.

18 41. As a result of Defendants' violation of California Labor Code §§
19 226(a) and 1174, Plaintiff and Class members have suffered injury and damage
20 to their statutorily-protected rights.

21 42. Specifically, Plaintiff and Class members have been injured by
22 Defendants' intentional violation of California Labor Code § 226(a) because
23 they were denied both their legal right to receive, and their protected interest in
24 receiving, accurate, itemized wage statements under California Labor Code §
25 226(a).

26 43. Plaintiff was also injured as a result of having to bring this action to
27 attempt to obtain correct wage information following Defendants' refusal to
28 comply with many of the mandates of California's Labor Code and related laws

1 and regulations.

2 44. Plaintiff and Class members are entitled to recover from Defendants
3 the greater of their actual damages caused by Defendants' failure to comply with
4 California Labor Code § 226(a), or an aggregate penalty not exceeding four
5 thousand dollars per employee.

6 45. Plaintiff and Class members are also entitled to injunctive relief to
7 ensure compliance with this section, pursuant to California Labor Code §
8 226(g).

9 **THIRD CAUSE OF ACTION**

10 **Violation of California Labor Code §§ 201-203—**

11 **Failure to Pay All Wages and on a Timely Basis**

12 **(By the Plaintiff and Class and against all Defendants)**

13 46. Plaintiff incorporates all paragraphs above as though fully set forth
14 herein.

15 47. As alleged herein, Plaintiffs and Class members did not receive
16 meal period premiums, overtime and regular wages during their employment and
17 at the time of termination, as applicable.

18 48. At all relevant times herein and as alleged herein, Defendants failed
19 to pay to Plaintiff and Class members all wages by the times required by law in
20 that the time periods set forth by California Labor Code § 204 regarding the time
21 of wage payments were not adhered to and all regular wages were not paid.

22 49. At all times herein set forth, California Labor Code §§ 201 and 202
23 provide that if an employer discharges an employee, the wages earned and
24 unpaid at the time of discharge are due and payable immediately, and that if an
25 employee voluntarily leaves his or her employment, his or her wages shall
26 become due and payable not later than 72 hours thereafter, unless the employee
27 has given 72 hours previous notice of his or her intention to quit, in which case
28 the employee is entitled to his or her wages at the time of quitting.

1 50. During the relevant time period, Defendants willfully failed to pay
2 Plaintiffs and Class members who are no longer employed by Defendants their
3 wages, earned and unpaid, either at the time of discharge, or within 72 hours of
4 their leaving Defendants' employ.

5 51. Plaintiff's and Class members' final paychecks did not include all
6 wages, including overtime wages, meal and rest period premiums, and COVID
7 pay, owed to Plaintiff and Class members.

8 52. Defendants' failure to pay Plaintiff and those Class members who
9 are no longer employed by Defendants their wages earned and unpaid at the time
10 of discharge is in violation of California Labor Code §§ 201 and 202.

11 53. California Labor Code § 203 provides that if an employer willfully
12 fails to pay wages owed, in accordance with §§ 201 and 202, then the wages of
13 the employee shall continue as a penalty from the due date, and at the same rate
14 until paid or until an action is commenced; but the wages shall not continue for
15 more than thirty days.

16 54. Plaintiffs and Class members are entitled to recover from
17 Defendants their additionally accruing wages for each day they were not paid, at
18 their regular hourly rate of pay, up to thirty days maximum pursuant to
19 California Labor Code § 203.

20 55. Plaintiffs and Class members seek to recover the unpaid balance of
21 the full amount of the unpaid regular wages and interest thereon, reasonable
22 attorneys' fees and costs of the suit to the fullest extent permissible including
23 those permitted pursuant to the California Labor Code §§ 203, 218.5, 218.6 and
24 Code of Civil Procedure § 1021.5.

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FOURTH CAUSE OF ACTION

**Violation of California Labor Code §§ 226.7 and 512(a)—Unpaid Meal
Period Premiums**

(By the Plaintiff and Class and against all Defendants)

56. Plaintiff incorporates all paragraphs above as though fully set forth herein.

57. The applicable IWC Wage Order and California Labor Code §§ 226.7 and 512(a) were applicable to Plaintiff's employment by Defendants.

58. California Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by an applicable order of the California IWC.

59. The applicable IWC Wage Order and California Labor Code § 512(a) provide that an employer may not require, cause or permit an employee to work for a period of more than five hours per day without providing the employee with an uninterrupted meal period of not less than thirty minutes, except that if the total work period per day of the employee is not more than six hours, the meal period may be waived by mutual consent of both the employer and the employee.

60. Plaintiff and Class members were required to work for periods longer than five hours without an uninterrupted meal period of not less than thirty minutes. Plaintiff and Class members were also provided short meal periods, and meal periods that were interrupted and not "duty free." Plaintiff and Class members were not authorized or permitted lawful meal periods, and were not provided with one hour's wages, *at the regular rate of pay*, in lieu thereof in violation of, among others, California Labor Code §§ 226.7, 512, and applicable IWC Wage Orders.

61. Defendants willfully required Plaintiff and Class members to work

1 during meal periods and failed to compensate Plaintiff and Class members for
2 work performed during meal periods.

3 62. Defendants failed to pay Plaintiff and Class members the full meal
4 period premium due pursuant to California Labor Code § 226.7.

5 63. Defendants' conduct violates the applicable IWC Wage Orders and
6 California Labor Code §§ 226.7 and 512(a).

7 64. Pursuant to the applicable IWC Wage Order and California Labor
8 Code § 226.7(b), Plaintiff and Class members are entitled to recover from
9 Defendants one additional hour of pay at the employee's regular hourly rate of
10 compensation for each work day that the meal period was not provided.

11 12 **FIFTH CAUSE OF ACTION**

13 **Violation of California Labor Code § 226.7—Unpaid Rest Period Premiums** 14 **(By the Plaintiff and Class and against all Defendants)**

15 65. Plaintiff incorporates all paragraphs above as though fully set forth
16 herein.

17 66. The applicable IWC Wage Order and California Labor Code § 226.7
18 were applicable to Plaintiff's employment by Defendants.

19 67. California Labor Code § 226.7 provides that no employer shall
20 require an employee to work during any rest period mandated by an applicable
21 order of the California IWC.

22 68. The applicable IWC Wage Order provides that "[e]very employer
23 shall authorize and permit all employees to take rest periods, which insofar as
24 practicable shall be in the middle of each work period" and that the "rest period
25 time shall be based on the total hours worked daily at the rate of ten minutes net
26 rest time per four hours or major fraction thereof" unless the total daily work
27 time is less than three and one-half hours.

28 69. Defendants required Plaintiff and Class members to work four or

1 more hours without authorizing or permitting a ten-minute rest period per each
2 four-hour period worked.

3 70. Defendants willfully required Plaintiff and Class members to work
4 during rest periods and failed to compensate Plaintiff for work performed during
5 rest periods.

6 71. Defendants failed to pay Plaintiff and Class members the full rest
7 period premium due pursuant to California Labor Code § 226.7.

8 72. Defendants' conduct violates the applicable IWC Wage Orders and
9 California Labor Code § 226.7.

10 73. Pursuant to the applicable IWC Wage Order and California Labor
11 Code § 226.7(b), Plaintiff and Class members are entitled to recover from
12 Defendants one additional hour of pay at the employee's regular hourly rate of
13 compensation for each work day that the rest period was not provided.

14 **SIXTH CAUSE OF ACTION**

15 **Violation of Labor Code §2802—Unreimbursed Expenses**

16 **(By the Plaintiff and Class against all Defendants)**

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19 74. Plaintiff incorporates all paragraphs above as though fully set forth
20 herein.

21 75. Under Labor Code §2802, an employer must indemnify its
22 employees "for all necessary expenditures or losses incurred by the employee in
23 direct consequence of the discharge of his or her duties.

24 76. The Defendant in this case required plaintiff and other Class
25 Members to use personal cell phones, internet and data for work-related
26 purposes, but failed to provide any reimbursement initially, and then
27 dramatically under-reimbursed class members from that point forward.

28 77. Plaintiff and Class Members were damaged by having to pay for

1 necessary business expenses out of their own personal funds.

2 78. Plaintiff also seeks attorney's fees under Labor Code §2802 c
3 because these fees were necessarily incurred in protecting the rights of plaintiff
4 and class members to the underlying reimbursement claim.

5 6 **SEVENTH CAUSE OF ACTION**

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

8 **(By the Plaintiff and Class and against all Defendants)**

9 79. Plaintiffs incorporates all paragraphs above as though fully set forth
10 herein.

11 80. Defendants, and each of them, are "persons" as defined under
12 Business & Professions Code § 17021.

13 81. Defendants' conduct, as alleged herein, has been, and continues to
14 be, unfair, unlawful, and harmful to Plaintiffs, Class members, and to the general
15 public. Plaintiffs seek to enforce important rights affecting the public interest
16 within the meaning of Code of Civil Procedure § 1021.5.

17 82. Defendants' activities, as alleged herein, are violations of California
18 law, and constitute unlawful business acts and practices in violation of California
19 Business & Professions Code § 17200, et seq.

20 83. A violation of California Business & Professions Code § 17200, et
21 seq. may be predicated on the violation of any state or federal law. All of the
22 acts described herein as violations of, among other things, the California Labor
23 Code and IWC Wage Orders, are unlawful and in violation of public policy; and
24 in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and
25 thereby constitute unfair, unlawful and/or fraudulent business practices in
26 violation of California Business and Professions Code § 17200, et seq.

27 **Failing to Pay Prevailing/Minimum Wages/Overtime**

28 84. Defendants' failure to pay prevailing wage and overtime

1 compensation and other benefits in violation of California Labor Code §§ 510
2 and 1198 constitutes unlawful and/or unfair activity prohibited by Business and
3 Professions Code § 17200, et seq.

4 **Failing to Timely Pay Wages Upon Termination**

5 85. Defendants' failure to timely pay wages upon termination in
6 accordance with California Labor Code §§ 201 and 202, as alleged above,
7 constitutes unlawful and/or unfair activity prohibited by Business and
8 Professions Code § 17200, et seq.

9 **Failing to Provide Accurate Itemized Wage Statements**

10 86. Defendants' failure to provide accurate itemized wage statements in
11 accordance with California Labor Code § 226, as alleged above, constitutes
12 unlawful and/or unfair activity prohibited by Business and Professions Code §
13 17200, et seq.

14 **Failing to Accurately Record Hours Worked**

15 87. Defendants' failure to accurately record working hours, including
16 the beginning and end of a meal period in accordance with California Labor
17 Code § 558, 1174, and 1198, as alleged above, constitutes unlawful and/or unfair
18 activity prohibited by Business and Professions Code § 17200, et seq.

19 88. By and through their unfair, unlawful and/or fraudulent business
20 practices described herein, Defendants have obtained valuable property, money
21 and services from Plaintiffs, and all persons similarly situated, and have deprived
22 Plaintiff, and all persons similarly situated, of valuable rights and benefits
23 guaranteed by law, all to their detriment.

24 89. Plaintiff and Class members suffered monetary injury as a direct
25 result of Defendants' wrongful conduct.

26 90. Plaintiff, individually, and on behalf of Class members, are entitled
27 to, and do, seek such relief as may be necessary to disgorge the profits which the
28 Defendants have acquired, or of which Plaintiffs have been deprived, by means

1 of the above-described unfair, unlawful and/or fraudulent business practices.
 2 Plaintiffs and Class members are not obligated to establish individual knowledge
 3 of the unfair practices of Defendants in order to recover restitution.

4 91. Plaintiff, individually, and on behalf of Class members, are further
 5 entitled to and do seek a declaration that the above-described business practices
 6 are unfair, unlawful and/or fraudulent, and injunctive relief restraining the
 7 Defendants, and each of them, from engaging in any of the above-described
 8 unfair, unlawful and/or fraudulent business practices in the future.

9 92. Plaintiff, individually, and on behalf of Class members, have no
 10 plain, speedy, and/or adequate remedy at law to redress the injuries which they
 11 have suffered as a consequence of Defendants' unfair, unlawful and/or
 12 fraudulent business practices. As a result of the unfair, unlawful and/or
 13 fraudulent business practices described above, Plaintiff, individually, and on
 14 behalf of Class members, have suffered and will continue to suffer irreparable
 15 harm unless Defendants, and each of them, are restrained from continuing to
 16 engage in said unfair, unlawful and/or fraudulent business practices.

17 93. Pursuant to California Business & Professions Code § 17200, et
 18 seq., Plaintiff and Class members are entitled to restitution of the wages withheld
 19 and retained by Defendants during a period that commences four years prior to
 20 the filing of this complaint; a permanent injunction requiring Defendants to pay
 21 all outstanding wages due to Plaintiff and Class members, disgorgement of
 22 profits obtained through payroll tax and worker's compensation fraud; an award
 23 of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and
 24 other applicable laws; and an award of costs.

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EIGHTH CAUSE OF ACTION

Violation of California Labor Code §§ 2698, et seq. (“PAGA”)

(By the Plaintiffs and Aggrieved Employees and against all Defendants)

94. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

95. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiffs to recover civil penalties for the violation(s) of the California Labor Code section enumerated in California Labor Code § 2699.5.

96. At all times herein set forth, PAGA was applicable to Plaintiffs’ employment by Defendants.

97. 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 himself and other current or former employees pursuant to procedures outlined in California Labor Code § 2699.3.

98. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved employee,” who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

99. Plaintiffs are employed by Defendant and the alleged violations were committed against them during their time of employment and they are, therefore, aggrieved employees. Plaintiffs and other employees are aggrieved employees as defined by California Labor Code § 2699(c) in that they are all current or former employees of Defendants who are or were employed by Defendants, and one or more of the alleged violations were committed against them, as described in more detail above.

100. Pursuant to California Labor Code §§ 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under

1 PAGA after the following requirements have been met:

- 2 (a) The aggrieved employee shall give written notice by filing
3 online (“Employee’s Notice”) to the LWDA and providing
4 written notice by certified mail to the employer of the specific
5 provisions of the California Labor Code alleged to have been
6 violated, including the facts and theories to support the
7 alleged violations.

8 101. The LWDA shall provide notice (“LWDA Notice”) to the employer
9 and the aggrieved employee by certified mail that it does not intend to
10 investigate the alleged violation within sixty calendar days of the postmark date
11 of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA
12 Notice is not provided within sixty-five calendar days of the postmark date of
13 the Employee’s Notice, the aggrieved employee may commence a civil action
14 pursuant to California Labor Code § 2699 to recover civil penalties in addition
15 to any other penalties to which the employee may be entitled.

16 102. On February 9, 2024, Plaintiff submitted to the LWDA online as
17 well as provided written notice by certified mail to Defendants of the specific
18 provisions of the California Labor Code alleged to have been violated, including
19 the facts and theories to support the alleged violations. The LWDA has not
20 responded.

21 103. Plaintiff satisfied the administrative prerequisites under California
22 Labor Code § 2699.3(a) to recover civil penalties against Defendants, in
23 addition to other remedies, for violations of California Labor Code §§ 201, 202,
24 203, 204, 206, 223, 210, 218.6, 223, 226, 226(a), 226.3, 226.7, 256, 510, 512(a),
25 551, 552, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198, 1720.9, as
26 well as Section VII of the Wage Order regarding recordkeeping obligations for
27 hours worked.

28 104. Defendants’ conduct, as alleged herein, violates numerous sections

of the California Labor Code including but not limited to the following:

- (a) Violation of California Labor Code §§ 510 and 1198 for Defendants' failure to compensate Plaintiff and other aggrieved employees with all required overtime pay as herein alleged. In addition, a violation of 29 USC Section 207 et seq., which provides for overtime wages under Federal Law. These underpaid wages were late, in violation of Labor Code Section 204, late at termination in violation of Labor Code 201 and 202, and are subject to civil penalties due to the underlying underpayment under Labor Code Section 558.
- (b) Violation of California Labor Code § 201, 202 and 203 for failure to timely pay all wages owed upon termination as herein alleged.
- (c) Violation of California Labor Code § 226(a) and 226.3 for failing to provide wage statements which accurately show the total number of hours worked and gross wages earned, and the correct hourly rates in effect, as well as failing to include some wages on the paystub at all.

Pursuant to California Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff and all other aggrieved employees are entitled to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code §§ 201, 202, 203, 204, 206, 223, 226(a), 226.3, 226.7, 510, 512(a), 551, 552, 558, 1174, 1182.12, 1194, 1197, 1198, 1771, 1775, 1776, 1777.5, 1720.9, 2802, and 2810.5.

Further Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code § 2699 and any other applicable statute.

PRAYER FOR RELIEF

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

Class Certification

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representatives of the Class; and,
3. That counsel for Plaintiff be appointed as Class Counsel.

(a) That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 510 and 1198, and applicable IWC Wage Orders by wilfully failing to pay all overtime wages and prevailing wages due to Plaintiff and Class members;

(b) For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

(c) For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

(d) For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code § 1194(a); and,

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

4. For statutory penalties and liquidated damages under Labor Code 1194.2;

(a) For reasonable attorneys' fees and for costs of suit incurred herein; and for such other and further relief as the Court may deem equitable and appropriate.

(b) That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders as to Plaintiff and Class members, and wilfully failed to provide accurate itemized wage statements thereto;

(c) For all actual, consequential and incidental losses and damages, according to proof;

5. For statutory penalties pursuant to California Labor Code § 226(e);

(a) For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(g); and,

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

(c) That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 201, 202, and 203 by wilfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and other terminated Class members;

(d) For all actual, consequential and incidental losses and damages, according to proof;

(e) For statutory wage penalties pursuant to California Labor Code § 203 for all Class members who have left Defendants' employ;

(f) For pre-judgment interest on any unpaid wages from the date such amounts were due; and,

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

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100 OCEANGATE, SUITE 1200, SUITE 1200
LONG BEACH, CALIFORNIA 90802

- 1 (h) That the Court declare, adjudge and decree that
- 2 Defendants violated the following California Labor
- 3 Code §§ 510 and 1198 (by failing to provide Plaintiff
- 4 and Class members all overtime compensation);
- 5 (i) dollars (\$100) for each violation per pay period for the
- 6 initial violation and two hundred dollars (\$200) for each
- 7 aggrieved
- 8 (j) That the Court declare, adjudge and decree that
- 9 Defendants violated California Business and Professions
- 10 Code §§ 17200, et seq. by failing to provide Plaintiffs
- 11 and Class members all overtime compensation due to
- 12 them; by failing to provide all meal and rest periods and
- 13 failing to pay for all missed meal and rest periods; by
- 14 failing to pay timely and earned wages upon
- 15 termination; and by failing to provide accurate itemized
- 16 wage statements;
- 17 (k) For restitution of unpaid wages to Plaintiffs and all
- 18 Class members and prejudgment interest from the day
- 19 such amounts were due and payable;
- 20 (l) For the appointment of a receiver to receive, manage
- 21 and distribute any and all funds disgorged from
- 22 Defendants and determined to have been wrongfully
- 23 acquired by Defendants as a result of violations of
- 24 California Business & Professions Code §§ 17200 et
- 25 seq.;
- 26 (m) For reasonable attorneys' fees and costs of suit incurred
- 27 herein pursuant to California Code of Civil Procedure §
- 28 1021.5;

- (n) For injunctive relief to ensure compliance with this section, including amending company practices and policies, pursuant to California Business & Professions Code § 17200, et seq.; and,
- (o) For civil penalties pursuant to PAGA.
- (p) For such other and further relief as the Court may deem equitable and appropriate.

Respectfully Submitted,

Dated: May 1, 2024

LAW OFFICES OF BUCHSBAUM & HAAG
Limited Liability Partnership

By 
Brent S. Buchsbaum, Attorneys for Plaintiffs

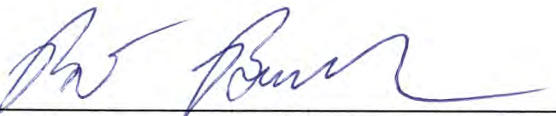
DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully demands a jury trial.

Respectfully Submitted,

Dated: May 1, 2024

LAW OFFICES OF BUCHSBAUM & HAAG
Limited Liability Partnership

By 
Brent S. Buchsbaum, Attorneys for Plaintiffs