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Attorneys for Plaintiff LATOYA MATTHEWS, on behalf
of herself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

LATOYA MATTHEWS, an individual, on
behalf of herself and others similarly situated,

Plaintiff,

vs.

MAGNOLIA SURGERY CENTER
LIMITED PARTNERSHIP, a Delaware
limited partnership; MAGNOLIA
SURGERY CENTER LLC, a California
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Violation of Labor Code § 226;
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Produce Requested Records, Labor Code §§ 226 And 1198;
11. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802; and
12. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff LATOYA MATTHEWS (hereinafter “Plaintiff”), on behalf of herself and other
2 similarly situated non-exempt, hourly employees employed by Defendants within the state of
3 California during the relevant time period (collectively, “Employees”; individually, “Employee”),
4 complains of Defendants, and each of them, as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of herself and all current and former
7 Employees within the State of California who, at any time from four years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly employees, including those employed
9 as nurses, gastroenterology technicians, surgeon technicians, and in similar and related positions,
10 by Defendants MAGNOLIA SURGERY CENTER LIMITED PARTNERSHIP, a Delaware
11 limited partnership; MAGNOLIA SURGERY CENTER LLC, a California limited liability
12 company; and DOES 1 through 50, inclusive (all defendants being collectively referred to herein
13 as “Defendants”). Plaintiff alleges that Defendants, and each of them, violated various provisions
14 of the California Labor Code, relevant orders of the Industrial Welfare Commission (“IWC”), and
15 the California Business & Professions Code, and seeks redress for these violations.

16 2. Plaintiff and the Class Members worked as hourly, non-exempt Employees for
17 Defendants in positions generally pertaining to providing medical and surgical services to
18 Defendants’ patients. Plaintiff, and upon information and belief the other similarly situated
19 Employees in the Class, were required to perform work tasks based out of Defendants’ surgical
20 centers and facilities. Plaintiff was employed by Defendants as a surgical technician and a
21 gastroenterology technician, and Defendants tasked her with duties that included scrubbing in for
22 surgical procedures and preparing and maintaining supplies, instruments, and equipment related
23 to these procedures.

24 3. Defendants employed other similarly situated Employees in similar and related
25 positions based out of Defendants’ surgical and medical centers throughout California, including
26 in the cities of Westminster and Fountain Valley. Plaintiff and the other similarly situated Class
27 Members worked at Defendants’ behest without being paid all wages due and without being
28 provided all required breaks. More specifically, Plaintiff and the other similarly situated Class

Members were employed by Defendants shared similar job duties and responsibilities, were subjected to the same policies and practices, and endured similar violations at Defendants' hands.

4. Defendants required Plaintiff and the Employees in the Class to work off the clock and failed to accurately record the hours they were on the clock, failed to pay them at the appropriate rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and failed to provide Plaintiff and Class Members with accurate itemized wage statements that prevented them from learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain under Defendants' control and were not provided with the opportunity to take full uninterrupted and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.

5. Defendant MAGNOLIA SURGERY CENTER LIMITED PARTNERSHIP is a Delaware limited partnership which lists its principal address in Nashville, Tennessee and does not list a California office with the California Secretary of State. It lists several registered corporate agents who list addresses in Glendale, California and in Los Angeles County. The wage statements issued to Plaintiff list "Magnolia Surg Ctr LTD Partnership" and "Magnolia Surgery Center" as her employer with an address in Westminster, California and Orange County.

6. Upon information and belief, Magnolia Surgery Center Limited Partnership operates and does business as MAGNOLIA SURGERY CENTER LLC. Magnolia Surgery Center LLC, upon information and belief, is either a joint employer with Magnolia Surgery Center Limited Partnership and/or is a d/b/a or subsidiary, successor, or related entity to Magnolia Surgery Center Limited Partnership. Defendant Magnolia Surgery Center LLC is a California limited liability company, which lists a principal address in El Cajon, California with the California Secretary of State. Plaintiff was employed by Defendants at the surgical center in Westminster, California and Orange County, and Defendants employed other Class Members in Westminster and at the other surgical centers and medical facilities throughout California. Upon information and belief, an entity entitled United Surgical Partners International is a parent company that owns and operates various California surgical centers and medical facilities

1 throughout California, including in Ventura, Modesto, Roseville, Fresno, Los Angeles, Stockton,
2 Santa Clarita, and Westminster, where Plaintiff worked. United Surgical Partners International
3 web-site explains that: "Today we are the largest ambulatory surgery platform in the country,
4 with more than 480 surgical facilities." Upon information and belief, one such facility is the
5 Magnolia Surgery Center in Westminster, California, and United Surgical Partners International
6 is a joint employer of Plaintiff and the Class members employed by Defendants during the
7 relevant period at their California medical facilities.

8 7. This Court has jurisdiction over this Action pursuant to California Code of Civil
9 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
10 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
11 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
12 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
13 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Orange County
14 and Defendants have not listed a principal California address. Defendants also employ Class
15 Members at surgical centers and medical facilities in Orange County and throughout California.

16 8. The true names and capacities, whether individual, corporate, associate, or
17 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
18 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code
19 of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
20 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
21 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
22 this Complaint to reflect the true names and capacities of the Defendants designated herein as
23 Does 1 through 50 when their identities become known.

24 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
25 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
26 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
27 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
28 all respects as the employers or joint employers of Employees. Defendants, and each of them,

1 exercised control over the wages, hours or working conditions of Employees, created and
2 implemented the policies and practices that governed the employment of Plaintiff and the Class
3 Members and dictated their job duties and responsibilities, or otherwise suffered or permitted
4 Plaintiff and the other Employee Class Members to work, or engaged them, thereby creating a
5 common law employment relationship with the Employee Class Members. Therefore,
6 Defendants, and each of them, employed or jointly employed the Employee Class Members.

7 **FACTUAL BACKGROUND**

8 10. The Employees who comprise the Class, including Plaintiff, are non-exempt
9 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission
10 (“IWC”). During the period of four years prior to the filing of this action through its resolution,
11 the Employee Class Members were employed by Defendants and worked in non-exempt
12 positions at the direction of Defendants in the State of California. Plaintiff and the Class
13 Members were either not paid by Defendants for all hours worked or were not paid at the
14 appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to
15 pay Plaintiff and the Class Members all wages due and owing, including compensation for off the
16 clock work, uncompliant meal and rest breaks, and Defendants’ failure to furnish accurate wage
17 statements, all in violation of various provisions of the California Labor Code and applicable
18 paragraphs of the IWC Wage Orders.

19 11. During the course of Plaintiff and the Class Members’ employment with
20 Defendants, they were not paid all wages they were owed, including for all work performed
21 (resulting in “off the clock” work) and for all their overtime hours worked, and they were not
22 paid at the required rates for overtime. This has resulted in systematic and ongoing violations of
23 the California Labor Code and relevant IWC Wage Orders. Upon information and belief,
24 Defendants employ other non-exempt, hourly employees as nurses, gastroenterology technicians,
25 surgeon technicians, and in similar and related positions providing medical treatment and services
26 to Defendants’ customers based out of their surgical centers and medical facilities in California.

27 12. Plaintiff was generally scheduled to work five days per week for six to nine hours
28 per shift, with shift times generally spanning from 6:00 a.m. through 11:30 a.m. or 6:00 a.m.

1 through 3:00 p.m. On many occasions, Plaintiff was also required to work longer shifts with an
2 additional hour or two of time approved by Defendants to be paid at overtime premium rates.
3 However, Plaintiff was required by Defendants to endure substantial off the clock work before
4 and after her scheduled shift hours.

5 13. Defendants' policy and practice of requiring systematic off the clock work flowed
6 in part from their unlawful timekeeping procedures. Defendants required timekeeping entries to
7 be inputted into the company time clocks by Employees. While Defendants required time punch
8 records for shift start and end times and meal period beginning and end times, they were not
9 recorded contemporaneously. Defendants could have relied on the Plaintiff's and the Class
10 Members' actual clock in and clock out times, but instead utilized a grace period, which upon
11 information and belief resulted in a consistent underpayment of Plaintiff's and the Class
12 Members' wages.

13 14. More specifically, Defendants' managers instructed Plaintiff and the Class
14 Members to clock in after their scheduled shift time and during the grace period regardless of the
15 time Plaintiff actually began working or came under Defendants' control. However, in order for
16 Plaintiff to do so, Plaintiff was compelled to arrive at the surgical center well before the
17 scheduled shift start time. Plaintiff's work shifts were generally scheduled to start at 6:00 a.m.,
18 and to be prepared to start working within the seven minute grace period she had to arrive at the
19 surgical center by at least five minutes prior to her scheduled shift start time so she could make
20 her way to the locker room and change out her clothes and into her works scrubs.

21 15. Plaintiff was also expected to clock in after her scheduled shift time when
22 Defendant held shift start up meetings that typically commenced at Plaintiff's scheduled shift
23 time. On such occasions, Plaintiff and Class Members were expected to arrive prior to their
24 scheduled shift time but clock in only after the meeting ended and after Plaintiff and Class
25 Members were dressed in their work scrubs. Thus, given that Defendants' timekeeping policies
26 failed to account for work done prior to Plaintiff's scheduled shift time, Defendants' rounding
27 and grace period policies resulted in a consistent underpayment of the wages earned by and
28 owing to Plaintiff and the Class members and only provided benefit to Defendants.

1 16. Additionally, Defendants instructed Plaintiff and the Class Members to clock out
2 for thirty minutes for a meal period and do so before the fifth hour of work as required under the
3 Labor Code and Wage Orders. Defendants instructed Plaintiff and the Class Members to thus
4 record compliant meal breaks without regard to whether they were actually taken on time or for
5 the full duration or were interrupted by doctor or patient demands and other work requirements.
6 Additionally, by deducting 30 minutes for a meal period that was oftentimes not lawfully
7 provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of hours
8 worked from each Employee's work shifts. Defendants also failed to pay meal period premium
9 penalty wages for non-complaint meal periods that were untimely or shortened.

10 17. Defendants' managers, staff, and director of nurses also contacted Plaintiff by
11 calling her personal cell phone regarding work related matters and scheduling, and would do so
12 both throughout the work day and during breaks and also after work hours. Additionally,
13 Plaintiff's paystubs reveal that Defendants paid Plaintiff bonuses. To whatever extent Defendants
14 paid this and any other form of remuneration to Employees in the Class, such as shift differentials
15 and the like, Defendants failed to include it in the regular rate used to calculate and pay the
16 overtime that Defendants did pay.

17 18. Plaintiff was therefore not paid for all her hours worked at the required minimum,
18 overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy
19 and practice of requiring her to work off the clock and without pay. Defendants systematically
20 underpaid Plaintiff and the Class Members by failing to pay them at the required overtime rates
21 for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a
22 day at the required double time rate. Upon information and belief, the Class Members were bound
23 by similar scheduling and timekeeping policies and endured similar violations at Defendants'
24 hands as Plaintiff.

25 19. Defendants have either failed to maintain timekeeping records for Plaintiff that
26 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants
27 required and the actual hours Plaintiff worked or the breaks she received or have otherwise
28 declined to produce them to Plaintiff in response to a timely and lawful records request. By

1 failing to pay for all hours worked, and by under-recording regular hours to the detriment of the
2 Class Members, Defendants have committed knowing and intentional ongoing violations of the
3 record keeping requirements under the Labor Code, including section 1174, by either failing to
4 maintain records or retaining inaccurate ones.

5 20. The failure to pay for all hours worked and underpayment of wages to Plaintiff
6 and the Class Members is and has been a direct consequence of Defendants' unlawful
7 compensation policies and practices, which upon information and belief applied uniformly to the
8 Class Members working based out of Defendants' surgical centers and medical facilities
9 throughout California. As a result of the above-described unlawful requirements to work off the
10 clock, the failure to accurately record all hours worked and pay wages at the correct rates, and the
11 other wage violations they endured at Defendants' hands, Plaintiff and the Class Members were
12 not properly paid all wages earned and all wages owed to them by Defendants, including when
13 working more than eight hours in any given day and/or more than forty hours in any given week.

14 21. Therefore, from at least four years prior to the filing of this lawsuit and continuing
15 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
16 hours worked and failing to pay minimum wages for all time worked, as required by California
17 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
18 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
19 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
20 week and double-time rates for all hours worked in excess of twelve hours a day, in violation of
21 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

22 22. Defendants also failed to provide Plaintiff and the Class Members with their
23 required meal periods and the at least two ten-minute rest breaks as required at a minimum for
24 Plaintiff's scheduled shift durations. The above described off the clock work contributed to
25 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
26 Members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s).
27 Defendants similarly failed to authorize and permit Plaintiff and the employee Class Members to
28 take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the

1 IWC Wage Order(s).

2 23. More specifically, Plaintiff worked shifts that entitled her to at least one meal
3 period. To whatever extent Defendants authorized Plaintiff and Class Members to take a thirty-
4 minute meal periods before the fifth hour of any given shift, it went by the wayside quickly as
5 Plaintiff was required to schedule her meal period around the needs of the surgeons and the
6 surgical facility. This led to systematically late meal periods, if they were provided at all, and on-
7 duty meal periods that were oftentimes interrupted by required job duties and tasks to be
8 performed. In fact, Plaintiff recalls several instances where her meal periods were cut short before
9 the thirty-minute mark so that she could help doctors on site prepare for a procedure or surgery.

10 24. Additionally, Defendants instructed Plaintiff and the Class Members to input into
11 the timekeeping system that they took thirty minutes meal period and did so before the fifth hour
12 of work as required under the Labor Code and Wage Orders. Defendants instructed Plaintiff and
13 the Class Members to thus record compliant meal breaks without regard to whether they were
14 actually taken for the full duration or were interrupted by demands from surgeons and
15 management and other work requirements.

16 25. Therefore, meal period violations systematically occurred ongoing throughout all
17 of Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or penalty
18 payment. To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to
19 include all forms of remuneration beyond hourly wages in the regular hourly rate used to pay the
20 one-hour premium payment. Upon information and belief, the other Class Members were
21 subjected to similar unlawful policies and practices and endured similar violations as Plaintiff.

22 26. Defendants thus failed to provide all the legally required unpaid, off-duty meal
23 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
24 Members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
25 Members were required to perform work as ordered by Defendants for more than five hours
26 during a shift without receiving compliant meal periods. Additionally, Defendants followed a
27 practice of requiring off the clock work in a manner that would impact when Employees were to
28 receive meal periods and rest breaks and required them to respond to work calls and inquiries and

1 other demands during rest breaks, thus leading to further violations.

2 27. Upon information and belief, Defendants' systems did not automatically generate a
3 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
4 into a work shift or in the event the time punch records reflected a meal period of less than thirty
5 minutes. However, upon information and belief, in the event Defendants did pay any meal period
6 premiums, they did so at the employee's customary regular rate of hourly compensation without
7 including all forms of remuneration in that hourly rate calculation, for example by omitting
8 performance-based bonuses and the like from the rate at which meal premiums were paid.

9 28. Defendants thus followed uniformly applied policies of not providing all required
10 meal periods to their Employees. Meal periods were often not properly provided, as work
11 demands impermissibly shortened their breaks. Even when Plaintiff and the Class Members were
12 able to take a meal period, it was generally interrupted by work duties or was taken after the fifth
13 hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off
14 the clock work in a manner that would impact when Employees were to receive meal periods and
15 rest breaks, thus leading to further violations.

16 29. As a result, Defendants' failure to provide Plaintiff and the Class Members with all
17 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
18 periods is and will be evidenced by Defendants' business records, or lack thereof. As further
19 detailed above, Defendants also failed to pay Employees "premium pay," i.e. one hour of wages at
20 each Employee's effective regular hourly rate of compensation for each meal period or rest break
21 that Defendants failed to provide or deficiently provided.

22 30. Therefore, for at least four years prior to the filing of this action and through to the
23 present, Plaintiff and the Class Members were unable to take off-duty breaks or were otherwise
24 not provided with the opportunity to take required breaks as required under the Labor Code and
25 Wage Orders due to Defendants' policies and practices. On the occasions when Plaintiff and the
26 Class Members were provided with a meal period, it was often untimely or interrupted, or was
27 impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.
28 Meal period violations thus occurred in one or more of the following manners:

- (a) Class Members were not provided full thirty-minute duty free meal periods for work days in excess of five hours and were not compensated one hour's wages in lieu thereof, or were not compensated at the correct regular rate of compensation, all in violation of, among others, Labor Code §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage Order(s);
- (b) Class Members were not provided second full thirty-minute duty free meal periods for work days in excess of ten hours;
- (c) Class Members were required to work through at least part of their daily meal period(s);
- (d) Meal periods were provided after five hours of continuous work during a shift; and
- (e) Class Members were restricted in their ability to take a full thirty-minute meal period.

31. Similar violations resulted from Defendants' failure to authorize and permit Plaintiff and the Class Members to take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction thereof. Plaintiff and the other similarly situated Class Members were permitted the opportunity to take their first rest break, but were required to remain under Defendants' control and respond to job demands and instructions from management if and when they even attempted to take one. Upon information and belief, Defendants thus also failed to authorize and permit employees to leave the premises during rest breaks, evidencing Defendants' policy and practice of requiring Plaintiff and the Class Members to remain under their control during required off-duty rest break times.

32. Additionally, when Plaintiff and Class Members were not able to take their first rest break due to work demands, Defendants combined meal periods with rest breaks and deducted the time for all from hours worked. This practice again unlawfully failed to pay Employees for rest break time, which must be compensated at the regular rate.

33. Second and third rest breaks were neither scheduled nor contemplated by Defendants. During Plaintiff's entire employment duration with Defendants, she cannot recall a

1 time when she took a second or third break, despite being entitled to receive at least two paid,
2 timely, uninterrupted, and duty-free ten minute rest breaks during each of her work shifts.

3 34. Defendants' uniformly applied policies and practices thus resulted in untimely and
4 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class
5 Members worked shifts of at least eight hours, which required at least two rest breaks, and often
6 worked shifts over ten hours, which required at least three rest breaks. Even on the occasions
7 when Defendants authorized and permitted Plaintiff to take a first rest break, she was not
8 permitted to take a second or a third break, and those that were provided were often late and
9 generally interrupted by job duties and requirement.

10 35. During rest periods, employers must relieve employees of all duties and relinquish
11 control over how employees spend their time. Plaintiff and the Class Members were and are
12 under Defendants' control when they are working through rest breaks and remaining under
13 Defendants' control. Defendants have also provided either impermissibly shortened or untimely
14 meal and rest breaks to Plaintiff and the Class Members. Plaintiff and the Employees in the Class
15 were thus not authorized and permitted to take lawful rest periods, were systematically required
16 by Defendants to work through or during breaks, and were not provided with one hour's wages in
17 lieu thereof. They were required to remain on-duty during breaks or portions of their breaks, thus
18 making them either untimely or shortened and on-duty, and they were also prevented from
19 leaving the premises and otherwise remain under Defendants' control during rest breaks under
20 Defendants' uniformly applied policies and practices. Rest period violations therefore arose in
21 one or more of the following manners:

- 22 (a) Class Members were required to work without being provided a minimum
23 ten minute rest period for every four hours or major fraction thereof worked
24 and were not compensated one hour of pay at their regular rate of
25 compensation for each workday that a rest period was not provided;
- 26 (b) Class Members were not authorized and permitted to take timely rest periods
27 for every four hours worked, or major fraction thereof; and
- 28 (c) Class Members were required to remain on-duty or otherwise under

1 Defendants' control during rest periods or otherwise had their rest periods
2 interrupted by work demands.

3 36. From at least four years prior to the filing of this lawsuit and continuing to the
4 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
5 deducting the Employees' earned wages, including by the above described off the clock work and
6 on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest
7 breaks, Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely
8 provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal that
9 was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at
10 least 30 minutes of hours worked from each Employee's daily work shifts. By not compensating
11 Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of
12 Labor Code § 221.

13 37. Defendants also violated California Labor Code § 246 by not providing all
14 required paid sick days to Plaintiff and the Class Members. Labor Code § 246 provides that an
15 Employee who "works in California for the same employer for 30 or more days within a year
16 from the commencement of employment is entitled to paid sick days as specified in this section."
17 Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their
18 required and earned sick days, in violation of Labor Code § 246. Additionally and upon
19 information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to
20 the Class Members during the relevant time period, including by failing to provide two work
21 weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and
22 248.2 and including damages and penalties as these sections are enforced through Labor Code §
23 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid
24 sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250),
25 whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
26 (\$4,000), shall be included in the administrative penalty." Plaintiff accordingly seeks this relief
27 available for Defendants' failure to provide Employees with all their required and earned sick
28 days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1,

1 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246,
2 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees
3 and costs pursuant to Labor Code § 2699(g)(1).

4 38. Upon information and belief, Defendants also failed to provide Employees such as
5 Plaintiff at the time of her employment and thereafter with written notice complying with all the
6 requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer
7 shall provide to each employee a written notice, in the language the employer normally uses to
8 communicate employment-related information to the employee, containing" specific required
9 information. Upon information and belief, Defendants failed to provide this information to the
10 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
11 provide Plaintiff and the aggrieved employee Class Members certain specific information upon
12 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with
13 any such information when she was hired, or have failed to produce them, and upon information
14 and belief Defendants committed similar violations in connection with similarly situated and
15 aggrieved Class Members.

16 39. As a result of these illegal policies and practices, Defendants also engaged in and
17 enforced the following additional unlawful practices and policies against Plaintiff and the Class
18 Members she seeks to represent:

- 19 a. failing to pay all wages owed to Class Members who either were discharged, laid
20 off, or resigned in accordance with the requirements of Labor Code §§ 201, 202,
21 203;
- 22 b. failing to pay all wages owed to the Class Members twice monthly in accordance
23 with the requirements of Labor Code § 204;
- 24 c. failing to pay Class Members all wages owed, including all meal and rest period
25 premium wages, and failing to pay them at the regular rate of compensation;
- 26 d. failing to maintain accurate records of Class Members' hours worked and earned
27 wages and meal periods in violation of Labor Code §§ 226 and 1174(d) and section
28 7 of the applicable IWC Wage Orders; and

1 e. failing to produce timekeeping records in response to Plaintiff's timely and lawful
2 request to receive them under these authorities.

3 40. Defendants have also consistently failed to provide Class Members with timely,
4 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
5 including by the above-described requirement of off the clock work, failure to pay all overtime
6 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
7 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
8 miscalculating any overtime or meal period or rest break premium wages and by the systematic
9 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
10 difficult to account with precision for the unlawfully withheld wages and meal and rest period
11 compensation owed to Plaintiff and the Class, during the liability period, including because they
12 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
13 and because they did not implement and preserve a record-keeping method as required for non-
14 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
15 California Wage Orders. Upon information and belief, time clock punches were not maintained or
16 were not accurately maintained for work shifts and meal periods, which were automatically
17 presumed by Defendants to have been lawfully provided when they were not. Defendants also
18 failed to accurately record and pay for all regular and overtime hours worked and submitted by
19 Plaintiff and the Class Members, including by failing to pay all overtime hours at the correctly
20 calculated overtime premium rate.

21 41. Defendants have thus also failed to comply with Labor Code § 226(a) by
22 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class
23 Members, along with the appropriate applicable rates, among others requirements. Plaintiff and
24 Class Members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
25 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
26 applicable California IWC Wage Orders by failing to maintain time records showing when the
27 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
28 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from

1 payment of wages and accurately reporting total hours worked.

2 42. Defendants also required Plaintiff and the Class Members to work hours off the
3 clock for which they were not compensated. They were required to endure off the clock work
4 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
5 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
6 work. Defendants also failed to pay all overtime premium wages owed for work conducted on a
7 work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore,
8 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to
9 Plaintiff and other similarly situated Employees at the time of their termination or within seventy-
10 two hours of their resignation, as required by California wage-and-hour laws, including Labor
11 Code § w203.

12 43. Additionally, from at least four years prior to the filing of this lawsuit and
13 continuing to the present, Defendants have regularly required Plaintiff and the Class Members to
14 incur necessary business expenses in the course of performing their required job duties without
15 reimbursement. These included the cell phone related expenses Plaintiff incurred in responding to
16 calls from Defendant's staff, including the director of nursing and her supervisors. Plaintiff was
17 also often required to drive from one surgical center to another to help when the other surgical
18 center was short on staff but Defendants neglected to reimburse her for mileage or related
19 automobile expenses and usage. Plaintiff and the Class Members must be reimbursed for these
20 necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do
21 so.

22 44. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
23 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
24 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
25 1194.2 1197, 1198, 1198.5, 1199, and 2802 and California Code of Regulations, Title 8, section
26 11000 *et seq.*

27 45. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
28 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits

Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

46. Plaintiff brings this class action on behalf of herself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (often referred to as “the Class” or “Class Members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees by Defendants within the State of California.” This includes all types of nurses, gastroenterology technicians, surgeon technicians, and those in similar and related positions. Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class Members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class Members who were subject to Defendants’ policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee’s regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class Members who were subject to Defendants’ policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee’s regular rate of pay in lieu thereof.

e. Subclass 5. Wage Statement Subclass. All Class Members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class Members who were subject to Defendants’ policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.

g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class Members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

h. Subclass 8. Termination Pay Subclass. All Class Members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

i. Subclass 9. Failure To Produce Requested Employment Records Subclass. All Class Members who, within the applicable limitations period, were denied the right to inspect and receive all their payroll records, timecards, and personnel records.

j. Subclass 10. Payroll Records Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

k. Subclass 11. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendants and who were subject to a policy and/or practice under which such expenses were not reimbursed.

l. Subclass 12. UCL Subclass. All Class Members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

47. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or to provide further division into subclasses or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class against Defendants, the Class Period should be adjusted accordingly.

48. Defendants, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice whereby Defendants failed to correctly calculate and pay compensation for the time worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the

benefit of this work, required Employees to perform this work and permitted or suffered to permit this work. Defendants have uniformly denied these Class Members wages to which these employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in order to unfairly cheat the competition and unlawfully profit.

49. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in this litigation and the proposed Class is easily ascertainable from the employment records for Plaintiff and the Class Members that Defendants are required to maintain under California law.

A. Numerosity

50. The potential members of the class as defined are so numerous that joinder of all the member of the class is impracticable. While the precise number of Class Member has not been determined at this time, Plaintiff is informed and believes that Defendants employ or, during the time period relevant to this lawsuit employed, at least over one hundred Employees who satisfy the Class definition within the State of California. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

51. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or her eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable

IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;

e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;

f. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave;

g. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;

h. Whether Defendants violated Labor Code § 221;

i. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;

j. Whether Defendants' conduct was willful;

k. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;

l. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;

m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;

n. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;

o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

1 **C. Typicality**

2 52. The claims of the named plaintiff are typical of those of the other Employees. The
3 Employee Class Members all sustained injuries and damages arising out of and caused by
4 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
5 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for
6 the off the clock work and meal and rest violations she was required to endure are typical of those
7 of the other Class Members.

8 **D. Adequacy of Representation**

9 53. Plaintiff will fairly and adequately represent and protect the interest of the
10 Employee Class Members. Counsel who represents Plaintiff and the Employees in the Class are
11 experienced and competent in litigating employment class actions.

12 **E. Superiority of Class Action**

13 54. A class action is superior to other available means for the fair and efficient
14 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
15 questions of law and fact common to all Employees predominate over any questions affecting only
16 individual Employees. Each Employee in the Class has been damaged and is entitled to recovery
17 by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

18 55. As to the issues raised in this case, a class action is superior to all other methods for
19 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
20 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
21 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
22 be relatively small, the expense and burden of individual actions makes it difficult for the Class
23 Members to individually redress the wrongs they have suffered. Moreover, in the event
24 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
25 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
26 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
27 to vindicate their rights for violations they endured which they would otherwise be foreclosed
28 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

1 56. Class action treatment will allow those persons similarly situated to litigate their
2 claims in the manner that is most efficient and economical for the parties and the judicial system.
3 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
4 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would
5 set forth the subject and nature of the instant action. The Defendants' own business records can be
6 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
7 that any further notice is required additional media and/or mailings can be used.

8 57. Defendants, as prospective and actual employers of the Employees in the Class,
9 had a special fiduciary duty to disclose to prospective Class Members the true facts surrounding
10 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
11 Employees as well as the effect of any alleged arbitration agreements that may have been forced
12 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
13 and policies, most notably intentionally refusing to pay for all hours actually worked which should
14 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
15 agreements and policies and practices on the Employees and Class as a whole.

16 58. Plaintiff and the Employees in the Class did not discover the fact that they were
17 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
18 ever any discussion about Plaintiff's and the Class's waiver of their Constitutional rights of trial
19 by jury, right to collectively organize and oppose unlawful pay practices under California law as
20 well as obtain injunctive relief preventing such practices from continuing. As a result, the
21 applicable statutes of limitation were tolled until such time as Plaintiff and the Class Members
22 discovered their claims.

23 **FIRST CAUSE OF ACTION**
24 **FAILURE TO PAY MINIMUM WAGES**
25 **(Against All Defendants)**

26 59. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

28 60. Defendants failed to pay Employees minimum wages for all hours worked.

1 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
2 would work hours and not receive wages, including as alleged above in connection with off the
3 clock work, including all the time required to remain on duty and under Defendants' control
4 during breaks and due to the work demands placed upon them by Defendants' management and
5 doctors and by the unlawful deduction of hours or by paying what should have been overtime
6 hours as regular hours. Defendants' uniformly applied policies required systematic off the clock
7 work and underpayment of all wages owed to Employees over a period of time, while benefiting
8 Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum
9 wages to Plaintiff and the Class Members, including by requiring systematic off the clock work.
10 To the extent any local wage ordinances were also applicable to paying the employees an hourly
11 rate above the minimum wage rate, Defendants failed to comply with the local wage ordinances.
12 Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation,
13 applicable to the Class as a whole, as a result of implementing a uniform policy and practice that
14 denied accurate compensation to Plaintiff and the other members of the Class as to minimum
15 wage pay.

16 61. In California, employees must be paid at least the applicable state minimum wage
17 for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
18 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to
19 California Labor Code § 204, other applicable laws and regulations, and public policy, an
20 employer must timely pay its employees for all hours worked. Defendants failed to do so.

21 62. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"
22 states: "The minimum wage for employees fixed by the commission is the minimum wage to be
23 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The
24 applicable minimum wage rate fixed by the commission for work during the relevant period is
25 found in the Wage Orders.

26 63. The minimum wage provisions of California Labor Code are enforceable by private
27 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
28 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal

1 overtime compensation applicable to the employee is entitled to recover in a civil action the
2 unpaid balance of the full amount of this minimum wage or overtime compensation, including
3 interest thereon, reasonable attorney's fees and costs of suit."

4 64. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
5 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
6 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
7 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
8 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
9 the absence of a contractually agreed upon one.

10 65. In committing these violations of the California Labor Code, Defendants
11 inaccurately recorded, or required Plaintiff and the Class Members to input times that did not
12 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
13 time worked by Plaintiff and other members of the Class, including by requiring off the clock
14 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
15 all earned wages, and other benefits in violation of the California Labor Code, the Industrial
16 Welfare Commission requirements and other applicable laws and regulations. As a result of these
17 violations, Defendants also failed to timely pay all wages earned in accordance with California
18 Labor Code § 1194.

19 66. California Labor Code § 1194.2 also provides for the following remedies: "In any
20 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
21 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
22 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon."

23 67. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
24 1197.1, Plaintiff and Class Members are entitled to recover a penalty of \$100.00 for the initial
25 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
26 pay each employee minimum wages.

27 68. Pursuant to California Labor Code § 1194.2, Plaintiff and Class Members are
28 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and

1 interest thereon.

2 69. Defendants have the ability to pay minimum wages for all time worked and have
3 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
4 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

5 70. Plaintiff and the Class Members are entitled to recover the unpaid minimum wages
6 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
7 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's
8 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other
9 members of the Class further request recovery of all unpaid wages, according to proof, interest,
10 statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as
11 provided by the California Labor Code and/or other applicable statutes. To the extent minimum
12 wage compensation is determined to be owed to the Class Members who have terminated their
13 employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore
14 these individuals are also be entitled to waiting time penalties under California Labor Code § 203,
15 which penalties are sought herein on behalf of these Class Members. Defendants' failure to timely
16 pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code §
17 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as
18 alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class
19 Members are entitled to seek and recover statutory costs.

20 **SECOND CAUSE OF ACTION**

21 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

22 **(Against All Defendants)**

23 71. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 72. California Labor Code § 1194 provides that "any employee receiving less than the
26 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
27 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
28 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action

1 may be maintained directly against the employer in an employee's name without first filing a
2 claim with the Division of Labor Standards and Enforcement.

3 73. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
4 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
5 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
6 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
7 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any
8 one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12)
9 hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of
10 work in a workweek.

11 74. Defendants had a consistent policy of not paying Employees wages for all hours
12 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by
13 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants
14 have also failed to include all forms of remuneration in the regular rate of pay used to calculate
15 and pay overtime and failed to begin paying overtime when it was incurred due to the off the clock
16 work, as detailed above.

17 75. Defendants thus had a consistent policy of not paying Employees wages for all
18 hours worked, including hours at their required regular, overtime, and double-time rates.
19 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
20 and/or, modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Class
21 Members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and
22 the Class Members all earned and owed straight time and overtime wages and other benefits, in
23 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
24 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
25 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
26 employees to work through meal periods or remain under Defendants' control when they were
27 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
28 respond to demands from doctors and managers.

1 76. Therefore, Employees were not properly compensated, nor were they paid overtime
2 rates for hours worked in excess of eight hours in a given day and/or forty hours in a given week.
3 Defendants have also violated these provisions to the extent they required Plaintiff and other
4 similarly situated Class Members to work through meal periods when they were required to be
5 clocked out or to otherwise work off the clock to complete their daily job duties.

6 77. Defendants' failure to pay Plaintiff and the Class Members the unpaid balance of
7 regular wages owed and overtime compensation for all hours worked, as required by California
8 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
9 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
10 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

11 78. Additionally, Labor Code § 558(a) provides "any employer or other person acting
12 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
13 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
14 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
15 pay period for which the employee was underpaid in addition to an amount sufficient to recover
16 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
17 underpaid employee for each pay period for which the employee was underpaid in addition to an
18 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
19 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in
20 this section are in addition to any other civil or criminal penalty provided by law." Defendants
21 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
22 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor
23 Code § 558.

24 79. Defendants' failure to pay compensation in a timely fashion also constituted a
25 violation of California Labor Code § 204, which requires that all wages shall be paid
26 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
27 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
28 and overtime compensation earned by Employees. Each such failure to make a timely payment of

1 compensation to Employees constitutes a separate violation of California Labor Code § 204.

2 80. Employees have been damaged by these violations of California Labor Code §§
3 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
4 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
5 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
6 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
7 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
8 any order or ruling of the commission.”

9 81. Consequently, pursuant to the California Labor Code, including Labor Code §§
10 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
11 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
12 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
13 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties
14 against Defendants, and each of them, and any additional sums as provided by the Labor Code
15 and/or other statutes.

16 **THIRD CAUSE OF ACTION**

17 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

18 **(Against All Defendants)**

19 82. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
20 full herein.

21 83. Employees regularly worked shifts greater than five (5) hours and in some
22 instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the
23 applicable IWC Wage Order, an employer may not employ someone for a shift of more than five
24 (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or
25 for a shift of more than ten (10) hours without providing him or her with a second meal period of
26 not less than thirty (30) minutes.

27 84. Defendants failed to provide Employees with meal periods as required under the
28 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required

1 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
2 provided them after Employees worked beyond the fifth hour of their shifts or Employees
3 otherwise had them shortened and interrupted by work demands and requirements to perform off
4 the clock work and remain under Defendants' control. Defendants also unlawfully combined meal
5 periods with rest breaks. Furthermore, upon information and belief, on the occasions when
6 Employees worked more than ten hours in a given shift, they did so without receiving a second
7 uninterrupted thirty-minute meal period as required by law.

8 85. Defendants thus failed to provide Plaintiff and the Class Members with meal
9 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
10 including by not providing them with the opportunity to take meal breaks, by providing them late
11 or for less than thirty minutes, or by requiring them to perform work during breaks.

12 86. Moreover, Defendants failed to compensate Employees for each meal period not
13 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
14 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
15 employee a meal period in accordance with this section, the employer shall pay the employee one
16 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
17 period is not provided. As detailed above, on the occasions when Defendants did pay any meal
18 period premiums, they upon information and belief underpaid them by miscalculating the regular
19 rate of compensation by not including all forms of remuneration in it. Defendants thus failed to
20 compensate the Employees in the Class for each meal period not provided or inadequately
21 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
22 Wage Order.

23 87. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
24 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
25 to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or
26 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
27 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
28 other statutes and applicable IWC Wage Order paragraphs.

1 **FOURTH CAUSE OF ACTION**

2 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

3 **(Against All Defendants)**

4 88. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 89. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
7 provide that employers must authorize and permit all employees to take rest periods at the rate of
8 ten minutes net rest time per four (4) work hours.

9 90. Employees consistently worked consecutive four hour shifts and were generally
10 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
11 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
12 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
13 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
14 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
15 to schedule or otherwise authorize and permit Plaintiff and the Class Members to take lawful rest
16 breaks. Employees were often required to work or to otherwise remain under Defendants' control
17 during rest periods, including by responding to work requirements, and had breaks provided
18 untimely as a result of the above described off the clock work. Plaintiff and the Class Members
19 were also not permitted to leave their work premises during rest breaks.

20 91. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
21 Orders provide that if an employer fails to provide an employee rest period in accordance with this
22 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
23 compensation for each workday that the rest period is not provided. Defendants failed to do so.

24 92. Defendants, and each of them, have therefore intentionally and improperly denied
25 rest periods to Plaintiff and the Class Members in violation of Labor Code §§ 226.7 and 512 and
26 paragraph 12 of the applicable IWC Wage Orders.

27 93. Defendants failed to authorize and permit Plaintiff and the Class Members to take
28 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees

1 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
2 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
3 12 and 20 of the applicable IWC Wage Orders.

4 94. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
5 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
6 of wages at their effective hourly rates of pay for each day worked without the required rest
7 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
8 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

9 **FIFTH CAUSE OF ACTION**
10 **VIOLATION OF LABOR CODE § 226(a)**
11 **(Against All Defendants)**

12 95. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
13 full herein.

14 96. California Labor Code § 226(a) requires an employer to furnish each of his or her
15 employees with an accurate, itemized statement in writing showing the gross and net earnings,
16 total hours worked, and the corresponding number of hours worked at each hourly rate; these
17 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
18 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
19 statements may be given to the employee separately from the payment of wages; in either case the
20 employer must give the employee these statements twice a month or each time wages are paid.

21 97. Defendants failed to provide Plaintiff and the similarly situated Employee Class
22 Members with accurate itemized wage statements in writing, as required by the Labor Code and
23 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
24 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
25 including for all overtime and double time hours worked and for deficient meal periods and rest
26 breaks, all of which Defendants knew or reasonably should have known were owed to the
27 Employees, as alleged above.

28 98. Throughout the liability period, Defendants intentionally failed to furnish to

1 Plaintiff and the Class Members, upon each payment of wages, itemized statements accurately
2 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
3 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
4 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
5 the employee and only the last four digits of his or her social security number or an employee
6 identification number other than a social security number, (8) the name and address of the legal
7 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
8 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
9 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
10 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
11 Members with such timely and accurate wage and hour statements.

12 99. Plaintiff and the Class Members suffered injury as a result of Defendants'
13 knowing and intentional failure to provide them with the wage and hour statements as required by
14 law and are presumed to have suffered injury and entitled to penalties under Labor Code §
15 226(e), as the Defendants have failed to provide an accurate wage statement, failed to provide
16 accurate and complete information as required by any one or more of items Labor Code § 226
17 (a)(1) to (9), inclusive, and the Plaintiff and Class Members cannot promptly and easily
18 determine from the wage statement alone one or more of the following: (i) The amount of the
19 gross wages or net wages paid to the employee during the pay period or any of the other
20 information required to be provided on the itemized wage statement pursuant to items (2) to (4),
21 inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the employer made from gross
22 wages to determine the net wages paid to the employee during the pay period, (iii) The name and
23 address of the employer and, (iv) The name of the employee and only the last four digits of his or
24 her social security number or an employee identification number other than a social security
25 number. For purposes of Labor Code § 226(e) "promptly and easily determine" means a
26 reasonable person [i.e. an objective standard] would be able to readily ascertain the information
27 without reference to other documents or information.

28 100. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers

1 are required “to pay each employee, on the established payday for the period involved, not less
2 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
3 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
4 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class Members
5 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
6 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
7 IWC Wage Orders.

8 101. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
9 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
10 Class suffered injuries, including among other things confusion over whether they received all
11 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
12 them to make mathematical computations to analyze whether the wages paid in fact compensated
13 them correctly for all hours worked.

14 102. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
15 IWC Wage Order, Plaintiff and the Employee Class Members are entitled to recover the greater of
16 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
17 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
18 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
19 an award of costs and reasonable attorneys’ fees.

20 **SIXTH CAUSE OF ACTION**
21 **VIOLATION OF LABOR CODE § 221**
22 **(Against All Defendants)**

23 103. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 104. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
26 receive from an employee any part of wages theretofore paid by said employer to said employee.”
27 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
28 public policy, an employer must timely pay its employees for all hours worked. Defendants failed

1 to do so.

2 105. Defendants unlawfully received and/or collected wages from the Employees in the
3 Class by requiring off the clock work, by miscalculating overtime, and by deducting time for meal
4 periods when they were not lawfully provided and not paying one hour of pay at the regular rate of
5 compensation for every meal and rest period violation endured by Plaintiff and the other Class
6 Members, as alleged above. In addition to failing to authorize and permit rest breaks, Defendants
7 unlawfully deducted up to 30 minutes for meal periods that were rarely provided or otherwise
8 received without violation. Thus, by deducting 30 minutes for a meal period that was generally not
9 lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of
10 hours worked from each Employee's daily work shifts. By not compensating Employees for all
11 hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

12 106. As a direct and proximate cause of the unauthorized deductions, Employees have
13 been damaged, in an amount to be determined at trial.

14 **SEVENTH CAUSE OF ACTION**
15 **VIOLATION OF LABOR CODE § 204**
16 **(Against All Defendants)**

17 107. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 108. Labor Code § 204 instructs that: "All wages, ...earned by any person in any
20 employment are due and payable twice during each calendar month, on days designated in
21 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
22 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
23 during which the labor was performed, and labor performed between the 16th and the last day,
24 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
25 month." Additionally, the requirements of this section shall be deemed satisfied by the payment of
26 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
27 calendar days following the close of the payroll period." As detailed above, Defendants
28 maintained a consistently applied policy and practice of not paying all wages earned between the

1 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
2 between the 16th and the last day of the month between the 1st and 10th day of the following month.
3 Defendants similarly failed to pay all wages earned by not more than seven calendar days
4 following the close of the payroll period.

5 109. All wages due and owing to Plaintiff and the Class Members, including as required
6 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
7 required by Labor Code § 1194 and other sections became due and payable to each employee in
8 each pay period that he or she was not provided with a meal period or rest period or paid straight
9 or overtime wages to which he or she was entitled.

10 110. Defendants violated Labor Code § 204 by systematically refusing to timely pay
11 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
12 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
13 payday for the period involved, not less than the applicable minimum wage for all hours worked in
14 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
15 hours than those fixed by the order or under conditions of labor prohibited by the order is
16 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for
17 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
18 penalties under paragraph 20 of the applicable IWC Wage Orders.

19 111. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to
20 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
21 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
22 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
23 applicable IWC Wage Orders.

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27 ///

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EIGHTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

112. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

113. Plaintiff and numerous Class Members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

114. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two hours of resignation. According to documents provided by Defendants, Plaintiff was terminated on June 30, 2023. However, Plaintiff received her last pay seven days late and was not paid a waiting time penalty.

115. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment. Additionally, Defendants failed to pay Plaintiff her final check at the time of her termination.

116. Defendants thus failed to pay Plaintiff and the Class Members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or requiring off the clock work or by unlawfully under-recording time entries to the detriment of Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

117. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required "to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class Members may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable

1 IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and
2 Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer
3 hours than those fixed, or under conditions of labor prohibited by an order of the commission” or
4 if the employer pays “a wage less than the minimum fixed by an order of the commission” or
5 “violates...any provision of this chapter or any order or ruling of the commission.”

6 118. Defendants’ failure to pay wages, as alleged, entitles Plaintiff and these former
7 Employee Class Members to penalties under Labor Code § 203 and the applicable paragraphs of
8 the IWC Wage Orders as addressed above, including the requirement that an employee’s wages
9 shall continue until paid for up to thirty (30) days from the date they were due.

10 **NINTH CAUSE OF ACTION**

11 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

12 **(Against All Defendants)**

13 119. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
14 full herein.

15 120. California Labor Code § 1174 requires that all employers shall keep accurate time
16 and wage records for all employees. California Labor Code § 1174.5 further requires that any
17 employee suffering injury due to a willful violation of the aforementioned obligations may seek
18 damages, including civil penalties, from the employer.

19 121. During the course of Plaintiff’s and Employees’ employment, Defendants
20 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
21 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
22 premium pay as discussed above and failing to document and pay for actual hours worked.

23 122. Defendants are also required by the California Labor Code § 1198 and the
24 applicable Wage Order to maintain a tracking system that accurately records the times during
25 which Employees work.

26 123. Defendants have maintained a common unlawful policy and practice of failing to
27 accurately record all hours worked and all meal period start and end times and by adjusting or
28 otherwise rounding and shaving them down.

124. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them.

125. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

TENTH CAUSE OF ACTION

FAILURE TO PRODUCE REQUESTED RECORDS, LABOR CODE §§ 226 and 1198 (Against All Defendants)

126. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

127. Pursuant to California Labor Code § 226, current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one calendar days from the date of the request.

128. Pursuant to California Labor Code § 1198.5(a), every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty calendar days from the date the employer receives the written request, subject to some limited exceptions. Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and 226(f).

129. Plaintiff sent written requests through her counsel to Defendants for their payroll records, timecards, and personnel records on August 11, 2023. However, Plaintiff has not received all of her requested records until September 26, 2023.

130. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely

1 produce the required records requested by Plaintiff.

2 131. On information and belief, Defendants' failure to provide Plaintiff with all of her
3 requested employment records is not an isolated incident, but was instead consistent with
4 Defendants' policy and practice that applied to Plaintiff and Employees.

5 132. Pursuant to California Labor Code § 1198.5, Plaintiff and Employees are entitled to
6 a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and costs.

7 133. Pursuant to California Labor Code § 226(f), Plaintiff is entitled to a penalty of
8 seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and cost, and the other
9 Class Members similarly situated are similarly entitled.

10 **ELEVENTH CAUSE OF ACTION**
11 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**
12 **(Against All Defendants)**

13 134. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
14 full herein.

15 135. Plaintiff is informed and believes and based thereon alleges that throughout the
16 period applicable, Defendants required Plaintiff and the Class Members to pay for necessary work
17 related expenses they incurred. Defendants required Plaintiff and the Class Members to use their
18 cellular phones to conduct work related business and failed to reimburse for mileage, as addressed
19 above. Plaintiff and the Class Members must be reimbursed for these necessary business expenses
20 under Labor Code § 2802 and Defendants systematically failed to do so.

21 136. Defendants thus followed a uniform policy and practice of failing to reimburse
22 Employees for these necessary work related expenses or losses incurred in direct discharge of their
23 job duties during employment with Defendants and at the direction of the Defendants pursuant to
24 Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

25 137. Defendants' knowing and willful failure to reimburse lawful necessary work related
26 expenses and losses to Plaintiff and the Class Members resulted in damages because, among other
27 things, Defendants did not inform employees of their right to be reimbursed for those work related
28 expenses. As Defendants failed to inform and misled Plaintiff and the Class Members with regard

1 to their rights, Plaintiff and the Class Members were led to believe that incurring those lawful and
2 necessary expenses was an expected and essential function of their employment with Defendants
3 and that failure to incur those expenses would have adverse consequences on their employment.

4 138. Therefore, Plaintiff and the Class Members are entitled to reimbursement for any
5 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9
6 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
7 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
8 from the date Plaintiff and the Class Members incurred those expenses. Further, Plaintiff and the
9 Class Members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

10 **TWELFTH CAUSE OF ACTION**

11 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

12 **(Against All Defendants)**

13 139. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
14 in full herein. Plaintiff, on behalf of herself, the Employees in the Class, and the general public,
15 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
16 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
17 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
18 the public interest within the meaning of Code of Civil Procedure § 1021.5.

19 140. Plaintiff is a "person" within the meaning of Business & Professions Code
20 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
21 injunctive relief, restitution, and other appropriate equitable relief.

22 141. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
23 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
24 fraudulent in that Defendants' policy and practice failed to provide the required amount of
25 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
26 Class Members for all hours worked, due to systematic business practices as alleged herein that
27 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
28 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*

1 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
2 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

3 142. Wage-and-hour laws express fundamental public policies. Paying employees their
4 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
5 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
6 vigorously to enforce minimum labor standards, to ensure that employees are not required or
7 permitted to work under substandard and unlawful conditions, and to protect law-abiding
8 employers and their employees from competitors who lower costs to themselves by failing to
9 comply with minimum labor standards.

10 143. Defendants have violated statutes and public policies. Through the conduct alleged
11 in this Complaint Defendants have acted contrary to these public policies, have violated specific
12 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices
13 in violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived
14 Plaintiff, and all persons similarly situated, and all interested persons, of the rights, benefits, and
15 privileges guaranteed to all employees under the law.

16 144. Defendants' conduct, as alleged above, constitutes unfair competition in violation
17 of the Business & Professions Code § 17200 *et seq.*

18 145. Defendants, by engaging in the conduct herein alleged, by failing to pay wages
19 and overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise
20 of reasonable care should have known that their conduct was unlawful; therefore their conduct
21 violates the Business & Professions Code § 17200 *et seq.*

22 146. By the conduct alleged herein, Defendants have engaged and continue to engage in
23 a business practice which violates California and federal law, including but not limited to, the
24 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
25 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
26 Court should issue declaratory and other equitable relief pursuant to California Business &
27 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
28 constitute unfair competition, including restitution of wages wrongfully withheld.

147. As a proximate result of the above-mentioned acts of Defendants, Employees have been damaged, in a sum to be proven at trial.

148. Unless restrained by this Court Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
8. For restitution and/or damages and penalties for Defendants' failure to pay all

1 wages due twice monthly under Labor Code § 204, as may be proven;

2 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
3 for all Class Members in violation of Labor Code § 221, as may be proven;

4 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
5 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

6 11. For penalties pursuant to Labor Code § 1174.5, as may be proven;

7 12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

8 13. For damages and restitution for failure to reimburse all reasonable and necessary
9 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

10 14. For restitution for unfair competition pursuant to Business & Professions Code
11 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

12 15. For an order enjoining Defendants and their agents, servants, and employees, and
13 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
14 duties adumbrated in this Complaint;

15 16. For other wages and penalties under the Labor Code as may be proven;

16 17. For all general, special, and incidental damages as may be proven;

17 18. For an award of pre-judgment and post-judgment interest;

18 19. For an award providing for the payment of the costs of this suit;

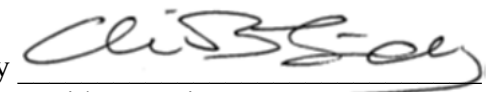
19 20. For an award of attorneys' fees; and

20 21. For such other and further relief as this Court may deem proper and just.

21 DATED: March 19, 2024

D.LAW, INC.

22
23 By



David Yeremian
Alvin B. Lindsay
Melissa Rodriguez
Attorneys for Plaintiff LATOYA
MATTHEWS and all others similarly
Situated

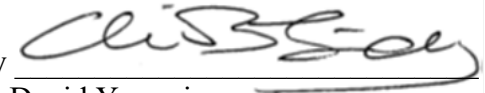
DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

DATED: March 19, 2024

D.LAW, INC.

By



David Yeremian

Alvin B. Lindsay

Melissa Rodriguez

Attorneys for Plaintiff LATOYA

MATTHEWS and all others similarly
Situated