

SHIRIAN LAW, P.C.

Joshua Shirian (Cal. Bar No. 341909)

josh@shirianlaw.com

11110 Ohio Avenue, Suite 106

Los Angeles, California 90025

Tel: (310) 907-5000

Fax: (310) 988-5000

Attorneys for Plaintiff, GINA HOLLEY and
on behalf of herself and all others similarly situated
and aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

GINA HOLLEY, an individual and on behalf
of all others similarly situated,

Plaintiff,

v.

SERENITY LODGE, a California
Corporation; ZINNIA HEALTH LLC, a
Delaware limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: CIVSB2426295

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

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. UNFAIR COMPETITION; and
10. CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (2004) FOR VIOLATIONS OF LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1, AND 2699, et seq.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

1 Plaintiff Gina Holley, on behalf of Plaintiff and all others similarly situated and aggrieved,
2 alleges as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against
6 Serenity Lodge, and any of its respective subsidiaries or affiliated companies within the State of
7 California (“Serenity”); and Zinnia Health LLC and any of its respective subsidiaries or affiliated
8 companies within the State of California (“Zinnia” and collectively, with Serenity and DOES 1
9 through 100, as further defined below, “Defendants”) on behalf of Plaintiff and all other current and
10 former non-exempt California employees employed by or formerly employed by Defendants
11 (“Class Members”).

12 2. This is also a representative action, pursuant to the Labor Code Private Attorneys
13 General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”), against Defendants,
14 and any of their respective subsidiaries or affiliated companies within the State of California, as a
15 proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on
16 behalf of Plaintiff and all other current and former non-exempt employees of Defendants working
17 within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims
18 for violations of the Labor Code, including but not limited to, failure to comply with Labor Code
19 section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 245, et seq.,
20 Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty
21 Period (collectively, “Aggrieved Employees”).

22 **PARTIES**

23 **A. Plaintiff**

24 3. Plaintiff Gina Holley is a resident of the State of California. At all relevant times
25 herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed
26 Plaintiff as a non-exempt employee, with duties that included, but were not limited to, clinical work
27 and assisting clients. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff
28 Gina Holley worked for Defendants from approximately August of 2020 through approximately

December of 2023.

B. Defendants

4. Plaintiff is informed and believes and based thereon alleges that defendant Serenity is, and at all times relevant hereto was, a California Corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of San Bernardino, State of California. At all relevant times herein, Serenity employed Plaintiff and similarly situated employees within the State of California

5. Plaintiff is informed and believes and based thereon alleges that defendant Zinnia is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of Delaware and doing business in the County of San Bernardino, State of California. At all relevant times herein, San Bernardino employed Plaintiff and similarly situated employees within the State of California.

6. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as DOE is 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 hereinafter as DOES when such identities become known. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall include Serenity, Zinnia , and any of their parent, subsidiary, or affiliated companies within the State of California, and DOES 1 through 100 identified herein.

///

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

8. All of the acts and conduct described herein of each and every corporate defendant was duly authorized, ordered, and directed by the respective and collective defendant corporate employers, and the officers and management-level employees of said corporate employers. In addition thereto, said corporate employers participated in the aforementioned acts and conduct of their said employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned corporate employees, agents and representatives.

18

19

20

21
22
23
24
25
26
27
28

4

1 Members in San Bernardino County.

2 12. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
3 Defendants during the applicable statutory period and suffered one or more of the Labor Code
4 violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of himself and all other
5 aggrieved current and former employees of Defendants, the civil penalties provided by PAGA plus
6 reasonable attorneys’ fees and costs, as the term “civil penalty” is defined under *ZB N.A. v. Superior*
7 *Court* (2019) 8 Cal.5th 175.

8 13. Plaintiff seeks to recover the PAGA civil penalties through a representative action
9 permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior*
10 *Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA
11 allegations described herein is not required.

12 14. During the period beginning one (1) year preceding the provision of notice to the
13 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
14 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 256,
15 432, 510, 512, 558, 1174, 1194, 1197, 1198.5, 2802, and 2810.3, and 2810.5, among others.

16 15. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
17 such as Plaintiff, on behalf of himself and all other aggrieved current and former employees within
18 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
19 specified in Labor Code section 2699.3.

20 16. On or around April 30, 2024, Plaintiff provided written notice under Labor Code
21 section 2699.3 online and by certified mail, with return receipt requested, of Defendants’ violation
22 of various, including the herein-described, provisions of the Labor Code, to the Labor and
23 Workforce Development Agency (“LWDA”), as well as by certified mail, with return receipt
24 requested to Defendants, and each of them.

25 17. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
26 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
27 calendar days of the April 30, 2024 postmarked date of the herein-described notice sent by Plaintiff
28 to the LWDA and Defendants.

1 **FACTUAL BACKGROUND**

2 18. For at least four (4) years prior to the filing of this action and continuing to the
3 present, Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or
4 some of them, in violation of California state wage and hour laws as a result of, without limitation,
5 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
6 seven consecutive work days in a work week without being properly compensated for hours worked
7 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
8 worked on the seventh consecutive work day in a work week by, among other things, failing to
9 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay to the
10 detriment of Plaintiff and Class Members. In addition, Defendants would also be liable for civil
11 penalties pursuant to Labor Code sections 558 and 2699.

12 19. For at least four (4) years prior to the filing of this Action and continuing to the
13 present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members,
14 or some of them, in violation of California state wage and hour laws as a result of, among other
15 things, at times, failing to accurately track and/or pay for all hours actually worked at their regular
16 rate of pay that is above the minimum wage to the detriment of Plaintiff and Class Members. In
17 addition, Defendants would also be liable for civil penalties pursuant to Labor Code sections 558
18 and 2699.

19 20. For at least four (4) years prior to the filing of this Action and continuing to the
20 present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them,
21 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
22 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
23 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
24 for such unprovided meal periods as required by California wage and hour laws. In addition,
25 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

26 21. For at least four (4) years prior to the filing of this action and continuing to the
27 present, Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or
28 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major

1 fraction thereof and failed to provide compensation for such unprovided rest periods as required by
2 California wage and hour laws. In addition, Defendants would also be liable for civil penalties
3 pursuant to Labor Code sections 558 and 2699.

4 22. For at least three (3) years prior to the filing of this action and continuing to the
5 present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the
6 full amount of their wages owed to them upon termination and/or resignation as required by Labor
7 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
8 minimum wages, and premium wages. In addition, Defendants would also be liable for civil
9 penalties pursuant to Labor Code sections 558 and 2699.

10 23. For at least one (1) year prior to the filing of this Action and continuing to the present,
11 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
12 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
13 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
14 hours worked at each hourly rate; and other such information as required by Labor Code section
15 226, subdivision (a). As a result thereof, Defendants have further failed to furnish employees with
16 an accurate calculation of gross and gross wages earned, as well as gross and net wages paid. In
17 addition, Defendants would also be liable for civil penalties pursuant to Labor Code sections 226.3,
18 558 and 2699.

19 24. For at least one (1) year prior to the filing of this action and continuing to the present,
20 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full
21 amount of their wages for labor performed in a timely fashion as required under Labor Code section
22 204. In addition, Defendants would also be liable for civil penalties pursuant to Labor Code sections
23 558 and 2699.

24 25. For at least three (3) years prior to the filing of this action and continuing to the
25 present, Defendants have, at times, failed to indemnify Class Members, or some of them, for the
26 costs incurred in using cellular phones for work-related purposes. In addition, Defendants would
27 also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

28 ///

1 26. For at least four (4) years prior to the filing of this action and continuing to the
2 present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated
3 employees or former employees within the State of California with the rights provided to them under
4 the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*

5 27. Plaintiff, on her own behalf and on behalf of Class Members, brings this action
6 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
7 245, *et seq.*, 510, 512, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section
8 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
9 rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failure
10 to indemnify work-related expenses, other such provisions of California law, and reasonable
11 attorneys' fees and costs.

12 28. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
13 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
14 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
15 appropriate and effective means to prevent further violations, as well as all monies owed but
16 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as
17 restitution of amounts owed.

18 29. At all relevant times mentioned herein, Defendants have had a policy or practice of
19 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
20 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
21 Employees with the rates of pay and overtime rates of pay applicable to their employment;
22 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
23 name, address, and telephone number of the workers' compensation insurance carrier; information
24 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
25 under Labor Code section 2810.5. In addition, Defendants would also be liable for civil penalties
26 pursuant to Labor Code sections 558 and 2699.

27 ///

28 ///

30. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to California law (including, without limitation Labor Code section 245, *et seq.*), and also did not permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and all other Aggrieved Employees.

31. Plaintiff, in Plaintiff's representative capacity, seek civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved Employees pursuant to PAGA.

CLASS ACTION ALLEGATIONS

32. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class action is provided to the class (collectively referred to as "Class Members").

33. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b) to amend or modify the class description with greater specificity, further divide the defined class into subclasses, and to further specify or limit the issues for which certification is sought.

34. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure section 382 because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

35. The potential Class Members as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined yet, Plaintiff is informed and believe that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

///

/ / /

1 36. Accounting for employee turnover during the relevant periods necessarily increases
2 this number. Plaintiff alleges Defendants' employment records would provide information as to the
3 number and location of all Class Members. Joinder of all members of the proposed Class is not
4 practicable.

5 **B. Commonality**

6 37. There are questions of law and fact common to Class Members. These common
7 questions include, but are not limited to:

- 8 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
9 worked at a proper overtime rate of pay?
- 10 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
11 for all other time worked at the employee's regular rate of pay and a rate of pay that
12 is greater than the applicable minimum wage?
- 13 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
14 Class Members to take compliant meal periods?
- 15 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
16 with additional wages for missed or interrupted meal periods?
- 17 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
18 Class Members to take compliant rest periods?
- 19 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
20 with additional wages for missed rest periods?
- 21 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
22 Members upon termination or resignation all wages earned?
- 23 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
24 section 203?
- 25 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
26 Class Members with accurate wage statements?
- 27 J. Did Defendants fail to pay Class Members in a timely fashion as required under
28 Labor Code section 204?

1 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
2 losses incurred in direct consequence of the discharge of their duties or by obedience
3 to the directions of Defendants as required under Labor Code section 2802?

4 L. Did Defendants violate the Unfair Competition Law, Business and Professions Code
5 section 17200, *et seq.*, by their unlawful practices as alleged herein?

6 M. Are Class Members entitled to restitution of wages under Business and Professions
7 Code section 17203?

8 N. Are Class Members entitled to costs and attorneys' fees?

9 O. Are Class Members entitled to interest?

10 C. **Typicality**

11 38. The claims of Plaintiff herein alleged are typical of those claims which could be
12 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
13 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
14 damages arising out of and caused by Defendants' common course of conduct in violation of laws
15 and regulations that have the force and effect of law and statutes as alleged herein.

16 D. **Adequacy of Representation**

17 39. Plaintiff will fairly and adequately represent and protect the interest of Class
18 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
19 hour class actions.

20 E. **Superiority of Class Action**

21 40. A class action is superior to other available means for the fair and efficient
22 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
23 questions of law and fact common to Class Members predominate over any questions affecting only
24 individual Class Members. Class Members, as further described therein, have been damaged and
25 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
26 violation of the Labor Code at times, as set out herein.

27 ///

28 ///

41. Class action treatment will allow Class Members to litigate their claims in a manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

FIRST CAUSE OF ACTION

(Failure to Pay Overtime Wages – Against All Defendants)

42. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

43. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable Wage Orders.

44. At all times relevant to this Complaint, Labor Code section 510 was in effect and provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of forty hours in any one workweek . . . shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

45. At all times relevant to this Complaint, Labor Code section 510 further provided that “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay.”

46. Four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours actually worked at the proper overtime rate of pay to the detriment of Plaintiff and Class Members.

///

///

47. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and applicable IWC Wage Orders, and California law.

48. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

49. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

50. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

51. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class Members were entitled to receive minimum wages for all hours worked or otherwise under Defendants' control.

52. For four (4) years prior to the filing of the Complaint in this Action through the present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage to the detriment of Plaintiff and Class Members.

53. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise due.

54. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated

1 damages, reasonable attorneys' fees and costs of suit.

2 **THIRD CAUSE OF ACTION**

3 **(Failure to Provide Meal Periods – Against All Defendants)**

4 55. Plaintiff realleges and incorporates by reference all of the allegations contained in
5 the preceding paragraphs as though fully set forth hereat.

6 56. At all relevant times, Plaintiff and Class Members were employees or former
7 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

8 57. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
9 employ an employee for a work period of more than five (5) hours without a timely meal break of
10 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
11 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
12 per day without providing the employee with a second timely meal period of not less than thirty (30)
13 minutes in which the employee is relieved of all of his or her duties.

14 58. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
15 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
16 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
17 of compensation for each workday that the meal period is not provided.

18 59. For four (4) years prior to the filing of the Complaint in this Action through the
19 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
20 free uninterrupted meal periods every five hours of work without waiving the right to take them, as
21 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
22 Class Member's regular rate of compensation on the occasions that Class Members were not
23 provided compliant meal periods.

24 60. By their failure to provide Plaintiff and Class Members compliant meal periods as
25 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
26 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
27 violated the provisions of Labor Code section 512 and applicable Wage Orders.

28 ///

61. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

62. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

63. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

64. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

65. California law and applicable Wage Orders require that employers "authorize and permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be provided thirty (30) minutes of paid rest period.

66. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

67. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 10-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class

1 Member's regular rate of compensation on the occasions that Class Members were not authorized
2 or permitted to take compliant rest periods.

3 68. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
4 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
5 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
6 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

7 69. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
8 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
9 owed for rest periods that they were not authorized or permitted to take.

10 70. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
11 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus
12 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
13 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

14 **FIFTH CAUSE OF ACTION**

15 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

16 71. Plaintiff realleges and incorporates by reference all of the allegations contained in
17 the preceding paragraphs as though fully set forth hereat.

18 72. At all relevant times, Plaintiff and Class Members were employees or former
19 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
20 Wage Orders.

21 73. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
22 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
23 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
24 discharge immediately upon termination. Class Members who resigned were entitled to payment
25 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
26 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
27 unpaid at the time of resignation.

28 ///

74. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years before the filing of the Complaint in this Action through the present, Defendants, due to the failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

75. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and Class Members all wages earned prior to termination or resignation in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or resignation.

76. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to waiting time penalties from the date their earned and unpaid wages were due, upon termination or resignation, until paid, up to a maximum of thirty (30) days.

77. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned prior to termination or resignation.

78. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover waiting time penalties, interest, and their costs of suit, as well.

SIXTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements – Against All Defendants)

79. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

80. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

/ / /

1 81. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
2 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
3 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
4 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
5 number of hours worked at each hourly rate, among other things.

6 82. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
7 before the filing of the Complaint in this Action through the present, Defendants failed to comply
8 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
9 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
10 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
11 all applicable hourly rates in effect during the pay period and the corresponding number of hours
12 worked at each hourly rate, among other things.

13 83. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
14 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
15 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
16 provided wage statements that Defendants knew were not accurate.

17 84. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
18 suffered injury. The absence of accurate information on Class Members' wage statements at times
19 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
20 mathematical computations to determine the amount of wages owed; causes difficulty and expense
21 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
22 about wages and amounts deducted from wages to state and federal governmental agencies, among
23 other things.

24 85. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
25 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
26 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
27 pay period, not to exceed an aggregate \$4,000.00 per employee.

28 86. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil

1 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
2 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
3 attorneys' fees, and costs of suit.

4 **SEVENTH CAUSE OF ACTION**

5 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

6 87. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and
7 incorporate each by reference as though fully set forth hereat.

8 88. At all relevant times, Plaintiff and Class Members were employees or former
9 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

10 89. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
11 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
12 during which the labor was performed, and labor performed between the 16th and the last day,
13 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
14 month.”

15 90. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
16 independent and apart from, any other penalty provided in this article, every person who fails to pay
17 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
18 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
19 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
20 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
21 percent of the amount unlawfully withheld.”

22 91. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
23 before the filing of the Complaint in this Action through the present, Defendants employed policies
24 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
25 Labor Code section 204.

26 92. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
27 recover penalties for Defendants' violations of Labor Code section 204, in the amount of one
28 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)

1 for each subsequent violation in connection with each payment that was made in violation of Labor
2 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

3 93. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
4 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
5 interest, and their costs of suit, as well.

6 **EIGHTH CAUSE OF ACTION**

7 **(Violation of Labor Code § 2802 – Against All Defendants)**

8 94. Plaintiff realleges and incorporates by reference all of the allegations contained in
9 the preceding paragraphs as though fully set forth hereat.

10 95. At all relevant times, Plaintiff and Class Members were employees or former
11 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

12 96. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
13 his or her employee for all necessary expenditures or losses incurred by the employee in direct
14 consequence of the discharge of his or her duties . . .”

15 97. For three (3) years prior to the filing of the Complaint in this Action through the
16 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
17 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
18 obedience to the directions of Defendants that included, without limitation: using cellular phones
19 for work-related purposes.

20 98. During that time period, Plaintiff is informed and believes, and based thereon alleges
21 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and Class
22 Members for those losses and/or expenditures.

23 99. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
24 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
25 herein-described losses and/or expenditures.

26 100. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
27 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
28 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees and

1 costs of suit.

2 **NINTH CAUSE OF ACTION**

3 **(Unfair Competition – Against All Defendants)**

4 101. Plaintiff realleges and incorporates by reference all of the allegations contained in
5 the preceding paragraphs as though fully set forth hereat.

6 102. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct
7 of Defendants alleged herein constitutes unfair competition within the meaning of Business and
8 Professions Code section 17200. Plaintiff is further informed and believes and based thereon alleges
9 that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, for at
10 least four (4) years prior to the filing of this action and continuing to the present, Defendants have
11 had a consistent policy of failing to provide Plaintiff and similarly situated employees or former
12 employees within the State of California with the rights provided to them under the Healthy
13 Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.* Due to their
14 unlawful business practices in violation of the Labor Code, Defendants have gained a competitive
15 advantage over other comparable companies doing business in the State of California that comply
16 with their obligations to compensate employees in accordance with the Labor Code.

17 103. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
18 Members have suffered injury in fact and lost money or property.

19 104. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
20 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
21 Code and requiring the establishment of appropriate and effective means to prevent further
22 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
23 including interest thereon, in which they had a property interest and which Defendants nevertheless
24 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
25 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
26 by their failure to comply with the Labor Code.

27 105. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
28 Procedure section 1032 and interest under Civil Code section 3287.

1 **TENTH CAUSE OF ACTION**

2 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

3 106. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 **Civil Penalties Under Labor Code § 210**

6 107. At all relevant times herein, Labor Code section 204, requires and required that:
7 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
8 between the 16th and 26th day of the month during which the labor was performed, and labor
9 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
10 between the 1st and 10th day of the following month.”

11 108. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
12 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
13 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
14 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
15 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
16 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
17 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

18 109. At all relevant times herein, Defendants have had a consistent policy or practice of
19 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
20 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
21 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
22 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
23 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
24 for each subsequent violation in connection with each payment that was made in violation of Labor
25 Code section 204.

26 **Civil Penalties Under Labor Code § 226.3**

27 110. Defendants had and have a policy or practice of failing to comply with Labor Code
28 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees

1 with itemized wage statements that accurately reflect: reflect gross wages earned; total hours
2 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate; and other such information as required
4 by Labor Code section 226, subdivision (a).

5 111. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
6 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
7 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
8 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
9 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

10 112. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
11 his section are in addition to any other penalty provided by law.”

12 113. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
13 and have a policy or practice of failing to furnish non-exempt employees, including, without
14 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;
15 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and
16 the corresponding number of hours worked at each hourly rate; and other such information as
17 required by Labor Code section 226, subdivision (a).

18 114. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
19 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
20 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
21 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
22 period for each subsequent violation.

23 Violation of Labor Code § 558

24 115. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
25 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
26 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
27 penalty as follows:

28 ///

1 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and
2 for each pay period for which the employee was underpaid in addition to an amount sufficient to
3 recover underpaid wages;

4 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
5 employee for each pay period for which the employee was underpaid in addition to an amount
6 sufficient to recover underpaid wages;

7 (3) Wages recovered pursuant to this section shall be paid to the affected
8 employee.

9 116. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
10 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
11 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
12 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
13 regular payday designated by Employer, the name of the employer, including any “doing business
14 as” names used, the name, address and telephone number of the workers’ compensation insurance
15 carrier, information regarding paid sick leave, and other pertinent information.

16 117. As a direct and proximate result of the herein-described Labor Code violations,
17 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
18 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
19 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
20 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

21 Violation of Labor Code § 1174.5

22 118. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
23 every person employing labor in California to “[a]llow any member of the commission or the
24 employees of the Division of Labor Standards Enforcement free access to the place of business or
25 employment of the person to secure any information or make any investigation that they are
26 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
27 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
28 or papers of the person.”

1 119. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
2 every person employing labor in California to “[k]eep a record showing the names and addresses of
3 all employees employed and the ages of all minors.”

4 120. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
5 every person employing labor in California to “[k]eep, at a central location in the state or at the
6 plants or establishments at which employees are employed, payroll records showing the hours
7 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
8 piece rate paid to, employees employed at the respective plants or establishments. These records
9 shall be kept in accordance with rules established for this purpose by the commission, but in any
10 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
11 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
12 earned.”

13 121. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
14 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
15 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
16 member of the commission or employees of the division to inspect records pursuant to subdivision
17 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

18 122. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
19 willfully failed keep adequate or accurate time records including wage statements and similar
20 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
21 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
22 under Labor Code section 1174.

23 123. As a direct and proximate result of the herein-described Labor Code violations,
24 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
25 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
26 hundred dollars (\$500) per violation per Aggrieved Employee.

27 ///

28 ///

1 Violation of Labor Code § 1197.1

2 124. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
3 person acting either individually or as an officer, agent, or employee of another person, who pays
4 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
5 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
6 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
7 Section 203 as follows:

8 A. For any initial violation that is intentionally committed, one hundred dollars
9 (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This
10 amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages
11 pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

12 B. For each subsequent violation for the same specific offense, two hundred fifty
13 dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid
14 regardless of whether the initial violation is intentionally committed. This amount shall be in
15 addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section
16 1194.2, and any applicable penalties imposed pursuant to Section 203.

17 C. Wages, liquidated damages, and any applicable penalties imposed pursuant
18 to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

19 125. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
20 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
21 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ to pay minimum wages
22 for all hours worked, entitling Employee and other aggrieved employees to actual and liquidated
23 damages.

24 126. As a direct and proximate result of the herein-described Labor Code violations,
25 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
26 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
27 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
28 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each

1 subsequent violation.

2 Civil Penalties Under Labor Code § 2699

3 127. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
4 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
5 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
6 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
7 action brought by an aggrieved employee on behalf of himself or herself and other current or former
8 employees pursuant to the procedures specified in Labor Code section 2699.3.

9 128. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
10 Code except those for which a civil penalty is specifically provided, the established civil penalty for
11 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
12 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
13 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
14 employee per pay period for each subsequent violation.

15 129. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
16 each of them, violated the Labor Code sections described herein, including, without limitation, for
17 the failure to: pay the rates of pay and overtime rates of pay applicable to their employment,
18 allowances claimed as part of the minimum wage, the regular payday designated by Defendants, the
19 name of the employer, including any “doing business as” names used, the name, address and
20 telephone number of the workers’ compensation insurance carrier, information regarding paid sick
21 leave, and other pertinent information required to be disclosed by Employer under Labor Code
22 section 2810.5, failing to provide Employee and other aggrieved employees with the amount of paid
23 sick leave required to be provided pursuant to California and local laws.

24 130. Moreover, Plaintiff and other Aggrieved Employees within the State of California
25 whom he seeks to represent are entitled to an award of reasonable attorneys’ fees and costs in
26 connection with their herein-described claims for civil penalties.

27 **DEMAND FOR JURY TRIAL**

28 131. Plaintiff demands a trial by jury on all causes of action contained herein.

PRAYER

WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment against Defendants as follows:

- A. An order certifying this case as a Class Action;
- B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's counsel as class counsel;
- C. Damages for all wages earned and owed, including minimum and overtime wages, under Labor Code sections 510, 1194, 1197 and 1199;
- D. Liquidated damages pursuant to Labor Code sections 1194.2;
- E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections, 512 and 226.7;
- F. Penalties for inaccurate wage statements under Labor Code section 226, subdivision (e);
- G. Waiting time penalties under Labor Code section 203;
- H. Penalties to timely pay wages under Labor Code section 210;
- I. Damages under Labor Code section 2802;
- J. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- K. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- L. Preliminary and permanent injunctions prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate and effective means to prevent future violations;
- M. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;

///

///

///

- 1 N. Prejudgment and post-judgment interest at the maximum rate allowed by law;
2 O. For attorneys' fees in prosecuting this action;
3 P. For costs of suit incurred herein; and
4 Q. For such other and further relief as the Court deems just and proper.
5

6 Dated: October 9, 2024

SHIRIAN LAW, P.C.

7
8 BY: 

9 JOSHUA SHIRIAN

10 Attorneys for Plaintiff, GINA HOLLEY and on behalf
11 of herself and all others similarly situated and
12 aggrieved
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 11110 Ohio Ave., Suite 106, Los Angeles, California 90025.

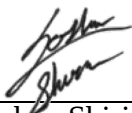
On October 9, 2024, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mail addresses as follows:

KATHERINE DEN BLEYKER
kdenbleyker@ohaganmeyer.com
O'HAGAN MEYER
Suite 2400, 550 S. Hope Street
Los Angeles, CA 90071
Tel: 213-647-0041

Counsel for Defendants SERENITY LODGE and ZINNIA HEALTH LLC

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on, October 9, 2024 at Los Angeles, California



Joshua Shirian