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County of Solano
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO

KELLY KELLER, individually and on behalf of)
all aggrieved employees,)

Plaintiff,

v.

SUCCESSFUL ALTERNATIVES FOR)
ADDICTION & COUNSELING SERVICES,)
INC.; MEDMARK TREATMENT CENTERS –)
FAIRFIELD, INC.; and DOES 1-10, inclusive,)

Defendants.

Case No. CU24-03793

COMPLAINT FOR:

1. Discrimination in Violation of Government Code § 12940(a);
2. Harassment in Violation of Government Code § 12940(j)(1);
3. Retaliation in Violation of Government Code § 12940(h) and Labor Code §§ 98.6, 232.5, 246.5, and 1102.5;
4. Failure to Prevent Discrimination, Harassment, and/or Retaliation in Violation of Government Code § 12940(k);
5. Wrongful Termination of Employment in Violation of Public Policy;
6. Intentional Infliction of Emotional Distress;
7. Negligent Infliction of Emotional Distress;
8. Breach of Written Employment Agreement;
9. Failure to Pay All Wages;
10. Meal Period Violations;
11. Rest Period Violations;
12. Failure to Reimburse Business Expenses;
13. Wage Statement Violations;
14. Waiting Time Penalties;
15. Unfair Competition; and
16. Violations of the Private Attorneys General Act of 2004

DEMAND FOR JURY TRIAL

1 Plaintiff KELLY KELLER (“Plaintiff”), individually and on behalf of all other aggrieved
2 employees and the State of California, brings this Complaint against Defendants SUCCESSFUL
3 ALTERNATIVES FOR ADDICTION & COUNSELING SERVICES, INC.; MEDMARK
4 TREATMENT CENTERS – FAIRFIELD, INC.; and DOES 1-10, inclusive (collectively, “Defendants”),
5 and hereby alleges with knowledge with respect to her own acts and on information and belief as to other
6 matters as follows:

7 **INTRODUCTION**

8 1. Through this action, Plaintiff seeks statutory, compensatory and punitive damages,
9 penalties, interest as allowed by law, costs, attorneys’ fees, declaratory relief, and other appropriate and
10 just relief due to Defendants’ unlawful conduct in violation of Plaintiff’s rights under state law to be free
11 from discrimination, harassment, and/or retaliation in violation of California law.

12 2. Plaintiff further seeks unpaid wages (including minimum and overtime wages, reporting
13 time pay, sick pay, and vacation pay), meal and rest period premiums, liquidated and statutory damages,
14 treble damages, restitution, interest as allowed by law, costs, attorneys’ fees, and other sums that
15 Defendants owe to Plaintiff under the Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders,
16 California Business and Professions Code (“Business and Professions Code”), and California Penal Code
17 (“Penal Code”).

18 3. Plaintiff also brings a representative action individually and on behalf of all other aggrieved
19 employees who are and were employed by Defendants as non-exempt employees throughout California
20 during the PAGA Period under the Private Attorneys General Act of 2004, Labor Code Sections 2698 *et*
21 *seq.* (“PAGA”), against Defendants for alleged violations of Labor Code §§ 98.6, 201, 202, 203, 204, 206,
22 210, 221, 223, 224, 226, 226.3, 226.7, 227.3, 232.5(c), 233, 234, 246, 510, 511, 512, 558, 558.1, 1102.5,
23 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2804, and 2810.3. The term PAGA
24 Period is defined as one (1) year prior to Plaintiff’s notice of Labor Code violations to the Labor and
25 Workforce Development Agency (“LWDA”) and Defendants until judgment.

26 **JURISDICTION AND VENUE**

27 4. This Court has jurisdiction over Defendants because, upon information and belief,
28 Defendants are citizens of California, Defendants have sufficient minimum contacts in California, or

1 otherwise intentionally avail themselves to the California market so as to render the exercise of jurisdiction
2 over them by the California courts consistent with the traditional notions of fair play and substantial justice.

3 5. Venue as to each Defendant is proper in this judicial district pursuant to California Code of
4 Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
5 occurred in the County of Solano. Further, at all times relevant herein Plaintiff was employed by
6 Defendants within the County of Solano.

7 **PARTIES**

8 6. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein, Plaintiff
9 was, and currently is, a California resident.

10 7. SUCCESSFUL ALTERNATIVES FOR ADDICTION & COUNSELING SERVICES,
11 INC., is a California corporation company doing business in California, including in the County of Solano.
12 SUCCESSFUL ALTERNATIVES FOR ADDICTION & COUNSELING SERVICES, INC. is, and at all
13 relevant times was, an employer subject to the Fair Employment and Housing Act and Labor Code.

14 8. MEDMARK TREATMENT CENTERS – FAIRFIELD, INC. is a California corporation
15 company doing business in California, including in the County of Solano. MEDMARK TREATMENT
16 CENTERS – FAIRFIELD, INC. is, and at all relevant times was, an employer subject to the Fair
17 Employment and Housing Act and Labor Code.

18 9. Plaintiff is unaware of the true names and capacities of those Defendants identified as DOES
19 1 through 10. Therefore, Plaintiff identifies those Defendants fictitiously. Each DOE Defendant was a
20 parent, sister, or related corporate entity of Defendants, or an owner, employee or agent of Defendants, and
21 each related entity, and was acting with the knowledge and authorization of each of the other Defendants.
22 Plaintiff will seek to amend this Complaint to allege the true names and capacities of each DOE Defendant
23 when their names have been ascertained and identified. Each of the Defendants sued as DOES 1 through
24 10 participated in, received the benefit of, or was in some way responsible for one or more of the wrongful
25 acts and omissions and some portion of the damages alleged in this Complaint.

26 10. At all times relevant, each defendant acted in all respects pertinent to this action as the agent
27 of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto,
28 and the acts of each defendant are legally attributable to the other defendants. Furthermore, Defendants in

1 all respects acted as the employer and/or joint employer of Plaintiff.

2 11. Defendants, each and all of them, at all times relevant, were the joint employers, parent
3 companies, successor companies, predecessors in interest, affiliates, agents, employees, servants, joint
4 venturers, directors, fiduciaries, representatives, and/or co-conspirators of each of the remaining
5 Defendants. Defendants, unless otherwise alleged, at all times relevant, performed all acts and omissions
6 alleged herein within the course and scope of said relationship(s), and are a proximate cause of Plaintiff's
7 damages alleged herein. Moreover, Plaintiff is informed and believes and thereon alleges that each
8 Defendant has authorized and/or ratified the wrongful activities of each of the remaining Defendants and
9 their agents.

10 12. There exists a unity of interest in ownership between Defendants and DOES 1 through 10,
11 inclusive, such that any individuality and separateness between the individual and the corporation does not
12 exist, as Defendants, and DOES 1 through 10, inclusive, are alter egos, in that: (a) Defendants are and at
13 all times mentioned herein were mere shells, instrumentalities and conduits through which DOES 1 through
14 10, inclusive, carried out their business in the business name, exercising complete control and dominance
15 over such business; (b) that Defendants were conceived, intended and used by DOES 1 through 10,
16 inclusive, as devices to avoid individual liability and in place of Defendants, and DOES 1 through 10,
17 inclusive, and were without the financial solvency and responsibility required by law; and (c) that all of the
18 assets of the Defendants have been transferred to DOES 1 through 10, inclusive, or some other individual
19 or entity which it, he, or she owns or controls, with the intent to hinder, delay or defraud creditors of
20 Defendants, leaving Defendants with no assets. Further, there exists a principal-agency relationship
21 between and among Defendants.

22 **FACTUAL ALLEGATIONS**

23 13. Plaintiff is a 72-year-old female.

24 14. Defendants' healthcare facilities provide medication-assisted treatment for substance use
25 disorders.

26 15. On May 3, 2021, Defendants and Plaintiff entered into a written employment agreement.
27 Under Plaintiff's employment agreement, Defendants employed Plaintiff as a nurse practitioner from
28 approximately May, 3 2021 through March 2024, when she was wrongfully terminated at the age of 72 in

1 violation of California law. At the time of her termination, Plaintiff was earning approximately \$70.02 per
2 hour.

3 16. Throughout her employment with Defendants, Plaintiff performed her job duties well. At a
4 certain point, because Plaintiff had been performing her job duties so well, Defendants asked her to perform
5 certain job duties that she was not hired or trained to perform, including specific duties associated with the
6 dispensing nurse position. Because Defendants did not provide Plaintiff with any training specific to this
7 dispensing nurse position, she repeatedly asked Defendants' supervisors Tanisha Caraveo in Vallejo,
8 California and Kimbrough Chipley in Fairfield, California to provide her with such training because the
9 job required it. Defendants' supervisors refused to provide Plaintiff with the required training and, instead,
10 simply asked her to review a template training document which only included things she already knew.
11 Still, Defendants asked Plaintiff to perform the job duties of the dispensing nurse, even though she was not
12 properly trained to perform those job duties.

13 17. On information and belief, during her employment with Defendants, Plaintiff experienced
14 discrimination, harassment, and retaliation on the basis of her age, sex/gender, and actual or perceived
15 disability.

16 18. For example, from May 2021 through the end of 2022, Defendants' supervisor Gabrielle
17 Boudin created a hostile work environment for Plaintiff by verbally abusing her and harassing her on the
18 basis of her age. For example, Ms. Boudin, who was substantially younger than Plaintiff, made derogatory
19 remarks about Plaintiff's age, such as "I don't know how someone *your* age can't do these things," and
20 confirmed she treated Plaintiff differently because of her age. On information and belief, Defendants'
21 supervisors, including Kimbrough Chipley, continued to discriminate against Plaintiff on the basis of her
22 age until she was terminated in March 2024.

23 19. In early 2024, Plaintiff became ill with a virus and had to use extended sick leave hours.

24 20. In March 2024, Defendants terminated Plaintiff's employment without advanced notice and
25 or explanation.

26 21. Defendants terminated Plaintiff within 90 days of her extended sick leave. Because
27 Defendants terminated Plaintiff's employment within 90 days of her protected activity (*i.e.*, using her
28 accrued sick leave), there shall be a rebuttable presumption in favor of Plaintiff's sick leave retaliation

1 claim. *See* Senate Bill No. 497 (2023) [Equal Pay and Anti-Retaliation Protection Act].

2 22. Moreover, on information and belief, Defendants replaced Plaintiff with a significantly
3 younger nurse practitioner who they are paying significantly less than \$70.02 per hour or assigned her job
4 duties to significantly younger existing employees.

5 23. The alleged discrimination, harassment, and retaliation has caused significant emotional
6 distress to Plaintiff.

7 24. The alleged discrimination, harassment, and retaliation against Plaintiff was condoned,
8 permitted and encouraged by Defendants in a manner which was grossly negligent, reckless, willful,
9 malicious, and deliberately indifferent to the Plaintiff's personal rights to a workplace free from
10 discrimination, harassment, and retaliation.

11 25. In addition, under § 7 of Plaintiff's employment agreement, Defendants were required to
12 provide Plaintiff with 90 days' pay if they terminated her employment without 90 days' prior written notice.
13 Defendants failed to provide Plaintiff with 90 days' pay as required by § 7 of Plaintiff's employment
14 agreement at the time of her termination. Accordingly, Plaintiff is owed waiting time penalties in the
15 amount of 30 days' pay under Labor Code § 201 *et seq.*

16 **FACTUAL ALLEGATIONS CONCERNING PAGA CLAIMS**

17 26. Through this action, Plaintiff alleges Defendants have consistently maintained and enforced
18 against Plaintiff and Aggrieved Employees unlawful employment practices and policies which violate the
19 Labor Code and IWC Wage Orders.

20 27. **Unpaid Wages:** Plaintiff is informed, believes, and thereon alleges that during the PAGA
21 Period, Defendants failed to pay Plaintiff and Aggrieved Employees minimum, regular, overtime, and/or
22 double time wages for all hours worked at the legally mandated rates. During the PAGA Period, Plaintiff
23 and Aggrieved Employees regularly worked more than eight (8), 10, and/or 12 hours per workday and/or
24 over 40 hours per workweek. Defendants' practices and policies deprived Plaintiff and Aggrieved
25 Employees of minimum, regular, overtime, and/or double time wages for work they performed off the
26 clock. Defendants required Plaintiff and Aggrieved Employees to complete work-related tasks off the
27 clock, such as communicating with Defendants, traveling between Defendants' worksites, and working
28 through meal and rest breaks. In addition, Plaintiff regularly worked the first 5 to 20 minutes of her shift

1 off-the-clock because of technical difficulties she encountered clocking in on Defendants' old computer.
2 Furthermore, Defendants rounded Plaintiff and Aggrieved Employees' hours worked, thereby depriving
3 them of wages for all hours worked at the legally mandated rates. Defendants did not compensate Plaintiff
4 and Aggrieved Employees for all hours worked because Plaintiff and Aggrieved Employees were regularly
5 on-duty during their meal and/or rest periods. Finally, Defendants failed to accurately calculate the regular
6 rate of pay by, among other things, failing to include a remuneration when calculating the rate of pay for
7 overtime, double time, meal and rest period premiums, vacation pay, and sick pay. Accordingly,
8 Defendants failed to pay Plaintiff and Aggrieved Employees the proper minimum, regular, overtime, and
9 double time wages for all hours worked, sick pay, and vacation pay.

10 28. **Meal Break Violations:** Plaintiff is informed, believes, and thereon alleges that during the
11 PAGA Period, Defendants failed to authorize and permit and/or make available to Plaintiff and Aggrieved
12 Employees timely off-duty 30-minute meal periods within the appropriate time intervals required by Labor
13 Code § 512 and § 11 of the applicable IWC Wage Order(s). Specifically, Plaintiff and Aggrieved
14 Employees frequently had their meal periods shortened, interrupted, late, and/or missed altogether due to
15 Defendants' practice of understaffing and prioritizing work demands over taking compliant breaks.
16 Defendants also failed to authorize and permit and/or make available to Plaintiff and Aggrieved Employees
17 second meal periods when they worked more than 10 hours. Moreover, Defendants rounded Plaintiff and
18 Aggrieved Employees' time punches for meal periods. Accordingly, Defendants failed to authorize and
19 permit and/or make available to Plaintiff and Aggrieved Employees timely, uninterrupted off-duty meal
20 periods for at least 30 minutes when they worked more than five (5) hours and/or 10 hours in a workday,
21 and failed to compensate Plaintiff and Aggrieved Employees with an additional hour of pay at their regular
22 rate of pay for every day in which they were denied a compliant meal period.

23 29. **Rest Break Violations:** Plaintiff is informed, believes, and thereon alleges that during the
24 PAGA Period, Defendants failed to authorize and permit and/or make available ten-minute rest periods for
25 every four (4) hours or major fraction thereof worked. Defendants failed to implement a compliant rest
26 break policy and/or practice, and failed to provide uninterrupted, off-duty 10-minute rest breaks. Plaintiff
27 and Aggrieved Employees missed their rest breaks or had them interrupted or governed by Employer's
28 practices and policies. Specifically, Defendants never scheduled rest breaks for Plaintiff and Aggrieved

1 Employees and Plaintiff and Aggrieved Employees were never authorized and permitted to take rest breaks.
2 Defendants also failed to adopt and implement a practice of providing third rest breaks when Plaintiff and
3 Aggrieved Employees worked over 10 hours. Notwithstanding the above rest break violations, Defendants
4 failed to compensate Plaintiff and Aggrieved Employees with an additional hour of pay at their regular rate
5 of pay for every day in which they suffered a rest period violation.

6 **30. Unreimbursed Business Expenses:** Plaintiff is informed, believes, and thereon alleges that
7 during the PAGA Period, Defendants failed to reimburse Plaintiff and Aggrieved Employees for necessary
8 business expenses incurred in the performance of their duties in violation of the Labor Code and IWC
9 Wage Orders. During the PAGA Period, Defendants failed to reimburse Plaintiff and Aggrieved Employees
10 for all business expenses incurred for Defendants' benefit. For example, Plaintiff and Aggrieved
11 Employees were required to use their personal cell phones to discuss work-related matters with Defendants'
12 representatives and for other work purposes without reimbursement.

13 **31. Sick Pay Violations:** Plaintiff is informed, believes, and thereon alleges that during the
14 PAGA Period, Defendants failed to calculate and pay sick pay at the regular rate of pay for the workweek
15 in which Plaintiff and Aggrieved Employees used paid sick time, or by dividing the Plaintiff and Aggrieved
16 Employees' total wages, not including overtime premium pay, by the Plaintiff and Aggrieved Employees'
17 total hours worked in the full pay periods of the prior 90 days of employment, in violation of Labor Code
18 §§ 246, 246.5, 247, 247.5, and 248.5 and the Healthy Workplaces, Healthy Families Act of 2014. In
19 addition, during the PAGA Period, Defendants failed to permit Plaintiff and Aggrieved Employees to use
20 in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less
21 than the sick leave that would be accrued during six months at the employee's then current rate of
22 entitlement, for the reasons specified in subdivision (a) of § 246.5.

23 **32. Failure to Pay Accrued Vacation Wages:** Plaintiff is informed, believes, and thereon
24 alleges that during the PAGA Period, Defendants failed to provide to Plaintiff and Aggrieved Employees
25 accrual of vacation wages and failed to pay to Plaintiff and Aggrieved Employees vested vacation wages.

26 **33. Waiting Time Penalties:** Plaintiff is informed, believes, and thereon alleges that during the
27 PAGA Period, Defendants willfully failed to timely pay all wages due to Plaintiff and Aggrieved
28 Employees upon separation of employment in violation of the Labor Code and IWC Wage Orders. Plaintiff

1 and Aggrieved Employees were not paid all wages (including minimum, regular, overtime, and double
2 time wages, sick pay, and vacation pay), reimbursements, meal period premiums, and/or rest period
3 premiums within the required time period in violation of the Labor Code and applicable IWC Wage Orders.

4 34. **Wage Statement Violations:** Plaintiff is informed, believes, and thereon alleges that during
5 the PAGA Period, Defendants failed to furnish Plaintiff and Aggrieved Employees with accurate and
6 complete wage statements in violation of the Labor Code and IWC Wage Orders. Plaintiff and Aggrieved
7 Employees received wage statements which did not accurately reflect the gross and net wages earned, total
8 hours worked, all applicable rates of pay and the corresponding number of hours worked at each pay rate,
9 and correct entity name and address on wage statements issued to Plaintiff and Aggrieved Employees,
10 among other things in violation of the Labor Code and IWC Wage Orders.

11 35. **Retaliation for Engaging in Protected Activity:** Plaintiff is informed, believes, and
12 thereon alleges that during the PAGA Period, Plaintiff and Aggrieved Employees engaged in quintessential
13 protected activity by making complaints to Defendants regarding workplace conditions they reasonably
14 believed to be illegal. In response to Plaintiff's protected activity, Defendants discriminated, retaliated,
15 and/or took adverse actions against Plaintiff, including but not limited to terminating her employment.

16 **FIRST CAUSE OF ACTION**

17 **(Discrimination)**

18 **(Violation of Government Code §§ 12900, *et seq.*)**

19 **(Against All Defendants)**

20 36. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
21 in this paragraph.

22 37. At all times relevant, California Government Code §§ 12940, *et seq.* ("FEHA") was in full
23 force and effect and was binding on Defendants.

24 38. FEHA was intended to prevent the type of injury and damage alleged in this Complaint.
25 FEHA requires Defendants to refrain from discriminating against any employee because of the employee's
26 age, sex/gender, and actual or perceived disability.

27 39. Plaintiff was, at all times relevant, a member of the class of persons intended to be protected
28 by FEHA.

40. Plaintiff's age, sex/gender, and actual or perceived disability were motivating factors in Plaintiff's termination from Defendants' employ, as well as their other adverse actions against Plaintiff.

41. As a result of the foregoing acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, and other pecuniary loss not presently ascertained.

42. As a further direct and legal result of the acts and conduct of Defendants, and each of them, Plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature, duration, and extent of said injuries is presently unknown to Plaintiff, but Plaintiff is informed and believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent in character.

43. Defendants and their managers, officers, and/or directors committed the acts alleged herein maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff and acted with an improper and evil motive amounting to malice or oppression, and in conscious disregard of Plaintiff's rights. Moreover, Defendants and their managers, officers, and/or directors authorized or ratified the wrongful conduct of their employees and/or are personally guilty of oppression, fraud, or malice. As such, Plaintiff is entitled to recover punitive damages in an amount according to proof at trial.

44. Pursuant to Government Code § 12965(b), Plaintiff is entitled to recover costs, including reasonable attorneys' fees and expert witness fees, according to proof at trial.

SECOND CAUSE OF ACTION

(Harassment)

(Violation of Government Code §§ 12900, *et seq.*)

(Against All Defendants)

45. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth in this paragraph.

46. At all times relevant, FEHA was in full force and effect and was binding on Defendants.

47. FEHA was intended to prevent the type of injury and damage alleged in this Complaint. FEHA requires Defendants to refrain from harassing any employee because of the employee's age and actual or perceived disability.

48. Plaintiff was, at all times relevant, a member of the class of persons intended to be protected by FEHA. At all times relevant, Plaintiff was an individual with a physical disability, and is therefore entitled to the protection of California Government Code Section 12940(j)(1).

49. Plaintiff's age and physical disability was a motivating factor in Defendants' supervisors harassment of Plaintiff, as well as their other adverse actions against Plaintiff.

50. As a result of the foregoing acts and omissions of Defendant, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, and other pecuniary loss not presently ascertained.

51. As a further direct and legal result of the acts and conduct of Defendants, and each of them, Plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature, duration, and extent of said injuries is presently unknown to Plaintiff, but Plaintiff is informed and believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent in character.

52. Defendants and their managers, officers, and/or directors committed the acts alleged herein maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff and acted with an improper and evil motive amounting to malice or oppression, and in conscious disregard of Plaintiff's rights. Moreover, Defendants and their managers, officers, and/or directors authorized or ratified the wrongful conduct of their employees and/or are personally guilty of oppression, fraud, or malice. As such, Plaintiff is entitled to recover punitive damages in an amount according to proof at trial.

53. Pursuant to Government Code Section 12965(b), Plaintiff is entitled to recover costs, including reasonable attorneys' fees and expert witness fees, according to proof at trial.

THIRD CAUSE OF ACTION

(Retaliation)

(Violations of Government Code §§ 12900, *et seq.* and Labor Code §§ 98.6, 232.5, 233, 234, 246.5, and 1102.5)

(Against All Defendant)

54. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth in this paragraph.

55. At all times relevant, FEHA and the Labor Code was in full force and effect and was binding on Defendants.

56. FEHA and Labor Code Sections 98.6, 232.5, 246.5, and 1102.5 were intended to prevent the type of injury and damage alleged in this Complaint. FEHA and Labor Code Sections 98.6, 232.5, 246.5, and 1102.5 require Defendants to refrain from retaliating against Plaintiff for protected activities.

57. Plaintiff was, at all times relevant, a member of the class of persons intended to be protected by FEHA and Labor Code Sections 98.6, 232.5, 246.5, and 1102.5.

58. Plaintiff engaged in protected conduct by complaining about Defendants' working conditions, including but not limited to Defendants' repeated refusal to provide her with adequate training regarding certain matters; and taking/using her accrued sick leave.

59. Because Defendants terminated Plaintiff's employment within 90 days of her protected activity (*i.e.*, using her accrued sick leave), there shall be a rebuttable presumption in favor of Plaintiff's sick leave retaliation claim. *See* Senate Bill No. 497 (2023) [Equal Pay and Anti-Retaliation Protection Act].

60. Defendants terminated Plaintiff's employment and took the other alleged retaliatory actions.

61. Plaintiff's protected conduct was a motivating reason for Defendants' decision to terminate Plaintiff and the other alleged retaliatory actions.

62. As a result of the foregoing acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, and other pecuniary loss not presently ascertained.

63. As a further direct and legal result of the acts and conduct of Defendants, and each of them, Plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature, duration, and extent of said injuries is presently unknown to Plaintiff, but Plaintiff is informed and believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent in character.

64. Defendants and their managers, officers, and/or directors committed the acts alleged herein maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff and acted with an improper and evil motive amounting to malice or oppression, and in conscious disregard of Plaintiff's

1 rights. Moreover, Defendants and their managers, officers, and/or directors authorized or ratified the
2 wrongful conduct of their employees and/or are personally guilty of oppression, fraud, or malice. As such,
3 Plaintiff is entitled to recover punitive damages in an amount according to proof at trial.

4 65. Pursuant to Government Code Section 12965(b), Plaintiff is entitled to recover costs,
5 including reasonable attorneys' fees and expert witness fees, according to proof at trial.

6 **FOURTH CAUSE OF ACTION**

7 **(Failure to Prevent Discrimination, Harassment, and/or Retaliation)**

8 **(Violation of Government Code § 12940(k))**

9 **(Against All Defendants)**

10 66. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
11 in this paragraph.

12 67. FEHA requires an employer to take reasonable steps to prevent discrimination, harassment,
13 and/or retaliation in the workplace.

14 68. Defendants failed to take all reasonable steps to prevent discrimination, harassment, and/or
15 retaliation, and failed to prevent discrimination, harassment, and/or retaliation, against Plaintiff, as alleged
16 above.

17 69. During the entire relevant time period, Defendants failed to make an adequate and/or any
18 response to this pattern and practice and thereby established a policy, custom, practice and/or usage which
19 condoned, encouraged, tolerated, sanctioned, ratified, approved of, and/or acquiesced in discrimination,
20 harassment, and/or retaliation.

21 70. On information and belief, during the entire relevant time period, Defendants failed to
22 provide any and/or adequate training, education, and/or information to their personnel with regard to
23 policies and procedures regarding discrimination, harassment, and/or retaliation. Defendants' failure to
24 prevent and/or investigate led to the harm caused to Plaintiff.

25 71. As a result of the foregoing acts and omissions of Defendants, and each of them, Plaintiff
26 has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings
27 and future earning capacity, and other pecuniary loss not presently ascertained.

28 72. As a further direct and legal result of the acts and conduct of Defendants, and each of them,

1 Plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress,
2 anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature,
3 duration, and extent of said injuries is presently unknown to Plaintiff, but he is informed and believes and
4 thereon alleges that some if not all of the injuries are reasonably certain to be permanent in character.

5 73. Defendants and their managers, officers, and/or directors committed the acts alleged herein
6 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff and acted with
7 an improper and evil motive amounting to malice or oppression, and in conscious disregard of Plaintiff's
8 rights. Moreover, Defendants and their managers, officers, and/or directors authorized or ratified the
9 wrongful conduct of their employees and/or are personally guilty of oppression, fraud, or malice. As such,
10 Plaintiff is entitled to recover punitive damages in an amount according to proof at trial.

11 74. Pursuant to Government Code § 12965(b), Plaintiff is entitled to recover costs, including
12 reasonable attorneys' fees and expert witness fees, according to proof at trial.

13 **FIFTH CAUSE OF ACTION**

14 **(Wrongful Termination in Violation of Public Policy)**

15 **(Against All Defendants)**

16 75. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
17 in this paragraph.

18 76. There are strong and well defined public policies against discrimination, harassment, and/or
19 retaliation on the basis of age, sex/gender, and actual or perceived disability.

20 77. Defendants terminated Plaintiff's employment in violation of these public policies.

21 78. Plaintiff was harmed as a result of Defendants' conduct.

22 79. Defendants and their managers, officers, and/or directors committed the acts alleged herein
23 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff and acted with
24 an improper and evil motive amounting to malice or oppression, and in conscious disregard of Plaintiff's
25 rights. Moreover, Defendants and their managers, officers, and/or directors authorized or ratified the
26 wrongful conduct of their employees and/or are personally guilty of oppression, fraud, or malice. As such,
27 Plaintiff is entitled to recover punitive damages in an amount according to proof at trial.

28 // //

1 **SIXTH CAUSE OF ACTION**

2 **(Intentional Infliction of Emotional Distress)**

3 **(Against All Defendants)**

4 80. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
5 in this paragraph.

6 81. California law prohibits persons from intentionally or recklessly causing another emotional
7 distress.

8 82. Defendants intentionally or recklessly caused Plaintiff severe emotional distress.

9 83. Defendants' conduct was outrageous.

10 84. Plaintiff suffered harm as a result of Defendants' conduct.

11 85. Defendants and their managers, officers, and/or directors committed the acts alleged herein
12 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff and acted with
13 an improper and evil motive amounting to malice or oppression, and in conscious disregard of Plaintiff's
14 rights. Moreover, Defendants and their managers, officers, and/or directors authorized or ratified the
15 wrongful conduct of their employees and/or are personally guilty of oppression, fraud, or malice. As such,
16 Plaintiff is entitled to recover punitive damages in an amount according to proof at trial.

17 **SEVENTH CAUSE OF ACTION**

18 **(Negligent Infliction of Emotional Distress)**

19 **(Against All Defendants)**

20 86. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
21 in this paragraph.

22 87. California law prohibits persons from negligently causing another emotional distress.

23 88. Defendants negligently caused Plaintiff severe emotional distress, including suffering,
24 anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame.

25 89. Defendants' conduct was outrageous.

26 90. Defendants' conduct was a substantial factor in causing Plaintiff's serious emotional
27 distress.

28 // //

1 **EIGHTH CAUSE OF ACTION**

2 **(Breach of Written Employment Agreement)**

3 **(Against All Defendants)**

4 91. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
5 in this paragraph.

6 92. On May 3, 2021, Plaintiff and Defendants entered into a written employment agreement
7 (“Employment Agreement”).

8 93. Plaintiff did all, or substantially all, of the significant things the Employment Agreement
9 required her to do, except for those obligations that Defendants prevented Plaintiff from performing, if any,
10 and such other obligations that were rendered superfluous or prevented or excused by mistake of fact,
11 operation of law, government regulation, impossibility, impracticality, frustration of purpose, or public
12 policy considerations, if any.

13 94. Under § 7 of the Employment Agreement, Defendants were required to provide Plaintiff
14 with 90 days’ pay (the “Termination Payment”) if she was terminated without 90 days’ prior written notice.

15 95. Defendants breached the Employment Agreement by: (a) failing to pay to Plaintiff the
16 Termination Payment and terminating Plaintiff without any advance notice; and (b) failing to deal with
17 Plaintiff in good faith.

18 96. As a proximate result of Defendants’ breaches of the Employment Agreement, Plaintiff has
19 been damaged in an amount to be proven at trial.

20 **NINTH CAUSE OF ACTION**

21 **(Failure to Pay All Wages)**

22 **(Against All Defendants)**

23 97. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
24 in this paragraph.

25 98. At all relevant times, Defendants had a duty to comply with Labor Code §§ 204, 206, 210,
26 221, 223, 224, 227.3, 246, 510, 558, 1182.12, 1194, 1194.2, 1197, 1198, and the applicable IWC Wage
27 Orders and California Code of Regulations.

28 99. Labor Code § 204 and the IWC Wage Orders require timely payment of all wages owed on

1 regularly scheduled paydays at least twice during each calendar month, on days designated in advance by
2 the employer as the regular paydays. All wages in earned in excess of the normal work period must be paid
3 no later than the payday for the next regular payroll period.

4 100. Labor Code § 206 provides that in case of a dispute over wages, the employer shall pay,
5 without condition and promptly under the Labor Code all wages conceded due, leaving to the employee all
6 remedies he/she is otherwise entitled to as to any balance claimed.

7 101. Labor Code § 210 provides:

8 every person who fails to pay the wages of each employee as provided in
9 Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5,
10 shall be subject to a penalty as follows: (1) For any initial violation, one
11 hundred dollars (\$100) for each failure to pay each employee. (2) For each
12 subsequent violation, or any willful or intentional violation, two hundred
13 dollars (\$200) for each failure to pay each employee, plus 25 percent of the
14 amount unlawfully withheld. (b) The penalty shall either be recovered by
15 the employee as a statutory penalty pursuant to Section 98 or by the Labor
16 Commissioner as a civil penalty through the issuance of a citation or
17 pursuant to Section 98.3.

18 102. Labor Code § 221 provides “[i]t shall be unlawful for any employer to collect or receive
19 from an employee any part of wages theretofore paid by said employer to said employee.”

20 103. Labor Code § 223 provides “[w]here any statute or contract requires an employer to
21 maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to
22 pay the wage designated by statute or by contract.”

23 104. Labor Code § 224 prohibits any deduction from an employee’s wages which is not either
24 authorized by the employee in writing or permitted by law.

25 105. Labor Code § 227.3 requires employers to pay terminated employees for their unused paid
26 vacation time at their final rate of pay.

27 106. Labor Code § 246 requires employers to provide and allow employees to use at least 24
28 hours, or three days, of paid sick leave per year.

107. At all times relevant, Labor Code § 510, and applicable sections of the California Code of
Regulations and the IWC Wage Orders applied to Plaintiff’s work with Defendants. Labor Code § 510
and applicable provisions of the California Code of Regulations and IWC Wage Orders state that any work
performed in excess of eight hours in a workday and/or 40 hours in a workweek must be paid at one and

one-half times the employee's regular rate of pay. Any work performed in excess of 12 hours in a workday must be compensated at the rate of no less than twice the regular rate of pay for an employee.

108. Labor Code § 558 provides “[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 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.”

109. Labor Code § 1182.12 sets forth the minimum hourly wage that must be paid to all employees in California for all hours worked. Local minimum wage ordinances may provide for higher minimum wage rates that must be paid to employees for all hours worked in those locales where each local ordinance is in effect. Labor Code § 1197 affirms that it is unlawful to pay less than the state or local minimum wage, whichever is higher, for any hour of work.

110. Labor Code § 1194 provides that any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of the minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.

111. Labor Code § 1194.2 authorizes the recovery of liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon for unpaid wage violations.

112. Labor Code § 1197 provides that the minimum wage for employees fixed by the commission is the minimum wage to be paid to the employees, and the payment of a less wage than minimum so fixed is unlawful.

113. Labor Code § 1198 prohibits employers from employing for longer hours or less favorable conditions than those set forth in the Labor Code, IWC Wage Orders, or as otherwise set by the Labor Commissioner.

114. Plaintiff is informed, believes, and thereon alleges that at all relevant times, Plaintiff

1 regularly worked more than eight (8) hours, 10, and/or 12 hours per workday, more than 40 hours per
2 workweek, and/or more than eight (8) hours on the seventh consecutive day of work.

3 115. Plaintiff is informed, believes, and thereon alleges that at all relevant times, Defendants
4 failed to pay Plaintiff all wages for hours worked (including minimum, regular, overtime, and double time
5 wages, reporting time pay, sick pay, and vacation pay), failed to pay overtime, double time, sick pay, and/or
6 vacation pay at the proper rates of pay, auto-deducted and rounded meal periods, unlawfully deducted
7 wages, and required off-the-clock work without compensation, among other things.

8 116. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained
9 and continues to sustain damages, including loss of earnings including minimum, regular, overtime, and
10 double time compensation due, in an amount to be established at trial, plus prejudgment interest, attorneys'
11 fees, and costs pursuant to statute.

12 117. Plaintiff is informed, believes, and thereon alleges that Defendants, through their conduct
13 described herein, have committed an "intentional theft of wages in an amount greater than nine hundred
14 fifty dollars (\$950) from any one employee, or two thousand three hundred fifty dollars (\$2,350) in the
15 aggregate from two or more employees...in any consecutive 12-month period" within the meaning of Penal
16 Code § 487m. Specifically, Defendants have intentionally deprived Plaintiff of wages, as defined in § 200
17 of the Labor Code, gratuities, as defined in § 350 of the Labor Code, benefits, or other compensation, by
18 unlawful means, with the knowledge that the wages, gratuities, benefits, or other compensation is due to
19 Plaintiff under the law. Plaintiff is thus entitled to recover from Defendants treble damages and costs,
20 including reasonable attorneys' fees, pursuant to Penal Code § 496(c).

21 **TENTH CAUSE OF ACTION**

22 **(Meal Period Violations)**

23 **(Against All Defendants)**

24 118. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
25 in this paragraph.

26 119. Labor Code § 512(a) prohibits employers from employing any person for a work period of
27 more than five (5) hours without a meal period of not less than thirty (30) uninterrupted minutes. Further,
28 employers may not employ an employee for a work period of more than ten (10) hours per day without

1 providing the employee with a second meal period of not less than thirty (30) minutes.

2 120. At all relevant times, Plaintiff regularly worked more than five (5) hours and/or 10 hours
3 per workday without being provided an uninterrupted, off-duty 30-minute meal period since Plaintiff's
4 meal periods were late, interrupted, short, and/or on-duty.

5 121. Defendants failed to pay Plaintiff meal period premiums for noncompliant meal periods
6 pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order.

7 122. Defendants have willfully, unfairly, fraudulently or unlawfully failed to allow Plaintiff to
8 take meal breaks pursuant to Labor Code § 512(a). As a result, Defendants are liable to Plaintiff for
9 premium compensation of one hour of pay at the employee's regular rate for each workday that the meal
10 period was not provided pursuant to Labor Code § 226.7, according to proof at trial.

11 123. Plaintiff is informed, believes, and thereon alleges that Defendants, through their conduct
12 described herein, have committed an "intentional theft of wages in an amount greater than nine hundred
13 fifty dollars (\$950) from any one employee, or two thousand three hundred fifty dollars (\$2,350) in the
14 aggregate from two or more employees...in any consecutive 12-month period" within the meaning of Penal
15 Code § 487m. Specifically, Defendants have intentionally deprived Plaintiff of wages, as defined in § 200
16 of the Labor Code, gratuities, as defined in § 350 of the Labor Code, benefits, or other compensation, by
17 unlawful means, with the knowledge that the wages, gratuities, benefits, or other compensation is due to
18 Plaintiff under the law. Plaintiff is informed, believes, and thereon alleges that meal period premiums are
19 wages, gratuities, benefits, or other compensation within the meaning of Penal Code § 487m. Plaintiff is
20 thus entitled to recover from Defendants treble damages and costs, including reasonable attorneys' fees,
21 pursuant to Penal Code § 496(c).

22 **ELEVENTH CAUSE OF ACTION**

23 **(Rest Period Violations)**

24 **(Against All Defendants)**

25 124. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
26 in this paragraph.

27 125. California law and applicable Wage Orders require employers to authorize and permit all
28 employees to take uninterrupted rest periods. The rest period time shall be based on the total hours worked

1 daily at the rate of 10 minutes net rest time per four hours or major fraction thereof.

2 126. During the relevant time period, Defendants failed to provide compliant rest breaks.
3 Specifically, Plaintiff had his rest breaks on-duty, interrupted, missed, or shortened. Consequently, Plaintiff
4 did not receive a 10-minute rest period for every four (4) hours worked or major fraction thereof.

5 127. During the relevant time period, Defendants failed to pay Plaintiff rest period premiums for
6 noncompliant rest periods pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order.

7 128. Defendants have willfully, unfairly, fraudulently or unlawfully failed to allow Plaintiff to
8 take rest periods pursuant to California law. As a result, Defendants are liable to Plaintiff for premium
9 compensation of one hour of pay at the employee's regular rate for each workday that the rest period was
10 not provided pursuant to Labor Code § 226.7, in an amount to be established at trial.

11 129. Plaintiff is informed, believes, and thereon alleges that Defendants, through their conduct
12 described herein, have committed an "intentional theft of wages in an amount greater than nine hundred
13 fifty dollars (\$950) from any one employee, or two thousand three hundred fifty dollars (\$2,350) in the
14 aggregate from two or more employees...in any consecutive 12-month period" within the meaning of Penal
15 Code § 487m. Specifically, Defendants have intentionally deprived Plaintiff of wages, as defined in Section
16 200 of the Labor Code, gratuities, as defined in § 350 of the Labor Code, benefits, or other compensation,
17 by unlawful means, with the knowledge that the wages, gratuities, benefits, or other compensation is due
18 to Plaintiff under the law. Plaintiff is informed, believes, and thereon alleges that rest period premiums are
19 wages, gratuities, benefits, or other compensation within the meaning of Penal Code § 487m. Plaintiff is
20 thus entitled to recover from Defendants treble damages and costs, including reasonable attorneys' fees,
21 pursuant to Penal Code § 496(c).

22 **TWELFTH CAUSE OF ACTION**

23 **(Failure to Reimburse Business Expenses)**

24 **(Against All Defendants)**

25 130. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
26 in this paragraph.

27 131. At all relevant times, Defendants had a duty to comply with Labor Code §§ 2800 and 2802.
28 Defendants failed to comply with these indemnification and reimbursement requirements with respect to

1 Plaintiff.

2 132. Labor Code § 2800 requires employers to indemnify employees for losses caused by the
3 employer's want of ordinary care. To the extent Defendants claim that Plaintiff failed to request, demand,
4 notify or otherwise seek reimbursement for their expenses and losses, Defendants were obligated to
5 nevertheless indemnify Plaintiff due to their own negligence.

6 133. Labor Code § 2802(a) requires that employers indemnify and reimburse employees for all
7 business expenses, which are defined as all necessary expenditures or losses incurred by the employee in
8 direct consequence of the discharge of the employee's duties or otherwise incurred based on the employee's
9 obedience to the employer's directions. Labor Code § 2802(b) authorizes employees to recover in a court
10 action interest which shall accrue from the date on which the employee incurred the necessary expenditure
11 or loss. Labor Code § 2802(c) authorizes employees, who to enforce their right to reimbursements under
12 Labor Code § 2802, to also recover attorneys' fees and costs.

13 134. Defendants failed to pay and indemnify Plaintiff for his necessary expenditures and losses
14 incurred in direct consequence of the discharge of Plaintiff's duties or of Plaintiff's obedience to
15 Defendants' directions. For example, Defendants required Plaintiff to use her personal cell phone to discuss
16 work-related matters with Defendants' representatives and for other work purposes without reimbursement.

17 135. As a result of Defendants' failure to indemnify and reimburse Plaintiff for all business and
18 work-related costs, expenditures, losses and expenses in accordance with Labor Code §§ 2800 and 2802,
19 Plaintiff is entitled to recover the full unreimbursed balance of reimbursements, expenditures and losses,
20 prejudgment interest, and statutory penalties, along with attorneys' fees and costs according to proof at
21 trial.

22 **THIRTEENTH CAUSE OF ACTION**

23 **(Wage Statement Violations)**

24 **(Against All Defendants)**

25 136. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
26 in this paragraph.

27 137. Labor Code § 226(a) requires employers, at the time of each payment of wages, to furnish
28 each employee with an accurate statement itemizing, among other things: (1) gross wages earned; (2) the

1 total hours worked by the employee; (3) all deductions; (4) net wages earned; (5) the inclusive dates of the
2 period for which the employee is paid; (6) the name of the employee and his or her social security number
3 (last four digits); (7) the name and address of the legal entity that is the employer; and (8) all applicable
4 hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly
5 rate by the employee. Labor Code § 1174 further requires that such payroll records be kept in a central
6 location.

7 138. Labor Code § 226(e) further provides that if an employer knowingly and intentionally fails
8 to provide a statement itemizing, among other things, the total hours worked by the employee, then the
9 employee is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial violation
10 and one hundred dollars (\$100) for each subsequent violation, up to four thousand dollars (\$4,000).

11 139. As alleged above, Defendants failed to pay all wages, reimbursements, and premiums. Thus,
12 Defendants have knowingly and intentionally failed to comply with the Labor Code on each and every
13 wage statement that should have been provided to Plaintiff by failing to provide itemized wage statements
14 to Plaintiff that accurately reported, among other things, the gross and net wages earned, the total hours
15 worked, all applicable hourly rates in effect during the pay period, and the corresponding number of hours
16 worked at each hourly rate.

17 140. By failing to keep accurate records and provide such records to Plaintiff as required by
18 Labor Code §§ 226(a) and 1174, Defendants have injured Plaintiff and made it difficult to calculate the
19 unpaid wages earned and due to Plaintiff. Moreover, Defendants' failure to comply with Labor Code
20 Section 1174 is unlawful under Labor Code § 1175.

21 141. Because of Defendants' willful failure to provide Plaintiff with accurate records as required
22 by Labor Code § 226(a), Plaintiff is entitled to damages under Labor Code § 226(e) according to proof at
23 trial.

24 **FOURTEENTH CAUSE OF ACTION**

25 **(Waiting Time Penalties)**

26 **(By Plaintiff Against All Defendants)**

27 142. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
28 in this paragraph.

1 143. Labor Code § 201 requires that if an employer discharges an employee, the wages earned
2 and unpaid at the time of discharge are due and payable immediately. Labor Code § 203 provides that if an
3 employer willfully fails to pay compensation promptly upon discharge as required under Labor Code §
4 201, the employer is liable to the employee for penalties.

5 144. At the time of Plaintiff's termination of employment, Plaintiff had unpaid wages,
6 reimbursements, and premium pay for missed meal and rest periods outstanding.

7 145. Defendants have willfully, unfairly, fraudulently, or unlawfully failed to pay Plaintiff's
8 compensation owed upon termination of employment under Labor Code § 201. Plaintiff's employment
9 with Defendants terminated but Defendants failed to pay Plaintiff's any of the unpaid wages,
10 reimbursements, and premiums due and owing to Plaintiff's at the time of Plaintiff's termination of
11 employment. As a result, Defendants are liable to Plaintiff for waiting time penalties under Labor Code §
12 203 according to proof at trial.

13 **FIFTEENTH CAUSE OF ACTION**

14 **(Unfair Business Practices)**

15 **(Against All Defendants)**

16 146. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
17 in this paragraph.

18 147. Defendants' conduct as alleged herein constitutes an unfair or unlawful business practice as
19 defined in California's Unfair Competition Law, California Business & Professions Code §§ 17200-17209
20 *et seq.* The unlawful conduct includes failure to timely reimburse business expenses and associated
21 violations of the California Labor Code.

22 148. As a result, Plaintiff is entitled to restitution of unpaid wages, unpaid meal and rest break
23 premiums, and unreimbursed business expenses, attorneys' fees and costs, and other relief.

24 **SIXTEENTH CAUSE OF ACTION**

25 **(Violations of the Private Attorneys General Act of 2004)**

26 **(Against All Defendants)**

27 149. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth
28 in this paragraph.

1 150. Under Labor Code § 2699.3(a), a plaintiff may bring a cause of action under PAGA only
2 after giving the LWDA and the employer notice of the Labor Code sections alleged to have been violated,
3 and after receiving notice from the LWDA of its intention not to investigate or after 65 days have passed
4 without notice from the LWDA.

5 151. On March 4, 2024, Plaintiff gave written notice of the specified provisions alleged to have
6 been violated, including the facts and theories to support the alleged violations, as required by Labor Code
7 § 2699.3. This written notice was provided via certified mail to Defendants and to the LWDA by
8 electronically filing the notice via the Department of Industrial Relations' website. More than 65 days have
9 passed since Plaintiff submitted the notice to the LWDA without notice from the LWDA. Accordingly,
10 Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is
11 therefore able to pursue a claim for penalties on behalf of herself and all other aggrieved employees under
12 PAGA.

13 152. Under Labor Code § 2699(a), any provision of the Labor Code that provides for a civil
14 penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions,
15 boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil
16 action brought by an aggrieved employee on behalf of himself and other current or former employees
17 pursuant to the procedures specified in Labor Code § 2699.3.

18 153. For all provisions of the Labor Code except those for which a civil penalty is specifically
19 provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred dollars (\$100.00) for
20 each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each
21 aggrieved employee per pay period for each subsequent pay period in which Defendants violated these
22 provisions of the Labor Code.

23 154. Pursuant to Labor Code §§ 2699.3 and 2699.5, Plaintiff may seek civil penalties for any
24 alleged violation of the following provisions: subdivision (k) of § 96, §§ 98.6, 201, 201.3, 201.5, 201.7,
25 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
26 subdivision (d) of § 213, §§ 221, 222, 222.5, 223, and 224, paragraphs (1) to (5), inclusive, (7), and (9) of
27 subdivision (a) of § 226, §§ 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231,
28 subdivision (c) of § 232, subdivision (c) of § 232.5, §§ 233, 234, 351, 353, and 403, subdivision (b) of §

404, §§ 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of § 1174, §§ 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of § 1198.3, §§ 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of § 1695.5, §§ 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, §§ 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of § 2673.1, §§ 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of § 2929, and §§ 3073.6, 6310, 6311, and 6399.7.

155. Defendants' conduct violates numerous Labor Code provisions, including, but not limited to, the following:

(a) Violation of Labor Code §§ 201-204, 206, 210, 221, 223, 224, 227.3, 246, 510, 558, 1194, 1197, 1197.1, and 1198 for failure to timely pay all sick pay, vacation pay, and earned wages (including minimum, regular, overtime, double time, and reporting time wages) owed to Plaintiff and other aggrieved employees during employment and upon separation of employment;

(b) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and/or other Aggrieved Employees and failure to pay premium wages for missed meal periods;

(c) Violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and/or other Aggrieved Employees and failure to pay premium wages for missed rest periods;

(d) Violation of Labor Code §§ 226 and 226.3 for failure to provide accurate itemized wage statements to Plaintiff and/or other Aggrieved Employees;

(e) Violation of Labor Code §§ 226, 226.3, 1174, and 1174.5 for failure to calculate sick pay at the regular rate of pay for the workweek in which Plaintiff and/or other Aggrieved Employees used paid sick time, or by dividing the Plaintiff and/or other Aggrieved Employees' total wages, not including overtime premium pay, by the Plaintiff and/or other Aggrieved Employees' total hours worked in the full pay periods of the prior 90 days of employment, in violation of Labor Code §§ 246, 246.5, 247, 247.5, and 248.5 and the Healthy Workplaces, Healthy Families Act of 2014;

(f) Violation of Labor Code §§ 233 and 234 for failure to permit Plaintiff and/or

1 Aggrieved Employees to use in any calendar year the employee's accrued and available sick leave
2 entitlement;

3 (g) Violation of Labor Code § 227.3 for failure to provide to Plaintiff and/or Aggrieved
4 Employees accrual of vacation wages and failure to pay to Plaintiff and/or Aggrieved Employees' vested
5 vacation wages;

6 (h) Violation of Labor Code §§ 221, 223, and 224 for secretly paying Plaintiff and/or
7 Aggrieved Employees less than the statutory or contractual rate;

8 (i) Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate records
9 regarding the employment of Plaintiff and/or other Aggrieved Employees;

10 (j) Violation of Labor Code §§ 2800, 2802, and 2804 for failure to reimburse business
11 expenses to Plaintiff and other Aggrieved Employees;

12 (k) Violation of Labor Code §§ 98.6, 232.5(c), and 1102.5 for discriminating,
13 retaliating, and/or taking adverse actions against Plaintiff and/or Aggrieved Employees for engaging in
14 quintessential protected activity; and

15 (l) Violation of Labor Code § 1199 for the foregoing Labor Code violations.

16 156. Labor Code § 226.3 provides: "[a]ny employer who violates subdivision (a) of Section 226
17 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per
18 violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a
19 subsequent citation, for which the employer fails to provide the employee a wage deduction statement or
20 fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this
21 section are in addition to any other penalty provided by law."

22 157. Labor Code § 558(a) provides "[a]ny employer or other person acting on behalf of an
23 employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours
24 and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as
25 follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
26 for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100)
27 for each underpaid employee for each pay period for which the employee was underpaid."

28 158. Labor Code § 1174.5 provides a \$500 penalty for an employer's failure to maintain accurate

1 and complete payroll records showing the hours worked daily by and the wages paid to employees.

2 159. Labor Code § 1197.1 also provides “[a]ny employer or other person acting either
3 individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any
4 employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the
5 commission shall be subject to a civil penalty . . . as follows: (1) For any initial violation that is intentionally
6 committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the
7 employee is underpaid . . . (2) For each subsequent violation for the same specific offense, two hundred
8 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid
9 regardless of whether the initial violation is intentionally committed.

10 160. As set forth above, Defendants have violated numerous provisions of the Labor Code
11 regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff also seeks the
12 civil penalties set forth in Labor Code §§ 226.3, 226.8, 558, 1174.5, and 1197.1 individually, on behalf of
13 all aggrieved employees, and the State of California.

14 161. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to
15 Defendants and is therefore able to pursue a claim for penalties individually and on behalf of all other
16 aggrieved employees under the PAGA.

17 162. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil
18 penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

19 163. Plaintiff is also entitled to attorneys’ fees and costs.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as
22 follows:

- 23 1. For general damages, according to proof at trial;
- 24 2. For compensatory damages, according to proof at trial;
- 25 3. For loss of earnings and other economic or pecuniary damages, according to proof at trial;
- 26 4. For prejudgment interest on all sums recovered pursuant to other compensatory damages
27 at the legal rate from the date of injury or pursuant to Code of Civil Procedure §§ 3287 and 3289, and
28 Labor Code § 218.6;

5. For exemplary and punitive damages in an amount sufficient to deter Defendants, according to proof at trial;
6. For treble damages pursuant to Penal Code § 496(c), according to proof at trial;
7. For waiting time penalties under Labor Code § 203;
8. For liquidated damages under Labor Code § 1194.2;
9. For statutory penalties to the extent permitted by law, including those under the Labor Code and IWC Wage Orders;
10. For attorneys' fees under Labor Code §§ 218.6, 226, 1194, and 2802, Code of Civil Procedure § 1021.5, Penal Code § 496(c), and any other applicable provisions of law;
11. For costs of suit incurred; and
12. For such other and further relief as the Court may deem just and proper.

WHEREFORE, Plaintiff, on behalf of herself, the Aggrieved Employees, and the State of California, prays for judgment against Defendants, jointly and severally, as follows:

1. For civil penalties against Defendants pursuant to, *inter alia*, Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2698, *et seq.*;
2. For reasonable attorneys' fees and costs of suit to the extent permitted by law, including pursuant to Labor Code §§ 2699(g), 2802(c) and Code of Civil Procedure § 1021.5; and
3. For such other relief as the Court deems just and proper.

Dated: May 20, 2024

MANAHAN O'DELL LLP

By: Shaheen A. Etemadi
Shaheen A. Etemadi
Attorneys for Plaintiff

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff demands a trial by jury on all issues so triable.

3
4 Dated: May 20, 2024

MANAHAN O'DELL LLP

5 By: Shaheen A. Etemadi
6 Shaheen A. Etemadi
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