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FILED
Superior Court of California
County of Los Angeles
05/13/2024

David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DELORIS WARD, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

HORRIGAN COLE ENTERPRISES, INC.,
dba COLE VOCATIONAL SERVICES, a
California corporation; UNLIMITED
QUEST, INC., a California corporation;
NATIONAL MENTOR HEALTHCARE,
LLC, dba CALIFORNIA MENTOR, a
Delaware limited liability company;
NATIONAL MENTOR, LLC, a Delaware
limited liability company; NATIONAL
MENTOR HOLDINGS, LLC, a Delaware
limited liability company; and
DOES 1 through 100,

Defendants.

CASE NO. 24STCV06626

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) FAILURE TO PAY ALL MINIMUM
WAGES OWED (LABOR CODE §§
1182.12, 1194, 1194.2, 1197, 1198);**
- (2) FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
1194, 1198);**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) FAILURE TO REIMBURSE FOR ALL
NECESSARY BUSINESS
EXPENDITURES (LABOR CODE
§§ 2802, 2804);**
- (6) WAGE STATEMENT PENALTIES
(LABOR CODE § 226 *et seq.*);**
- (7) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (8) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (9) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Deloris Ward (“Plaintiff”), on behalf of herself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint (“Complaint”)
3 against Defendants Horrigan Cole Enterprises, Inc., dba Cole Vocational Services, a California
4 corporation; Unlimited Quest, Inc., a California corporation; National Mentor Healthcare, LLC,
5 dba California Mentor, a Delaware limited liability company; National Mentor, LLC, a Delaware
6 limited liability company; National Mentor Holdings, LLC, a Delaware limited liability company,
7 and DOES 1 to 100, inclusive (collectively “Defendants”), and on information and belief alleges
8 as follows:

9 **JURISDICTION**

10 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
11 Complaint for recovery of unpaid wages and penalties under California Business and Professions
12 Code § 17200 *et. seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 1182.12, 1194, 1194.2,
13 1197, 1198, 2802, 2804, and 2698 *et seq.*; and Industrial Welfare Commission Wage Order 4
14 (“Wage Order 4”), in addition to seeking injunctive relief, declaratory relief, and restitution. This
15 Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
16 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
17 controversy exceeds this Court’s jurisdictional minimum.

18 **VENUE**

19 2. Venue is proper in this judicial district pursuant to California Code of Civil
20 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
21 occurred in the County of Los Angeles. Defendants own, maintain offices, transact business, have
22 an agent or agents within the County of Los Angeles, and/or otherwise are found within the
23 County of Los Angeles, and Defendants are within the jurisdiction of this Court for purposes of
24 service of process.

25 **PARTIES**

26 3. Plaintiff is and was at all times relevant herein, an individual over the age of
27 eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident.
28 During the four years immediately preceding the filing of the Complaint in this action and within

1 the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was
2 employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of Defendants'
3 policies and/or practices complained of herein, lost money and/or property, and has been deprived
4 of the rights guaranteed by California Business and Professions Code § 17200, *et. seq.*, Labor
5 Code §§ 201-204, 226, 226.7, 510, 512, 516, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, and
6 2698 *et seq.*; and Wage Order 4, which sets employment standards for the "Professional,
7 Technical, Clerical, Mechanical and Similar Occupations."

8 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
9 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
10 continue to do) business in California by providing services to individuals with intellectual and
11 developmental disabilities, and employed Plaintiff and other similarly situated non-exempt
12 employees within Los Angeles County and the State of California.

13 5. Plaintiff does not know the true names or capacities, whether individual, partner,
14 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
15 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
16 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
17 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
18 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
19 and proximately caused Plaintiff and the Classes (as defined in Paragraph 18) to be subject to the
20 unlawful employment practices, wrongs, injuries, and damages complained of herein.

21 6. Upon information and belief, Defendants are part of a group of health and human
22 service providers serving individuals with intellectual and developmental disabilities in the State
23 of California. Although Defendants are organized separately, in practice they act, and have always
24 acted, as the same, joint enterprise, and they each exert control over the wages, hours, and/or
25 working conditions of Plaintiff and the putative classes. Upon information and belief, at all
26 relevant times, Defendants, and each of them, were members of and engaged in a joint venture,
27 partnership, and common enterprise, and acting within the course and scope of and in pursuance
28 of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all

1 Defendants were joint employers for all purposes of Plaintiff and the putative classes.

2 7. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
3 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

4 8. At all times herein mentioned, each of said Defendants participated in the doing
5 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
6 Defendants, and each of them, were the agents, servants, and employees of each and every one of
7 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
8 were acting within the course and scope of said agency and employment. Defendants, and each
9 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
10 omissions complained of herein.

11 9. At all times mentioned herein, Defendants, and each of them, were members of
12 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
13 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
14 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
15 members of the Classes.

16 **GENERAL FACTUAL ALLEGATIONS**

17 10. Plaintiff was employed by Defendants as a non-exempt Direct Support
18 Professional (“DSP”) from approximately January 2023 until approximately January 25, 2024.
19 Plaintiff was initially placed to work at Defendant Horrigan Cole Enterprises, Inc., dba Cole
20 Vocational Services’ (“CVS”) facility located at 3826 Atlantic Avenue, Long Beach, California
21 90807. At this CVS location, Plaintiff was responsible for serving three (3) to four (4) individuals
22 per daily shift and attending to all of the individual’s needs, including assistance with daily life
23 activities, using the restroom, and taking the individuals to various community-based activities.
24 Plaintiff was also required to travel to one of CVS’ schools located in Torrance, California to
25 perform DSP duties and supervise individuals.

26 11. On multiple occasions during her employment with Defendants, Plaintiff reported
27 to the CVS location on Atlantic Avenue and was instructed to report to work at Defendant
28 Unlimited Quest, Inc.’s (“Unlimited Quest”) facility located at 3350 Olive Avenue, Signal Hill,

1 California 90755. On these occasions, Plaintiff was informed there was a staffing shortage at
2 Unlimited Quest’s facility, and she was directed by Defendants to travel to the Unlimited Quest
3 facility and perform DSP duties at the Unlimited Quest facility. While working at the Unlimited
4 Quest facility, Plaintiff supervised approximately three (3) to (4) individuals with intellectual and
5 developmental disabilities.

6 12. Defendants also required Plaintiff to perform DSP duties at Defendant National
7 Mentor Healthcare, LLC dba California Mentor (“California Mentor”). During her employment
8 with Defendants, Plaintiff reported to the CVS location on Atlantic Avenue and was instructed to
9 travel to work at California Mentor’s Specialized Residential Facilities located in Long Beach,
10 California. During her employment, Plaintiff was instructed to travel to and work at California
11 Mentor’s Specialized Residential Facility located at 1306 Cartagena Street, Long Beach,
12 California 90807 (“Cartagena House”) and California Mentor’s Specialized Residential Facility
13 located at 4857 Hazelbrook Avenue, Long Beach, California 90808 (“Hazelbrook House”).
14 California Mentor operates Specialized Residential Facilities which house individuals with
15 intellectual and developmental disabilities. While working as a DSP at the Cartagena House and
16 Hazelbrook House, Plaintiff supervised and assisted individuals with all aspects of daily
17 activities, including grooming, bathing, preparing meals, and feeding individuals.

18 13. During Plaintiff’s employment with Defendants, upon information and belief,
19 Defendants utilized a timekeeping system which resulted in Plaintiff and other non-exempt
20 employees not being compensated for all hours actually worked, whether by rounding, time-
21 shaving, or otherwise. Specifically, when Plaintiff was required to report to work at Unlimited
22 Quest and California Mentor, Defendants failed to properly record Plaintiff’s hours worked, and
23 as a result, Plaintiff was not compensated for all hours actually worked. Defendants also failed to
24 compensate Plaintiff and other non-exempt employees for all required travel time during the
25 workday. Defendants’ timekeeping policies/practices have resulted in Plaintiff and other non-
26 exempt employees not being compensated for all minimum wages. Further, on occasions when
27 Plaintiff worked over eight hours in a workday and/or forty hours in a workweek, Defendants’
28 timekeeping policies/practices deprived her of additional overtime wages earned. Due to

1 Defendants' timekeeping policies/practices that fail to compensate for all hours worked, including
2 all travel time, Plaintiff and other non-exempt employees were not compensated for all required
3 minimum and overtime wages. Additionally, Plaintiff was required to work split shifts, however,
4 due to Defendants' policies/practices, Defendants failed to pay at least one (1) hour's pay at the
5 minimum wage in addition to the minimum wage for that workday, resulting in further unpaid
6 minimum wages.

7 14. Defendants have failed to authorize and permit all required off-duty rest periods
8 for Plaintiff and other non-exempt employees. Due to the nature of caring and supervising
9 intellectually and developmentally disabled individuals, and Defendants' requirement that
10 individuals be supervised at all times, Plaintiff and other non-exempt employees were not
11 authorized and permitted to take legally compliant off-duty rest periods. Additionally, Defendants
12 failed to authorize and permit a full ten minutes of "net rest" in an area appropriate for rest away
13 from the workstation during rest periods, as required by the Wage Orders. Despite failing to
14 authorize and permit Plaintiff and other non-exempt employees to take all rest periods to which
15 they are entitled, upon information and belief, Defendants maintained no mechanism for the
16 payment of rest period premium payments as required by Labor Code § 226.7 and did not pay
17 Plaintiff and other non-exempt employees any rest period premiums.

18 15. Defendants also failed to provide Plaintiff and other non-exempt employees with
19 all legally compliant off-duty meal periods due to Defendants' meal period policies/practices,
20 which have resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
21 and missed meal periods. In addition, while working at the Unlimited Quest and California
22 Mentor facilities, Plaintiff was not permitted any off-duty meal period and was prohibited from
23 leaving the premises during her meal periods. On those occasions when Plaintiff was not provided
24 with all legally-required meal periods to which she was entitled, Defendants failed to compensate
25 Plaintiff with the required meal period premium for each workday in which she experienced a
26 meal period violation as mandated by Labor Code § 226.7. Upon information and belief, during
27 at least a portion of the relevant time period, Defendants maintained no payroll code or other
28 mechanism for paying meal period premiums under Labor Code § 226.7 in the event a legally

compliant meal period was not provided to Plaintiff and other non-exempt employees.

16. Defendants also failed to adequately reimburse Plaintiff and other non-exempt employees for all reasonable and necessary work expenditures, including, but not limited to the use of personal cellular phones to call Defendants' office(s) and/or receive calls from Defendants' office(s) and to clock in and out of their work shifts, and use of personal vehicles to travel between Defendants' facilities. Defendants did not adequately reimburse Plaintiff and other non-exempt employees for their cellular phone expenses, even though they used their personal cellular phones for business purposes. Defendants also had a policy/practice of requiring Plaintiff and other non-exempt employees to use their personal vehicles to travel to Defendants' various facilities during the workday but failed to reimburse Plaintiff and other non-exempt employees for all mileage incurred.

17. As a result of Defendants' failure to compensate Plaintiff and other non-exempt employees for all minimum wages, overtime wages, and all meal and rest period premium wages, Defendants maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements. Additionally, the wage statements issued to Plaintiff and other non-exempt employees failed to list the correct name and address of the legal entity that is the employer, in violation of Labor Code § 226(a)(8). As a further result of Defendants' failure to compensate Plaintiff and other non-exempt employees for all minimum wages, overtime wages, and all meal and rest period premium wages, Defendants failed to pay Plaintiff and other non-exempt employees all wages owed at the time of their separation of employment with Defendants.

CLASS ACTION ALLEGATIONS

18. Class Definitions: Plaintiff brings this Complaint on behalf of herself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of the Complaint through the present.

- b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per week and were subject to Defendants' timekeeping policies during the four years immediately preceding the filing of the Complaint through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who (i) worked at least one shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years immediately preceding the filing of the Complaint through the present.
- d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift of 3.5 hours or more, during the four years immediately preceding the filing of the Complaint through the present.
- e. The Employee Expense Class consists of all of Defendants' current and former non-exempt employees who were not adequately reimbursed for reasonable and necessary expenditures in connection with their employment with Defendants, during the four years immediately preceding the filing of the Complaint through the present.
- f. The Wage Statement Class consists of all Defendants' current and former non-exempt employees in California who have received a wage statement, during the one year immediately preceding the filing of the Complaint through the present.
- g. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class, who have separated their employment with Defendants during the three years immediately preceding the filing of the Complaint through the present.

19. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes and subclasses are unknown to Plaintiff, at this time; however, it is estimated that the Classes number is in excess of one hundred (100) individuals as to each class. The identity of such

membership is readily ascertainable via inspection of Defendants' employment records.

20. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation, to:

- i. Whether Defendants paid all minimum wages owed to members of the Minimum Wage Class for all hours worked pursuant to Labor Code §§ 1182.12, 1194, 1194.2 1197, and 1198;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Overtime Class and Minimum Wage Classes;
- iv. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants correctly paid meal period premium payments for non-compliant meal periods pursuant to Labor Code § 226.7;
- vi. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vii. Whether Defendants correctly paid rest period premium payments for non-compliant rest periods pursuant to Labor Code § 226.7;
- viii. Whether Defendants' policies and/or practices regarding reasonable and necessary business expenditures resulted in the failure to properly reimburse members of the Employee Expense Class;
- ix. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and

1 x. Whether Defendants’ policies and/or practices for the timing and amount of
2 payment of final wages to Plaintiff and members of the Waiting Time Class at the
3 time of their separation of employment were lawful.

4 21. **Predominance of Common Questions:** Common questions of law and fact
5 predominate over questions that affect only individual members of the Classes. The common
6 questions of law and fact set forth above are numerous and substantial and stem from Defendants’
7 uniform policies and/or practices applicable to each individual class member including, but not
8 limited to, Defendants’ uniform timekeeping policies and/or practices, and meal and rest period
9 policies and/or practices. As such, the common questions predominate over individual questions
10 concerning each individual class member’s showing as to his or her eligibility for recovery or as
11 to the amount of his or her damages.

12 22. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
13 Plaintiff was employed by Defendants as a non-exempt employee in California during the statutes
14 of limitation applicable to each cause of action pled in this Complaint. As alleged herein, Plaintiff,
15 like the members of the Classes, was not properly paid minimum and overtime wages due to
16 Defendants’ timekeeping policies/practices, was not provided all required meal periods, was not
17 authorized and permitted to take all required rest periods, did not receive meal and rest period
18 premium wages for missed and/or non-compliant meal and rest periods, was not reimbursed for
19 necessary business expenses, was not issued accurate itemized wage statements, and/or did not
20 receive all final wages owed to her upon her separation of employment with Defendants.

21 23. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
22 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
23 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the members of
24 the Classes and Plaintiff. Plaintiff’s attorneys have prosecuted and defended numerous wage-
25 and-hour class actions in state and federal courts in the past and are committed to vigorously
26 prosecuting this action on behalf of the members of the Classes.

27 24. **Superiority:** The California Labor Code is broadly remedial in nature and serves
28 an important public interest in establishing minimum working conditions and standards in

California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes are maintainable as classes under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

(AGAINST ALL DEFENDANTS)

25. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

26. Wage Order 4, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law.

1 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
2 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
3 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
4 wages and interest accrued thereon.

5 27. At all relevant times herein, Defendants failed to conform their pay practices to
6 the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class
7 for all hours worked including, but not limited to, all hours they were subject to the control of
8 Defendants and/or suffered or permitted to work under the California Labor Code and Wage
9 Order 4.

10 28. Additionally, Wage Order 4, § 4 (C) requires that an employee receive one (1)
11 hour's pay at the minimum wage in addition to the minimum wage for that workday when the
12 employee works a split shift.

13 29. California Labor Code § 1198 makes unlawful the employment of an employee
14 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
15 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
16 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an
17 amount equal to the wages due and interest thereon.

18 30. As a direct and proximate result of Defendants' unlawful conduct as alleged
19 herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but
20 not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are
21 entitled to recover economic and statutory damages and penalties and other appropriate relief as
22 a result of Defendants' violations of the California Labor Code and Wage Order 4.

23 31. The foregoing practices and policies are unlawful and create an entitlement to
24 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
25 amount of minimum wages owing, including interest thereon, liquidated damages, statutory and
26 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558,
27 1194, 1197, and 1198, Wage Order 4, and Code of Civil Procedure § 1021.5.

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1 in accordance with the mandates of the California Labor Code and Wage Order 4, § 11. Despite
2 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members
3 of the Meal Period Class at their respective regular rates of pay, in accordance with California
4 Labor Code §§ 204, 210, 226.7, and 512.

5 38. As a result, Defendants are responsible for paying premium compensation for meal
6 period violations pursuant to Labor Code §§ 226.7 and 512, and Wage Order 4, including interest
7 thereon, statutory penalties, civil penalties, and costs of suit.

8 **FOURTH CAUSE OF ACTION**

9 **REST PERIOD VIOLATIONS**

10 **(AGAINST ALL DEFENDANTS)**

11 39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

12 40. Wage Order 4, § 12 and Labor Code §§ 226.7 and 516 establish the right of
13 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
14 period worked, or major fraction thereof.

15 41. As alleged herein, Defendants failed to authorize and permit Plaintiff and members
16 of the Rest Period Class to take all required rest periods.

17 42. The foregoing violations create an entitlement to recovery by Plaintiff and
18 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
19 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
20 to Labor Code §§ 226.7, 516, and Civil Code §§ 3287(b) and 3289.

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE EMPLOYEES FOR**

23 **NECESSARY BUSINESS EXPENDITURES**

24 **(AGAINST ALL DEFENDANTS)**

25 43. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

26 44. Based on information and belief, Defendants required Plaintiff and members of
27 the Employee Expense Class to use their personal cellular phones and personal vehicles but failed
28 to provide adequate reimbursement.

45. At all relevant times herein, Defendants were subject to Labor Code § 2802, which states that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

46. At all relevant times herein, Defendants were subject to Labor Code § 2804, which states that, “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

47. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, and Wage Order 4, § 9, Plaintiff and members of the Employee Expense Class were damaged in sums, which will be shown according to proof.

48. Plaintiff and members of the Employee Expense Class are entitled to attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

49. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue from the date on which they incurred the necessary expenditure.

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

50. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

51. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of the Wage Statement Class with accurate and complete, itemized wage statements that included, among other requirements, all hours worked, total gross wages earned, all rates of pay and corresponding number of hours worked, total net wages earned, and the correct name of the legal entity that is the employer in violation of Labor Code § 226 *et seq.*

52. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with accurate and complete, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of minimum and overtime wages and meal and rest period premium wages owed, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

53. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

SEVENTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

55. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee, or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

56. Plaintiff is informed and believe, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including all minimum and overtime wages, and meal and rest period premium wages.

57. Further, Plaintiff is informed and believe, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

58. Defendants' failure to pay all final wages was willful within the meaning of Labor

Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of wages up to thirty days from the time the wages were due.

59. Therefore, Plaintiff and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

60. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

61. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of Business & Professions Code § 17200 *et seq.*, by: (a) failing to pay Plaintiff and members of the Minimum Wage Class all minimum wages; (b) failing to pay Plaintiff and members of the Overtime Class all overtime wages; (c) failing to provide Plaintiff and members of the Meal Period Class with all meal periods to which they are entitled, and/or failing to pay them meal period premium payments; (d) failing to authorize and permit all required duty-free rest periods to Plaintiff and members of the Rest Period Class, and/or failing to pay them rest period premiums payments; (e) knowingly failing to furnish Plaintiff and the Wage Statement Class with all accurate and complete, itemized wage statements in violation of Labor Code § 226; (g) failing to provide adequate reimbursement for all reasonable and necessary business expenditures; and (h) failing to timely pay all wages owed upon separation to Plaintiff and members of the Waiting Time Class.

62. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

63. Because Plaintiff is a victims of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff, for themselves and on behalf of the members of the Classes, seeks full

1 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
2 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203
3 and 17208.

4 64. The acts complained of herein occurred within the last four years immediately
5 preceding the filing of the Plaintiff's Complaint.

6 65. Plaintiff was compelled to retain the services of counsel to file this Complaint to
7 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf
8 of Defendants' current non-exempt employees, and to enforce important rights affecting the
9 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
10 which she is entitled to recover under Code of Civil Procedure § 1021.5.

11 **NINTH CAUSE OF ACTION**

12 **PRIVATE ATTORNEYS GENERAL ACT**

13 **(AGAINST ALL DEFENDANTS)**

14 66. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

15 67. Defendants have committed several Labor Code violations against Plaintiff,
16 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
17 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved
18 employees, brings this representative action against Defendants to recover the civil penalties due
19 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
20 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
21 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
22 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
23 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
24 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
25 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
26 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
27 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
28 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each

subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 204, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 210, 510, 558, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to reimburse Plaintiff, the Employee Expense Class, and other aggrieved employees for all necessary business expenses incurred in violation of Labor Code §§ 1198, 2802 and 2804;
- f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- g. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code § 1174 and 1198.

68. On March 7, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 67 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

69. Based on the foregoing, Plaintiff seeks to represent herself and all Aggrieved Employees, as defined by Labor Code § 2699(c).

70. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which she is entitled to receive under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and

special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et seq.*;

10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201- 203;

11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Bus. & Prof. Code § 17200, *et seq.*;

12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations identified in Paragraph 67 (a)-(i);

13. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226, 1194, 2802(c), and 2699(g); and Code of Civil Procedure § 1021.5; and

///

1 15. For such other and further relief, the Court may deem just and proper.

2
3 Dated: May 13, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

4
5 By: _____



Paul K. Haines
Attorneys for Plaintiff

6
7
8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

10
11 Dated: May 13, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

12
13 By: _____



Paul K. Haines
Attorneys for Plaintiff