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of herself and others similarly situated

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

KISHA VAZQUEZ, an individual, on behalf  
of herself and others similarly situated,

Plaintiff,

vs.

ORCHARD HOSPITAL, a California  
nonprofit corporation; and DOES 1 through  
50, inclusive,

Defendants.

Case No.: 24CV00755

CLASS ACTION

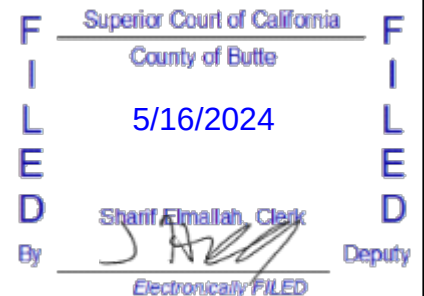
Assigned for All Purposes To:  
Hon. Tamara L. Mosbarger

**FIRST AMENDED 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 §§ 245 and 246;
9. Violation of Labor Code § 227.3;
10. Violation of Labor Code § 203;
11. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
12. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802;
13. Violation of Business & Professions Code § 17200 *et seq.*; and
14. Penalties under PAGA Labor Code § 2698

**DEMAND FOR JURY TRIAL**

Original Complaint Filed: March 7, 2024  
Trial Date: None Set



1 Plaintiff KISHA VAZQUEZ (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 Employees  
7 within the State of California who, at any time from four years prior to the filing of this lawsuit, are  
8 or were employed as non-exempt, hourly employees, including those providing health care and  
9 medical-related services and in similar and related positions, by Defendants ORCHARD  
10 HOSPITAL, a California nonprofit corporation, and DOES 1 through 50, inclusive (all defendants  
11 being collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each of  
12 them, violated various provisions of the California Labor Code, relevant orders of the Industrial  
13 Welfare Commission (“IWC”), and the California Business & Professions Code, and seeks redress  
14 for these violations.

15 2. Plaintiff and the Class Members worked as hourly, non-exempt Employees for  
16 Defendants in positions generally pertaining to providing health care and medical-related services  
17 to Defendants’ customers. Plaintiff, and upon information and belief the other similarly situated  
18 Employees in the Class, were required to perform work tasks based out of Defendants’ hospitals,  
19 medical centers, and facilities in California. Plaintiff has been employed during the relevant period  
20 by Defendants as a certified medical assistant, and Defendants have tasked her with duties that  
21 include patient care such as taking vitals, giving injections, rooming patients, dispersing medication,  
22 cleaning and sanitizing rooms, inputting patient data, and sending faxes.

23 3. Defendants employed other similarly situated Employees in similar and related  
24 positions based out of Defendants’ medical centers and other facilities throughout California,  
25 including upon information and belief in the cities of Gridley and Oroville. Plaintiff and the other  
26 similarly situated Class Members worked at Defendants’ behest without being paid all wages due  
27 and without being provided all required breaks. More specifically, Plaintiff and the other similarly  
28 situated Class Members were employed by Defendants and 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 including 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 ORCHARD HOSPITAL is a California nonprofit corporation that lists its principal address and California office in Gridley, California with the California Secretary of State. It also lists a registered corporate agent with an address in Gridley, California and in Butte County. Upon information and belief, ORCHARD HOSPITAL operates at least three (3) facilities including a hospital and medical specialty centers in Gridley and Oroville, California. It was listed as the employer on the wage statements issued to Plaintiff, and upon information and belief other similarly situated Class members employed by the Defendants at all of their locations during the relevant time period.

6. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred, at least in part in Butte County and Defendants' principal address in Gridley, California. Defendants also employ Class Members at medical specialty centers in Butte County.

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

8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours, or working conditions of Employees, created and implemented the policies and practices that governed the employment of Plaintiff and the Class Members and dictated their job duties and responsibilities, or otherwise suffered or permitted Plaintiff and the other Employee Class Members to work, or engaged them, thereby creating a common law employment relationship with the Employee Class Members. Therefore, Defendants, and each of them, employed or jointly employed the Employee Class Members.

## FACTUAL BACKGROUND

9. The Employees who comprise the Class, including Plaintiff, are non-exempt employees pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”). During the period of four years prior to the filing of this action through its resolution, the Employee Class Members were employed by Defendants and worked in non-exempt positions at the direction of Defendants in the State of California. Plaintiff and the Class Members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular, and overtime rates. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class Members all wages due and owing, including compensation for off-the-clock work, noncompliant meal and

rest breaks, and Defendants' failure to furnish accurate wage statements, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

10. During the course of Plaintiff and the Class Members' employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in "off the clock" work) and for all their overtime hours worked, and they were not paid at the required rates for overtime. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as engineers and attendants and in similar and related positions based out of their medical facilities in California.

11. Plaintiff and Class Members were consistently required to perform work, off-the-clock, for which they were not paid wages. By way of example, Plaintiff and Class Members were systemically required to arrive to work early to prepare for their shifts, which include performing task such as checking patient charts and medication, checking medical equipment and booting up and starting the various patient applications on the computers in the exam rooms. Since Plaintiff, and upon information and belief Class members, clocked in on the computers, the computers had to be booted up in advance of their scheduled shift starts times to avoid clocking in late. Defendants also told Plaintiff and Class members that they could not work more than their scheduled shift times, so Plaintiff and Class members frequently clocked out and then finished up their tasks for the day.

12. Similarly, Defendants instructed Plaintiff and the Class Members to input into the timekeeping system that they took a thirty for a meal period and did so before the fifth hour of work as required under the Labor Code and Wage Orders. Defendants instructed Plaintiff and the Class Members to thus record compliant meal breaks without regard to whether they were actually taken on time or for the full duration or were interrupted by management demands and other work requirements to avoid incurring and paying meal period premium penalty wages. Additionally, by deducting 30 minutes for a meal period that was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted up to 30 minutes of hours worked from each Employee's daily work shifts.

1           13. Defendants' managers also contacted Plaintiff by calling and texting her personal  
2 cell phone regarding work-related matters and scheduling and would do so both throughout the  
3 work day and during breaks and also after work hours. Additional off-the-clock work occurred in  
4 the form of the unlawful deduction of 30 minutes of hours worked for an alleged thirty-minute long  
5 meal period that was provided generally untimely if at all.

6           14. Overtime hours were and are generally not allowed, and if Plaintiff worked beyond  
7 her scheduled hours, Plaintiff would be reprimanded and/or admonished. Additionally, Defendants  
8 paid Plaintiff and Class members a shift differentials for working certain shifts, like weekend shifts.  
9 To whatever extent Defendants paid this and any other form of remuneration to Employees in the  
10 Class, such as non-discretionary bonuses and shift differentials and the like, Defendants failed to  
11 include it in the regular rate used to calculate and pay the overtime that Defendants did pay.

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

20           16. Defendants have either failed to maintain timekeeping records for Plaintiff that  
21 would permit Plaintiff to discover the nature and extent of the off-the-clock work Defendants  
22 required and the actual hours Plaintiff worked or the breaks she received. By failing to pay for all  
23 hours worked, and by under-recording regular hours to the detriment of the Class Members,  
24 Defendants have committed knowing and intentional ongoing violations of the record keeping  
25 requirements under the Labor Code, including section 1174, by either failing to maintain records  
26 or retaining inaccurate ones.

27           17. The failure to pay for all hours worked and underpayment of wages to Plaintiff and  
28 the Class Members is and has been a direct consequence of Defendants' unlawful compensation

1 policies and practices, which upon information and belief applied uniformly to the Class Members  
2 working based out of Defendants' medical facilities throughout California. As a result of the above-  
3 described unlawful requirements to work off the clock, the failure to accurately record all hours  
4 worked and pay wages at the correct rates, and the other wage violations they endured at  
5 Defendants' hands, Plaintiff and the Class Members were not properly paid all wages earned and  
6 all wages owed to them by Defendants, including when working more than eight hours in any given  
7 day and/or more than forty hours in any given week.

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

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

23 20. Additionally, Defendants informed Plaintiff and Class Members that they must take  
24 their meal period before the fifth hour of work as required under the Labor Code and Wage Orders.  
25 However, when Plaintiff was unable to take her meal period before the fifth hour of work,  
26 Defendants would instruct her to clock out, keep working and take her meal period later in order to  
27 avoid incurring and paying meal period premium penalty wages. Defendants also maintained a  
28 policy and practice that restricted Plaintiff and Class members from leaving the premises due to the

1 demanding workload and lack of coverage for breaks.

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

9       22.     Defendants thus failed to provide all the legally required unpaid, off-duty meal  
10 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class  
11 Members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class  
12 Members were required to perform work as ordered by Defendants for more than five hours during  
13 a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants  
14 followed a practice of requiring off the clock work in a manner that would impact when Employees  
15 were to receive meal periods and rest breaks and required them to respond to work calls and inquiries  
16 and other demands during breaks, thus leading to further violations.

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

24       24.     Defendants thus followed uniformly applied policies of not providing all required  
25 meal periods to their Employees. Meal periods were often not properly provided, as work demands  
26 impermissibly shortened their breaks. Even when Plaintiff and the Class Members were able to take  
27 a meal period, it was generally interrupted by work duties or was taken after the fifth hour of work.  
28 Additionally, as addressed above, Defendants followed a practice of requiring off-the-clock work

1 in a manner that would impact when Employees were to receive meal periods and rest breaks, thus  
2 leading to further violations.

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

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

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

1           27.     Similar violations resulted from Defendants' failure to authorize and permit Plaintiff  
2 and the Class Members to take duty-free, net ten minute rest breaks for every four hours of shift  
3 work, or major fraction thereof. Plaintiff and the other similarly situated Class Members were either  
4 not authorized permitted the opportunity to take a rest break, or were required to remain under  
5 Defendants' control and respond to calls and instructions from management and job demands if  
6 and when they even attempted to take one. Upon information and belief, Defendants thus also failed  
7 to authorize and permit employees to leave the premises during rest breaks, evidencing Defendants'  
8 policy and practice of requiring Plaintiff and the Class Members to remain under their control  
9 during required off-duty rest break times.

10           28.     Rest breaks were neither scheduled nor contemplated by Defendants. Defendants  
11 regularly failed to provide Plaintiff with at least two paid, timely, uninterrupted, and duty-free ten  
12 minute rest breaks during each of her work shifts. Additionally, interruptions occurred regularly as  
13 Plaintiff was required to stay on premises and remain under Defendants' control to respond to  
14 management and job demands. This practice again unlawfully failed to authorize and permit  
15 Employees to take rest break time, which must be both duty-free and compensated at the regular  
16 rate.

17           29.     Defendants' uniformly applied policies and practices thus resulted in untimely and  
18 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class  
19 Members worked shifts of at least eight hours, which required at least two rest breaks, and often  
20 worked shifts over ten hours, which required at least three rest breaks.

21           30.     During rest periods, employers must relieve employees of all duties and relinquish  
22 control over how employees spend their time. Plaintiff and the Class Members were and are under  
23 Defendants' control when they are working through rest breaks and responding to work  
24 communications, including through walkie talkies. Defendants have also provided either  
25 impermissibly shortened or untimely meal and rest breaks to Plaintiff and the Class Members.  
26 Plaintiff and the Employees in the Class were thus not authorized and permitted to take lawful rest  
27 periods, were systematically required by Defendants to work through or during breaks, and were  
28 not provided with one hour's wages in lieu thereof. They were required to remain on-duty during

1 breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and  
2 they were also prevented from leaving the premises and otherwise remain under Defendants'  
3 control during rest breaks under Defendants' uniformly applied policies and practices. Rest period  
4 violations therefore arose in one or more of the following manners:

- 5 (a) Class Members were required to work without being provided a minimum  
6 ten minute rest period for every four hours or major fraction thereof worked  
7 and were not compensated one hour of pay at their regular rate of  
8 compensation for each workday that a rest period was not provided;
- 9 (b) Class Members were not authorized and permitted to take timely rest periods  
10 for every four hours worked, or major fraction thereof;
- 11 (c) Class Members were required to remain on-duty during rest periods or  
12 otherwise had their rest periods interrupted by work demands; and
- 13 (d) Class Members were not permitted to leave the premises during breaks.

14 31. From at least four years prior to the filing of this lawsuit and continuing to the  
15 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or  
16 deducting the Employees' earned wages, including by the above described off the clock work and  
17 on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest breaks,  
18 Defendants unlawfully deducted up to 30 additional minutes for thirty meal periods that were rarely  
19 provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal that  
20 was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least  
21 30 minutes of hours worked from each Employee's daily work shifts. By not compensating  
22 Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of  
23 Labor Code § 221.

24 32. Defendants also violated California Labor Code § 246 by not providing all required  
25 paid sick days at the appropriate rate of pay to Plaintiff and the Class Members. Upon information  
26 and belief, Defendants paid Employees shift differentials and/or other non-discretionary bonuses.  
27 However, upon information and belief, Defendants failed to incorporate all remunerations,  
28 including shift differentials, into the calculation of the regular rate of pay for purposes of calculating

1 sick pay. Therefore, during times when Employees worked overtime and received shift differentials  
2 and/or other non-discretionary bonuses, Defendants failed to pay all sick pay by paying a lower  
3 overtime rate than required.

4 33. Similarly, Defendants violated California Labor Code § 227.3 by failing to provide  
5 vacation pay at the appropriate rate of pay to Plaintiff and the Class Members. Upon information  
6 and belief, Defendants paid Employees shift differentials and/or other non-discretionary bonuses.  
7 However, upon information and belief, Defendants failed to incorporate all remunerations,  
8 including shift differentials, into the calculation of the regular rate of pay for purposes of calculating  
9 vacation pay. Therefore, during times when Employees worked overtime and received shift  
10 differentials and/or other non-discretionary bonuses, Defendants failed to pay all vacation pay by  
11 paying a lower rate than required.

12 34. As a result of these illegal policies and practices, Defendants also engaged in and  
13 enforced the following additional unlawful practices and policies against Plaintiff and the Class  
14 Members he seeks to represent:

- 15 (a) failing to pay all wages owed to Class Members who either were discharged,  
16 laid off, or resigned in accordance with the requirements of Labor Code §§  
17 201, 202, 203;
- 18 (b) failing to pay all wages owed to the Class Members twice monthly in  
19 accordance with the requirements of Labor Code § 204;
- 20 (c) failing to pay Class Members all wages owed, including all meal and rest  
21 period premium wages, and failing to pay them at the regular rate of  
22 compensation;
- 23 (d) failing to maintain accurate records of Class Members' hours worked and  
24 earned wages and meal periods in violation of Labor Code §§ 226 and  
25 1174(d) and section 7 of the applicable IWC Wage Orders; and
- 26 (e) failing to produce timekeeping records in response to Plaintiff's timely and  
27 lawful request to receive them under these authorities.

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

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

27           37. Defendants also required Plaintiff and the Class Members to work hours off the clock  
28 for which they were not compensated. They were required to endure off the clock work addressed

1 above during interrupted or otherwise on-duty meal and rest periods and were not provided with  
2 sick pay and supplemental sick leave and were subjected to systematic off the clock work.  
3 Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift  
4 and a workday or failed to pay it at the correct rate, as addressed above. Therefore, Defendants have  
5 also followed a uniform and consistent policy of failing to pay all wages owed to Employees at the  
6 time of their termination or within seventy-two hours of their resignation, as required by California  
7 wage-and-hour laws, including Labor Code § 203.

8 38. Additionally, from at least four years prior to the filing of this lawsuit and continuing  
9 to the present, Defendants have regularly required Plaintiff and the Class Members to incur  
10 necessary business expenses in the course of performing their required job duties without  
11 reimbursement. These included the cell phone related expenses Plaintiff incurred in responding to  
12 calls and texts from managers, mileage for use of her vehicle for required work related travel, and  
13 other necessary tools and equipment, including but not limited to a stethoscope. Plaintiff and the  
14 Class Members must be reimbursed for these necessary business expenses under Labor Code § 2802  
15 and Defendants systematically failed to do so.

16 39. In light of the foregoing, Plaintiff and the Employees in the Class bring this action  
17 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 227.3,  
18 245, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2  
19 1197, 1198, 1198.5, 1199, and 2802 and California Code of Regulations, Title 8, section 11000 *et*  
20 *seq.*

21 40. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff  
22 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits  
23 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or  
24 fraudulent practices alleged in this Complaint.

### 25 **CLASS ALLEGATIONS**

26 41. Plaintiff brings this class action on behalf of herself and all others similarly situated  
27 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (often referred to as  
28 “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 those in positions generally pertaining to providing health care and medical-related services to Defendants’ customers in California. 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. Vacation Wages Subclass. All Class members who were not compensated at the Employee’s regular rate of pay for their vacation wages.

i. Subclass 9. Sick Pay Subclass. All Class members who were not compensated at the Employee's regular rate of pay for their sick pay wages.

j. Subclass 10. 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.

k. Subclass 11. 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.

l. Subclass 12. 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.

m. Subclass 13. 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.

42. 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.

43. 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.

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

5           **A.     Numerosity**

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

12           **B.     Commonality**

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

- 19           a.     Whether Defendants failed to pay Employees minimum wages;
- 20           b.     Whether Defendants failed to pay Employees wages for all hours worked;
- 21           c.     Whether Defendants failed to pay Employees overtime as required under Labor Code  
22               § 510;
- 23           d.     Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC  
24               Wage Orders, by failing to provide Employees with requisite meal periods or  
25               premium pay in lieu thereof;
- 26           e.     Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage  
27               Orders, by failing to authorize and permit Employees to take requisite rest breaks or  
28               provide premium pay in lieu thereof;

- 1 f. Whether Defendants violated Labor Code § 226(a) by providing Employees with  
2 inaccurate wage statements;
- 3 g. Whether Defendants violated Labor Code § 221;
- 4 h. Whether Defendants failed to pay Employees vacation wages as required under  
5 Labor Code § 227.3;
- 6 i. Whether Defendants failed to pay Employees sick pay as required under Labor Code  
7 § 245;
- 8 j. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay  
9 wages and compensation due and owing at the time of termination of employment;
- 10 k. Whether Defendants' conduct was willful;
- 11 l. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC  
12 Wage Orders by failing to maintain accurate records of Class Members' earned  
13 wages and work periods;
- 14 m. Whether Defendants violated Labor Code § 1194 by failing to compensate all  
15 Employees during the relevant time period for all hours worked, whether regular or  
16 overtime;
- 17 n. Whether Defendants violated Labor Code § 204 by failing to pay Employees all  
18 wages earned at least twice monthly;
- 19 o. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary  
20 business expenses incurred by Employees;
- 21 p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 22 q. Whether Employees are entitled to equitable relief pursuant to Business and  
23 Professions Code § 17200 *et seq.*

24 **C. Typicality**

25 47. The claims of the named plaintiff are typical of those of the other Employees. The  
26 Employee Class Members all sustained injuries and damages arising out of and caused by  
27 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as  
28 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the

1 off the clock work and meal and rest violations she was required to endure are typical of those of  
2 the other Class Members.

3 **D. Adequacy of Representation**

4 48. Plaintiff will fairly and adequately represent and protect the interest of the Employee  
5 Class Members. Counsel who represents Plaintiff and the Employees in the Class are experienced  
6 and competent in litigating employment class actions.

7 **E. Superiority of Class Action**

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

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

24 51. Class action treatment will allow those persons similarly situated to litigate their  
25 claims in the manner that is most efficient and economical for the parties and the judicial system.  
26 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.  
27 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would set  
28 forth the subject and nature of the instant action. The Defendants' own business records can be

utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notice is required additional media and/or mailings can be used.

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

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

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

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

55. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, as alleged above in connection with off the clock work and the miscalculation of the regular rate of pay, including all the time required to remain on duty and under Defendants' control during breaks and due to the work demands placed upon them by Defendants' management by the unlawful deduction of hours or by paying what should have been

1 overtime hours as regular hours. Defendants' uniformly applied policies required systematic off  
2 the clock work and underpayment of all wages owed to Employees over a period of time, while  
3 benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay  
4 minimum wages to Plaintiff and the Class Members, including by requiring systematic off the  
5 clock work. To the extent any local wage ordinances were also applicable to paying the employees  
6 an hourly rate above the minimum wage rate, Defendants failed to comply with the local wage  
7 ordinances. Defendants' uniform pattern of unlawful wage and hour practices manifested, without  
8 limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and  
9 practice that denied accurate compensation to Plaintiff and the other members of the Class as to  
10 minimum wage pay.

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

16         57. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:  
17 "The minimum wage for employees fixed by the commission is the minimum wage to be paid to  
18 employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable  
19 minimum wage rate fixed by the commission for work during the relevant period is found in the  
20 Wage Orders.

21         58. The minimum wage provisions of California Labor Code are enforceable by private  
22 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to  
23 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal  
24 overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid  
25 balance of the full amount of this minimum wage or overtime compensation, including interest  
26 thereon, reasonable attorney's fees and costs of suit."

27         59. As described in California Labor Code §§ 1185 and 1194.2, any action for wages  
28 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,

1 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage  
2 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for  
3 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in  
4 the absence of a contractually agreed upon one.

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

14 61. California Labor Code § 1194.2 also provides for the following remedies: “In any  
15 action under Section 1194 . . . to recover wages because of the payment of a wage less than the  
16 minimum wages fixed by an order of the commission, an employee shall be entitled to recover  
17 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

18 62. In addition to restitution for all unpaid wages, pursuant to California Labor Code §  
19 1197.1, Plaintiff and Class Members are entitled to recover a penalty of \$100.00 for the initial failure  
20 to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each  
21 employee minimum wages.

22 63. Pursuant to California Labor Code § 1194.2, Plaintiff and Class Members are further  
23 entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest  
24 thereon.

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

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

## SECOND CAUSE OF ACTION

## FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

**(Against All Defendants)**

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

67. California Labor Code § 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action may be maintained directly against the employer in an employee’s name without first filing a claim with the Division of Labor Standards and Enforcement.

68. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the

1 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular  
2 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)  
3 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one  
4 workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in  
5 any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a  
6 workweek.

7 69. Defendants had a consistent policy of not paying Employees wages for all hours  
8 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by  
9 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants have  
10 also failed to include all forms of remuneration in the regular rate of pay used to calculate and pay  
11 overtime and failed to begin paying overtime when it was incurred due to the off the clock work, as  
12 detailed above. Defendants' managers also moved hours that should have been paid at overtime  
13 premium rates to regular hours.

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

26 71. Therefore, Employees were not properly compensated, nor were they paid overtime  
27 rates for hours worked in excess of eight hours in a given day and/or forty hours in a given week.  
28 Based on information and belief, Defendants did not make available to Employees a reasonable

1 protocol for correcting time records when Employees worked overtime hours or to fix incorrect time  
2 entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants  
3 have also violated these provisions by requiring Plaintiff and other similarly situated Class Members  
4 to work through meal periods when they were required to be clocked out or to otherwise work off  
5 the clock to complete their daily job duties.

6 72. 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 73. 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 underpaid  
17 employee for each pay period for which the employee was underpaid in addition to an amount  
18 sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid  
19 to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in this  
20 section are in addition to any other civil or criminal penalty provided by law." Defendants have  
21 violated provisions of the Labor Code regulating hours and days of work as well as the IWC Wage  
22 Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor Code §  
23 558.

24 74. 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 semimonthly.  
26 From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that  
27 provision of the California Labor Code, Defendants have failed to pay all wages and overtime  
28 compensation earned by Employees. Each such failure to make a timely payment of compensation

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

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

9 76. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204,  
10 510, 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 77. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in  
20 full herein.

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

27 79. 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 otherwise  
3 had them shortened and interrupted by work demands and requirements to perform off the clock  
4 work and remain under Defendants' control. Defendants also maintained a policy and practice that  
5 restricted Plaintiff and Class members from leaving the premises due to the demanding workload  
6 and lack of coverage for breaks. Furthermore, upon information and belief, on the occasions when  
7 Employees worked more than ten hours in a given shift, they did so without receiving a second  
8 uninterrupted thirty-minute meal period as required by law.

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

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

23       82. 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 to  
25 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 penalties  
27 against the Defendants, and each of them, in a sum as provided by the Labor Code and other statutes  
28 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 83. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in  
5 full herein.

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

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

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

24 87. 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 88. 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 12  
3 and 20 of the applicable IWC Wage Orders.

4 89. 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 breaks,  
7 a sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants,  
8 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 90. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in  
13 full herein.

14 91. 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, total  
16 hours worked, and the corresponding number of hours worked at each hourly rate; these statements  
17 must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay  
18 the employee's wages; or, if wages are paid by cash or personal check, these statements may be  
19 given to the employee separately from the payment of wages; in either case the employer must give  
20 the employee these statements twice a month or each time wages are paid.

21 92. 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. Moreover, the wage statements provided to Employees by Defendants  
28 failed to include the total hours worked in violation of Labor Code § 226(a)(2) as it reflected

1 incorrect hours worked and included non-working hours, all of which Defendants knew or  
2 reasonably should have known were owed to Employees, as alleged hereinabove.

3       93. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiff  
4 and the Class Members, upon each payment of wages, itemized statements accurately showing: (1)  
5 gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units  
6 earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages  
7 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the  
8 employee and only the last four digits of his or her social security number or an employee  
9 identification number other than a social security number, (8) the name and address of the legal  
10 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the  
11 corresponding number of hours worked at each hourly rate by the employee pursuant to Labor Code  
12 § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory requirements.  
13 Defendants knowingly and intentionally failed to provide Plaintiff and the Class Members with such  
14 timely and accurate wage and hour statements.

15       94. Plaintiff and the Class Members suffered injury as a result of Defendants' knowing  
16 and intentional failure to provide them with the wage and hour statements as required by law and  
17 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the  
18 Defendants have failed to provide an accurate wage statement, failed to provide accurate and  
19 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),  
20 inclusive, and the Plaintiff and Class Members cannot promptly and easily determine from the  
21 wage statement alone one or more of the following: (i) The amount of the gross wages or net wages  
22 paid to the employee during the pay period or any of the other information required to be provided  
23 on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision  
24 (a), (ii) Which deductions the employer made from gross wages to determine the net wages paid to  
25 the employee during the pay period, (iii) The name and address of the employer and, (iv) The name  
26 of the employee and only the last four digits of his or her social security number or an employee  
27 identification number other than a social security number. For purposes of Labor Code § 226(e)  
28 "promptly and easily determine" means a reasonable person [i.e. an objective standard] would be

1 able to readily ascertain the information without reference to other documents or information.

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

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

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

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

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

27 99. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or  
28 receive from an employee any part of wages theretofore paid by said employer to said employee.”

1 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and  
2 public policy, an employer must timely pay its employees for all hours worked. Defendants failed  
3 to do so.

4 100. Defendants unlawfully received and/or collected wages from the Employees in the  
5 Class by requiring off the clock work, by miscalculating overtime, and by deducting time for meal  
6 periods when they were not lawfully provided and not paying one hour of pay at the regular rate of  
7 compensation for every meal and rest period violation endured by Plaintiff and the other Class  
8 Members, as alleged above. In addition to failing to authorize and permit rest breaks, Defendants  
9 unlawfully deducted up to 30 additional minutes for meal periods that were rarely provided or  
10 otherwise received without violation. Thus, by deducting 30 minutes for a meal period that was  
11 generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30  
12 minutes of hours worked from each Employee's daily work shifts. By not compensating Employees  
13 for all hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code §  
14 221.

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

17 **SEVENTH CAUSE OF ACTION**  
18 **VIOLATION OF LABOR CODE § 204**  
19 **(Against All Defendants)**

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

22 103. Labor Code § 204 instructs that: "All wages, ...earned by any person in any  
23 employment are due and payable twice during each calendar month, on days designated in advance  
24 by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive,  
25 of any calendar month shall be paid for between the 16th and the 26th day of the month during  
26 which the labor was performed, and labor performed between the 16th and the last day, inclusive,  
27 of any calendar month, shall be paid for between the 1st and 10th day of the following month."  
28 Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for

1 weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days  
2 following the close of the payroll period.” As detailed above, Defendants maintained a consistently  
3 applied policy and practice of not paying all wages earned between the 1<sup>st</sup> and 15<sup>th</sup> days of a month  
4 between the 16<sup>th</sup> and 26<sup>th</sup> day and failed to pay all wages earned between the 16<sup>th</sup> and the last day  
5 of the month between the 1<sup>st</sup> and 10<sup>th</sup> day of the following month. Defendants similarly failed to pay  
6 all wages earned by not more than seven calendar days following the close of the payroll period.

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

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

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

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1 **EIGHTH CAUSE OF ACTION**

2 **FAILURE TO COMPLY WITH LABOR CODE § 245 *ET SEQ.* AND 246**

3 **(Against All Defendants)**

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

6 108. California Labor Code § 245 *et seq.* requires that Defendants provide paid sick time  
7 to Employees, including at the amount, terms, and rate of compensation set forth in said law. At  
8 times relevant, Defendants have failed compute the amount due for paid sick time in conformance  
9 with the pay calculation under California Labor Code § 246(1).

10 109. Defendants paid non-discretionary bonuses and/or shift differentials to Employees  
11 but Defendants failed to include these forms of remuneration in the regular rate of pay upon which  
12 sick pay was calculated and paid. Rather than calculating the amount of paid sick time due when  
13 sick time is used according to the requirements set forth in California Labor Code § 246(1),  
14 Defendants paid sick leave to Employees at a lower rate, in violation of the law.

15 110. Therefore, Plaintiff and Employees seek to recover penalties pursuant to Labor Code  
16 §§ 245 *et seq.*, including § 246.

17 **NINTH CAUSE OF ACTION**

18 **FAILURE TO PAY VACATION WAGES**

19 **(Against All Defendants)**

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

22 112. Pursuant to California Labor Code § 227.3, whenever a contract of employment or  
23 employment policy provides for paid vacation and an employee is terminated without having taken  
24 off her vested vacation time, all vested vacation shall be paid to her as wages at her final rate in  
25 accordance with said contract of employment or policy respecting eligibility or time served.

26 113. Defendants paid non-discretionary bonuses and/or shift differentials to Employees  
27 but Defendants failed to include these forms of remuneration in the regular rate of pay upon which  
28 vacation wages were calculated and paid.

1 114. Therefore, pursuant to, Plaintiff and Employees seek to recover penalties pursuant to  
2 Labor Code § 227.3.

3 **TENTH CAUSE OF ACTION**  
4 **VIOLATION OF LABOR CODE § 203**  
5 **(Against All Defendants)**

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

8 116. Numerous Class Members are no longer employed by Defendants; they either quit  
9 Defendants' employ or were fired therefrom.

10 117. Defendants failed to pay these Employees all wages due and certain at the time of  
11 termination or within seventy-two hours of resignation.

12 118. The wages withheld from these Employees by Defendants remained due and owing  
13 for more than thirty days from the date of separation from employment.

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

21 120. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers  
22 are required "to pay each employee, on the established payday for the period involved, not less than  
23 the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code §  
24 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under  
25 conditions of labor prohibited by the order is unlawful." Plaintiff and the Class Members may  
26 therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of  
27 the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC  
28 Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants

1 are subject to a fine of not less than \$100 for causing Employees “to work for longer hours than  
2 those fixed, or under conditions of labor prohibited by an order of the commission” or if the  
3 employer pays “a wage less than the minimum fixed by an order of the commission” or  
4 “violates...any provision of this chapter or any order or ruling of the commission.”

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

9 **ELEVENTH CAUSE OF ACTION**  
10 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**  
11 **(Against All Defendants)**

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

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

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

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

25 126. Defendants have maintained a common unlawful policy and practice of failing to  
26 accurately record all hours worked and all meal period start and end times and by adjusting or  
27 otherwise rounding and shaving them down. Defendants also manipulated timekeeping records to  
28 reflect less time worked or to shift time to avoid premiums.

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

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

5                                   **TWELFTH CAUSE OF ACTION**  
6           **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**  
7                                   **(Against All Defendants)**

8           129. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in  
9 full herein.

10          130. Plaintiff is informed and believes and based thereon alleges that throughout the  
11 period applicable, Defendants required Plaintiff and the Class Members to pay for necessary work-  
12 related expenses they incurred. Defendants required Plaintiff and the Class Members to use their  
13 cellular phones to conduct work-related business. Plaintiff and the Class Members were also  
14 required to use of their own vehicles for required work related travel without mileage  
15 reimbursement, and were required to purchase other necessary tools and equipment, including but  
16 not limited to medical supplies, such as a stethoscope and oxygen monitor. Plaintiff and the Class  
17 Members must be reimbursed for these necessary business expenses under Labor Code § 2802 and  
18 Defendants systematically failed to do so.

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

23          132. Defendants' knowing and willful failure to reimburse lawful necessary work-related  
24 expenses and losses to Plaintiff and the Class Members resulted in damages because, among other  
25 things, Defendants did not inform employees of their right to be reimbursed for those work-related  
26 expenses. As Defendants failed to inform and misled Plaintiff and the Class Members with regard  
27 to their rights, Plaintiff and the Class Members were led to believe that incurring those lawful and  
28 necessary expenses was an expected and essential function of their employment with Defendants

1 and that failure to incur those expenses would have adverse consequences on their employment.

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

8 **THIRTEENTH CAUSE OF ACTION**

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

10 **(Against All Defendants)**

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

17 135. Plaintiff is a "person" within the meaning of Business & Professions Code  
18 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive  
19 relief, restitution, and other appropriate equitable relief.

20 136. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business  
21 practices. By the conduct alleged herein, Defendants' practices were deceptive and fraudulent in  
22 that Defendants' policy and practice failed to provide the required amount of compensation for  
23 missed meal and rest breaks, and failed to adequately compensate Plaintiff and Class Members for  
24 all hours worked, due to systematic business practices as alleged herein that cannot be justified,  
25 pursuant to the applicable California Labor Code and Industrial Welfare Commission requirements  
26 in violation of California Business and Professions Code §§ 17200, *et seq.*, and for which this Court  
27 should issue injunctive and equitable relief, pursuant to California Business & Professions Code §  
28 17203, including restitution of wages wrongfully withheld.

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

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

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

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

20           141. By the conduct alleged herein, Defendants have engaged and continue to engage in  
21 a business practice which violates California and federal law, including but not limited to, the  
22 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor  
23 Code including Sections 204, 221, 226, 226.7, 245, 246, 227.3, 510, 512, 1182.12, 1194, 1194.2,  
24 1197, 1198 and 2802 for which this Court should issue declaratory and other equitable relief  
25 pursuant to California Business & Professions Code § 17203 as may be necessary to prevent and  
26 remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully  
27 withheld.

28



1 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 et seq.

2 148. More specifically, after complying with the notice procedures of Labor Code §  
3 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General  
4 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above-  
5 addressed underlying claims and seeking penalties as specified by the applicable corresponding  
6 provisions, including as follows:

7 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all  
8 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime  
9 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and  
10 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking  
11 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,  
12 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant  
13 to Labor Code § 2699(g)(1);

14 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved  
15 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to  
16 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under  
17 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC  
18 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under  
19 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,  
20 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs  
21 pursuant to Labor Code § 2699(g)(1);

22 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide  
23 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to  
24 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,  
25 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking  
26 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),  
27 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,  
28 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by

1 providing inaccurate wage statements and failing to maintain records as required under Labor  
2 Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor  
3 Code §226.3, which in addition to other penalties provided by law, subjects Defendants to “a  
4 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial  
5 citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent  
6 citation, ...”;

7 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at  
8 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,  
9 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,  
10 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20  
11 of the applicable IWC Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code  
12 § 2699(g)(1);

13 (e) Unlawful Deductions and Failure to Reimburse Necessary Business Expenses: For  
14 Defendants’ unlawful deductions from wages and for Defendants’ failure to reimburse the  
15 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and  
16 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties  
17 available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and  
18 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys’ fees and costs  
19 pursuant to Labor Code § 2699(g)(1);

20 (f) All Alleged Violations of the IWC Wage Orders and Other Labor Code  
21 Sections: For any above addressed violation of the applicable provisions of the IWC Wage  
22 Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code §  
23 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and  
24 paragraph 20 of the applicable IWC Wage Orders, and for attorneys’ fees and costs pursuant to  
25 Labor Code § 2699(g)(1).

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149. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also seeks the penalties and remedies set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages...

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

150. Plaintiff has exhausted his administrative remedies by submitting a certified letter to the LWDA and Defendants on March 7, 2024 (LWDA-CM-1015421-24) addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original Complaint.

### **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;

1           4.     For compensatory damages in the amount of all unpaid wages, including overtime  
2 and double-time pay, as may be proven;

3           5.     For compensatory damages in the amount of the hourly wage made by Employees  
4 for each missed or deficient meal period where no premium pay was paid therefor from four (4)  
5 years prior to the filing of this action, as may be proven;

6           6.     For compensatory damages in the amount of the hourly wage made by Employees  
7 for each day requisite rest breaks were not provided or were deficiently provided where no premium  
8 pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;

9           7.     For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

10          8.     For restitution and/or damages and penalties for Defendants' failure to pay all wages  
11 due twice monthly under Labor Code § 204, as may be proven;

12          9.     For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

13          10.    For penalties under Labor Code § 558, as may be proven;

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

16          12.    For penalties pursuant to Labor Code §§ 245 and 246, as may be proven; For penalties  
17 pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their  
18 daily wage times thirty (30) days, as may be proven;

19          13.    For penalties pursuant to Labor Code § 227.3, as may be proven;

20          14.    For penalties pursuant to Labor Code § 1174.5, as may be proven;

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

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

24          17.    For restitution for unfair competition pursuant to Business & Professions Code  
25 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

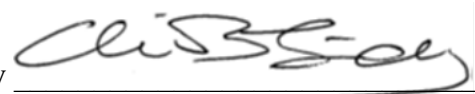
26          18.    For an order enjoining Defendants and their agents, servants, and employees, and all  
27 persons acting under, in concert with, or for them, from acting in derogation of any rights or duties  
28 adumbrated in this Complaint;

- 1           19.     For other wages and penalties under the Labor Code as may be proven;  
2           20.     For all general, special, and incidental damages as may be proven;  
3           21.     For an award of pre-judgment and post-judgment interest;  
4           22.     For an award providing for the payment of the costs of this suit;  
5           23.     For an award of attorneys' fees; and  
6           24.     For such other and further relief as this Court may deem proper and just.

7     DATED: May 16, 2024

D.LAW, INC.

8  
9     By



Emil Davtyan  
David Yermian  
Alvin B. Lindsay  
Jean Hopkins Power  
Attorneys for Plaintiff KISHA VAZQUEZ  
and all others similarly situated

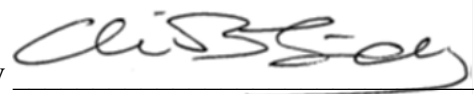
**DEMAND FOR JURY TRIAL**

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

DATED: May 16, 2024

D.LAW, INC.

By



Emil Davtyan

David Yermian

Alvin B. Lindsay

Jean Hopkins Power

Attorneys for Plaintiff KISHA VAZQUEZ

and all others similarly situated

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 880 E Broadway, Glendale, CA 91205

On May 16, 2024, I served the foregoing: **FIRST AMENDED CLASS ACTION COMPLAINT** on Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

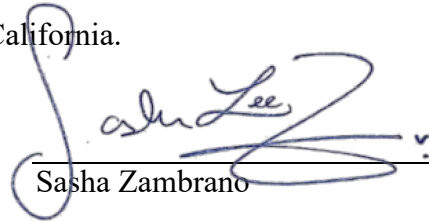
Nathan W. Austin  
[nathan.austin@jacksonlewis.com](mailto:nathan.austin@jacksonlewis.com)  
Sierra Vierra  
[sierra.vierra@jacksonlewis.com](mailto:sierra.vierra@jacksonlewis.com)  
Keelia K. Lee  
[keelia.lee@jacksonlewis.com](mailto:keelia.lee@jacksonlewis.com)  
**JACKSON LEWIS P.C.**  
400 Capitol Mall, Suite 1600  
Sacramento, California 95814

☒ **(BY MAIL)** I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

☒ **(BY ELECTRONIC SERVICE)** I caused the document(s) described herein to be served on the person(s) noted above by electronic mail to their E-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. [Pursuant to Civil Code Procedure 1010.6]

☒ **(STATE)** I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 16, 2024, at Glendale, California.

  
Sasha Zambrano