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Superior Court of California
County of Sacramento

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

CHEQUITA DAVIS, individually, and on
behalf of other members of the general
public similarly situated, and as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"),

Plaintiff,

vs.

SUMMIT THERAPEUTIC SERVICES,
INC., a California corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 24CV005991

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);

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- (8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (9) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Chequita Davis, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt, hourly
9 paid employees and received at least one wage statement and against whom one or more
10 violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision
11 regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”)
12 Wage Order were committed, as set forth in this complaint. The monetary damages, penalties,
13 and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court
14 and will be established according to proof at trial. This Court has jurisdiction over this action
15 pursuant to the California Constitution, Article VI, section 10. The statutes under which this
16 action is brought do not specify any other basis for jurisdiction. Plaintiff’s share of damages,
17 penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of jurisdiction
21 over them by the California courts consistent with traditional notions of fair play and substantial
22 justice. There is no basis for federal diversity jurisdiction in this action because there is no
23 complete diversity, and this case falls within the statutory exceptions to “minimal diversity”
24 jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4). Upon information
25 and belief, two-thirds or more of the class members and Defendants are citizens of California
26 and/or (a) two-thirds of the class members and Defendants are citizens of California; (b) the
27 alleged wage and hour violations occurred in California; (c) significant relief is being sought
28 against Defendants whose violations of California wage and hour laws form a significant basis

1 for Plaintiff's claims; and (d) no other class action has been filed within the past three (3) years
2 on behalf of the same proposed class against Defendants asserting the same or similar factual
3 allegations.

4 3. Venue is proper in this Court, because Defendants employ persons within the
5 County of Sacramento, and have violated the requirements of the California Labor Code and
6 applicable IWC Wage Order in this county which give rise to the penalties sought in this action.
7 Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the
8 California Labor Code and applicable IWC Wage Order in at least one location within the
9 County of Sacramento, including Defendants' office location in Gold River (11344 Coloma
10 Road, Suite 347, Gold River, California 95670). Pursuant to California Civil Code of Procedure
11 section 393, venue is proper for the recovery of a penalty or forfeiture imposed by statute in the
12 county in which the cause, or some part of the cause, arose. Because Defendants have
13 employees in Sacramento County and Plaintiff could bring this action to recover penalties in
14 Sacramento County, venue is proper.

15 **THE PARTIES**

16 4. Plaintiff Chequita Davis is a resident of Carmichael, in Sacramento County,
17 California. Defendants employed Plaintiff as an hourly paid, non-exempt Direct Support
18 Professional from approximately July 2019 to November 2023. Plaintiff worked for Defendants
19 at their facility in Shingle Springs, California. During her employment, Plaintiff typically
20 worked eight (8) hours or more per day and six (6) days or more per week. By the end of her
21 employment, Plaintiff was compensated approximately \$28.00 per hour. Plaintiff's primary job
22 duties included, without limitation, delegating visitors around the facility, preparing meals,
23 cleaning, and taking care of clients.

24 5. SUMMIT THERAPEUTIC SERVICES, INC. was and is, upon information and
25 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
26 employees are engaged throughout this county and the State of California.

27 6. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
28 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the

1 complaint and serve such fictitiously named Defendants once their names and capacities
2 become known.

3 7. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
4 were the partners, agents, owners, or managers of SUMMIT THERAPEUTIC SERVICES, INC.
5 at all relevant times.

6 8. Plaintiff is informed and believes, and thereon alleges, that each and all of the
7 acts and omissions alleged herein was performed by, or is attributable to, SUMMIT
8 THERAPEUTIC SERVICES, INC. and/or DOES 1 through 10 (collectively, “Defendants” or
9 “SUMMIT”), each acting as the agent, employee, alter ego, and/or joint venturer of, or working
10 in concert with, each of the other co-Defendants and was acting within the course and scope of
11 such agency, employment, joint venture, or concerted activity with legal authority to act on the
12 others’ behalf. The acts of any and all Defendants were in accordance with, and represent, the
13 official policy of Defendants.

14 9. At all relevant times, Defendants, and each of them, ratified each and every act
15 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
16 and abetted the acts and omissions of each and all the other Defendants in proximately causing
17 the damages herein alleged.

18 10. Plaintiff is informed and believes, and thereon alleges, that each of said
19 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
20 omissions, occurrences, and transactions alleged herein.

21 **GENERAL ALLEGATIONS**

22 11. Defendants provide residential, day program, clinical, and group home services
23 to adults and children with developmental disabilities and operate approximately 40 locations
24 in California. Upon information and belief, Defendants maintain a single, centralized Human
25 Resources (“HR”) department at their company headquarters in San Jose, California, which is
26 responsible for the recruiting and hiring of new employees, and communicating and
27 implementing Defendants’ company-wide policies, including timekeeping policies and meal
28 and rest period policies, to employees throughout California.

1 12. In particular, Plaintiff and class members, on information and belief, received
2 the same standardized documents and/or written policies. Upon information and belief, the
3 usage of standardized documents and/or written policies, including new-hire documents,
4 indicate that Defendants dictated policies at the corporate level and implemented them
5 company-wide, regardless of their employees' assigned locations or positions. Upon
6 information and belief, Defendants set forth uniform policies and procedures in several
7 documents provided at an employee's time of hire.

8 13. Upon information and belief, Defendants maintain a centralized Payroll
9 department at their company headquarters in San Jose, California, which processes payroll for
10 all non-exempt, hourly paid employees working for Defendants at their various locations in
11 California, including Plaintiff and class members. Based upon information and belief,
12 Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees
13 in California, irrespective of their work locations. Upon information and belief, Defendants
14 process payroll for departing employees in the same manner throughout the State of California,
15 regardless of the manner in which each employee's employment ends.

16 14. Defendants continue to employ non-exempt or hourly paid employees in
17 California.

18 15. Plaintiff is informed and believes, and thereon alleges, that at all times herein
19 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
20 advisors knowledgeable about California labor and wage law, employment and personnel
21 practices, and about the requirements of California law.

22 16. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
23 members were not paid for all hours worked because all hours worked were not recorded.

24 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to receive certain wages for
26 overtime compensation and that they were not receiving certain wages for overtime
27 compensation.

28 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to be paid at a regular rate of
2 pay, and corresponding rates of pay, for overtime wages and/or meal and rest period premiums,
3 that included as eligible income all remuneration required by law, including but not limited to,
4 all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of
5 compensation, but failed to include all forms of remuneration in calculating the regular rate of
6 pay for Plaintiff and class members.

7 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to receive at least minimum
9 wages for compensation and that they were not receiving at least minimum wages for work that
10 was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff and
11 class members were not paid at least minimum wages for work done off-the-clock.

12 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and class members were entitled to meal periods in accordance
14 with the California Labor Code and applicable IWC Wage Order or payment of one (1)
15 additional hour of pay at their regular rates of pay when they were not provided with timely,
16 uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members were not
17 provided with all meal periods or payment of one (1) additional hour of pay at their regular rates
18 of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

19 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to rest periods in accordance
21 with the California Labor Code and applicable IWC Wage Order or payment of one (1)
22 additional hour of pay at their regular rates of pay when they were not authorized and permitted
23 to take a compliant rest period and that Plaintiff and class members were not authorized and
24 permitted to take compliant rest periods or provided with payment of one (1) additional hour of
25 pay at their regular rates of pay when they were not authorized and permitted to take a compliant
26 rest period.

27 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to receive complete and

1 accurate wage statements in accordance with California law. In violation of the California
2 Labor Code, Plaintiff and class members were not provided complete and accurate wage
3 statements.

4 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that they had a duty to maintain accurate and complete payroll records in
6 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
7 knowingly, and intentionally failed to do so.

8 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and class members were entitled to timely payment of all
10 wages earned upon termination of employment. In violation of the California Labor Code,
11 Plaintiff and class members did not receive payment of all wages due, including, but not limited
12 to, overtime wages, minimum wages, and/or meal and rest period premiums, within permissible
13 time periods.

14 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to timely payment of wages
16 during their employment. In violation of the California Labor Code, Plaintiff and class members
17 did not receive payment of all wages, including, but not limited to, overtime wages, minimum
18 wages, and/or meal and rest period premiums, within permissible time periods.

19 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to one day's rest in seven. In
21 violation of the California Labor Code, Defendants required Plaintiff and class members to work
22 more than six consecutive days without a day of rest, where the total hours worked exceeded 30
23 hours in any week or six hours in any one day thereof.

24 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to receive reimbursement for
26 all business-related expenses and costs they incurred during the course and scope of their
27 employment and that they did not receive reimbursement of applicable business-related
28 expenses and costs incurred.

1 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
2 mentioned, Defendants knew or should have known that Defendants had a duty to provide
3 Plaintiff and class members with written notice of the material terms of their employment with
4 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

5 29. Plaintiff is informed and believes, and thereon alleges, that at all times herein
6 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
7 and class members for all hours worked, and that Defendants had the financial ability to pay
8 such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
9 represented to Plaintiff and class members that they were properly denied wages, all in order to
10 increase Defendants' profits.

11 **PAGA REPRESENTATIVE ALLEGATIONS**

12 30. At all times herein set forth, PAGA provides that any provision of law under the
13 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
14 collected by the Labor and Workforce Development Agency ("LWDA") for violations of the
15 California Labor Code and applicable IWC Wage Order may, as an alternative, be recovered by
16 aggrieved employees in a civil action brought on behalf of themselves and other current or
17 former employees pursuant to procedures outlined in California Labor Code section 2699.3.

18 31. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
19 person who was employed by the alleged violator and against whom one or more of the alleged
20 violations was committed."

21 32. Plaintiff and other current and former employees of Defendants are "aggrieved
22 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
23 or former employees and one or more of the alleged violations were committed against them.

24 33. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
25 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
26 requirements have been met:

- 27 (a) The aggrieved employee or representative shall give written notice by
28 online filing with the LWDA and by certified mail to the employer of the

specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation.

(b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).

(c) The LWDA shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation ("LWDA Notice") within sixty (60) calendar days of the postmark date of the aggrieved employee's notice. Upon receipt of the LWDA Notice, or if no LWDA Notice is provided within sixty-five (65) calendar days of the postmark date of the aggrieved employee's notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties.

34. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees, through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision other than those listed in Section 2699.5 after the following requirements have been met:

(a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated (other than those listed in Section 2699.5), including the facts and theories to support the alleged violation.

(b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).

(c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice sent by the aggrieved employee or representative. The employer shall give written notice within that period of time by certified mail to the aggrieved employee or

1 representative and by online filing with the LWDA if the alleged violation
2 is cured, including a description of actions taken, and no civil action
3 pursuant to Section 2699 may commence. If the alleged violation is not
4 cured within the 33-day period, the aggrieved employee may commence
5 a civil action pursuant to Section 2699.

6 35. On May 1, 2024, Plaintiff provided written notice by online filing to the LWDA
7 and by Certified Mail to Defendants of the specific provisions of the California Labor Code
8 alleged to have been violated, including facts and theories to support the alleged violations, in
9 accordance with California Labor Code section 2699.3. Plaintiff's written notice was
10 accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
11 Administrator confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case
12 Number LWDA-CM-1025716-24. A true and correct copy of Plaintiff's written notice to the
13 LWDA and Defendants is attached hereto as "Exhibit 1."

14 36. As of the filing date of this complaint, over 65 days have passed since Plaintiff
15 sent the notice described above to the LWDA, and the LWDA has not responded that it intends
16 to investigate Plaintiff's claims and Defendants have not cured the violations.

17 37. Thus, Plaintiff has satisfied the administrative prerequisites under California
18 Labor Code sections 2699.3(a)-(c) to recover civil penalties against Defendants for violations
19 of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552,
20 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

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

1 criminal penalty provided by law.”

2 39. Defendants, at all times relevant to this complaint, were employers or persons
3 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
4 rights by violating various sections of the California Labor Code as set forth above.

5 40. As set forth below, Defendants have violated numerous provisions of both the
6 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
7 Order.

8 41. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
9 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
10 private attorney general, seeks assessment and collection of civil penalties for herself, all other
11 aggrieved employees, and the State of California against Defendants for violations of California
12 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12,
13 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

14 **CLASS ACTION ALLEGATIONS**

15 42. Plaintiff brings this action on her own behalf, as well as on behalf of each and all
16 other persons similarly situated, and thus seeks class certification under California Code of Civil
17 Procedure section 382.

18 43. All claims alleged herein arise under California law for which Plaintiff seeks
19 relief authorized by California law.

20 44. Plaintiff’s proposed class consists of and is defined as follows:

21 All persons who worked for Defendants as non-exempt, hourly
22 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial (“Class”).

23 45. Plaintiff’s proposed subclass consists of and is defined as follows:

24 All persons who worked for Defendants as non-exempt, hourly
25 paid employees in California and who received at least one wage
26 statement within one (1) year prior to the filing of the initial
complaint until the date of trial (“Subclass”).

27 46. Members of the Class and Subclass are referred to herein as “class members.”

28 47. Plaintiff reserves the right to redefine the Class and Subclass and to add

1 additional subclasses as appropriate based on further investigation, discovery, and specific
2 theories of liability.

3 48. There are common questions of law and fact as to class members that
4 predominate over questions affecting only individual members, including, but not limited to:

- 5 (a) Whether Defendants required Plaintiff and class members to work over
6 eight (8) hours per day, over twelve (12) hours per day, or over forty (40)
7 hours per week and failed to pay all legally required overtime
8 compensation to Plaintiff and class members;
- 9 (b) Whether Defendants failed to include all forms of remuneration in the
10 regular rate of pay as required by law for purposes of paying overtime
11 wages and/or meal and rest period premiums to Plaintiff and class
12 members;
- 13 (c) Whether Defendants failed to pay Plaintiff and class members at least
14 minimum wages for all hours worked;
- 15 (d) Whether Defendants failed to provide Plaintiff and class members with
16 meal periods;
- 17 (e) Whether Defendants failed to authorize and permit Plaintiff and class
18 members to take rest periods;
- 19 (f) Whether Defendants provided Plaintiff and class members with complete
20 and accurate wage statements as required by California Labor Code
21 section 226(a);
- 22 (g) Whether Defendants maintained accurate payroll records as required by
23 California Labor Code section 1174(d);
- 24 (h) Whether Defendants failed to pay earned overtime wages, minimum
25 wages, and/or meal and rest period premiums due to Plaintiff and class
26 members upon their discharge;
- 27 (i) Whether Defendants failed to timely pay overtime wages, minimum
28 wages, and/or meal and rest period premiums due to Plaintiff and class

members during their employment;

(j) Whether Defendants failed to provide Plaintiff and class members one day's rest in seven;

(k) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;

(l) Whether Defendants failed to provide written notice of information material to Plaintiff's and class members' employment with Defendants;

(m) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and

(n) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

49. There is a well-defined community of interest in the litigation and the class members are readily ascertainable:

(a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all class members as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein.

1 Plaintiff acknowledges that she has an obligation to make known to the
2 Court any relationship, conflicts or differences with any class member.
3 Plaintiff's attorneys, the proposed class counsel, are versed in the rules
4 governing class action discovery, certification, and settlement. Plaintiff
5 has incurred, and throughout the duration of this action, will continue to
6 incur costs and attorneys' fees that have been, are, and will be necessarily
7 expended for the prosecution of this action for the substantial benefit of
8 each class member.

9 (d) Superiority: The nature of this action makes the use of class action
10 adjudication superior to other methods. A class action will achieve
11 economies of time, effort, and expense as compared with separate
12 lawsuits, and will avoid inconsistent outcomes because the same issues
13 can be adjudicated in the same manner and at the same time for the entire
14 class.

15 (e) Public Policy Considerations: Employers in the State of California
16 violate employment and labor laws every day. Current employees are
17 often afraid to assert their rights out of fear of direct or indirect retaliation.
18 Former employees are fearful of bringing actions because they believe
19 their former employers might damage their future endeavors through
20 negative references and/or other means. Class actions provide the class
21 members who are not named in the complaint with a type of anonymity
22 that allows for the vindication of their rights while simultaneously
23 protecting their privacy.

24 **FIRST CAUSE OF ACTION**

25 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

26 **(Against all Defendants)**

27 50. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
28 and every allegation set forth above.

1 51. Labor Code section 1198 makes it illegal to employ an employee under
2 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
3 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
4 shall be the . . . standard conditions of labor for employees. The employment of any employee
5 . . . under conditions of labor prohibited by the order is unlawful.”

6 52. California Labor Code section 1198 and the applicable IWC Wage Order provide
7 that it is unlawful to employ persons without compensating them at a rate of pay either time-
8 and-one-half or two-times that person’s regular rate of pay, depending on the number of hours
9 worked by the person on a daily or weekly basis.

10 53. Specifically, the applicable IWC Wage Order provides that Defendants are and
11 were required to pay Plaintiff and class members working more than eight (8) hours in a day or
12 more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours
13 worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

14 54. The applicable IWC Wage Order further provides that Defendants are and were
15 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
16 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
17 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
18 employee, including nondiscretionary bonuses and incentive pay.

19 55. California Labor Code section 510 codifies the right to overtime compensation
20 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
21 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
22 (7th) day of work, and to overtime compensation at twice the employee’s regular rate of pay for
23 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
24 the seventh (7th) day of work.

25 56. During the relevant time period, Defendants willfully failed to pay all overtime
26 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and class
27 members were not paid overtime premiums for all of the hours they worked in excess of eight
28 (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours

1 in a week, because all hours worked were not recorded.

2 57. First, during the relevant time period, Defendants had a company-wide policy
3 and/or practice of improperly rounding employee clock-in and clock-out times in their
4 timekeeping system to the nearest quarter (0.25) of an hour. Defendants' rounding policy
5 resulted in the failure to compensate Plaintiff and class members fully for all hours worked,
6 causing Plaintiff and class members to not be paid overtime wages for all of the overtime hours
7 they actually worked. Upon information and belief, Defendants' rounding policy was, and
8 continues to be, unfair and has, over time, resulted in the underpayment of wages to Plaintiff
9 and class members. To the extent Defendants' rounding policy took away time worked that was
10 eligible for overtime, Plaintiff and class members were denied overtime pay for all hours
11 worked.

12 58. Second, Defendants had, and continue to have, a company-wide policy and/or
13 practice of requiring Plaintiff and class members to perform work off-the-clock before and after
14 their scheduled shifts. For example, before and after nearly every shift, Plaintiff was required
15 to assist clients with any requests and/or emergencies for up to 30 minutes each occurrence. As
16 another example, Defendants implemented, on a company-wide basis, an employer-imposed
17 requirement that Plaintiff and class members undergo mandatory COVID-19 temperature
18 checks and/or health screenings before clocking in for their scheduled shifts. Prior to her shift,
19 Plaintiff was required to spend time undergoing a mandatory temperature check and filling out
20 a symptom related form before being permitted to clock in for her shift. Thus, Defendants
21 required Plaintiff and class members to work off-the-clock and did not compensate them for
22 this time worked.

23 59. Defendants knew or should have known that, as a result of these company-wide
24 practices and/or policies, Plaintiff and class members were performing their assigned duties off-
25 the-clock before and after their shifts, and were suffered or permitted to perform work for which
26 they were not paid. Because Plaintiff and class members worked shifts of eight (8) hours a day
27 or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for
28 overtime premium pay. Therefore, Plaintiff and class members were not paid overtime wages

1 for all of the overtime hours they actually worked.

2 60. Moreover, Defendants did not pay Plaintiff and class members the correct
3 overtime and/or double-time wage rates for the recorded overtime hours that they generated. In
4 addition to an hourly wage, Defendants paid Plaintiff and class members incentive pay,
5 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
6 California Labor Code, Defendants failed to incorporate all compensation, including incentive
7 pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
8 regular rate of pay for purposes of calculating the overtime and/or double-time wage rates.
9 Therefore, during times when Plaintiff and class members worked overtime and received these
10 other forms of pay, Defendants failed to pay all overtime wages by paying a lower overtime
11 and/or double-time rate than required.

12 61. For example, Defendants paid Plaintiff and class members bonuses and/or
13 incentive pay which were listed on Plaintiff's and class members' wage statements as "Bonus."
14 During pay periods that Plaintiff and class members were paid overtime wages, Defendants did
15 not incorporate the incentive pay into Plaintiff's and class members' regular rate of pay and, as
16 a result, paid them at incorrect and lower rates of pay for overtime and/or double-time hours
17 worked. Specifically, Defendants paid Plaintiff and class members 1.5 times their hourly rate
18 of pay instead of 1.5 times their regular rate of pay for overtime wages, and during pay periods
19 that Plaintiff and class members worked more than twelve (12) hours in a day or in excess of
20 eight (8) hours in a day on the seventh (7th) day of work, Defendants paid Plaintiff and class
21 members two (2) times their hourly rate of pay instead of two (2) times their regular rate of pay
22 for double-time wages. Defendants' failure to properly calculate the overtime and/or double-
23 time rates of pay based on all remuneration paid has resulted in an underpayment of overtime
24 wages to Plaintiff and class members on a company-wide basis.

25 62. Defendants' failure to pay Plaintiff and class members the balance of overtime
26 compensation, as required by California law, violates the provisions of California Labor Code
27 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
28 members are entitled to recover from Defendants their unpaid overtime compensation, as well

as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid Minimum Wages (Against all Defendants)

63. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

64. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. Tit. 8, § 11050(2)(L) (defining "Hours Worked").

65. As stated, Defendants had a company-wide policy and/or practice of rounding Plaintiff's and class members' clock-in and clock-out times in their timekeeping system to the nearest quarter hour, instead of the actual worktime captured by their timekeeping system, resulting in the failure to compensate Plaintiff and class members fully for all hours worked. Also, as stated above, Defendants had a company-wide policy and/or practice requiring Plaintiff and class members to perform work-related tasks while off-the-clock prior to the start of their shifts and/or after their shifts, including assisting clients with requests and/or emergencies, and undergoing health screenings. Defendants failed to track this time Plaintiff and class members spent working off-the-clock, and Plaintiff and class members received no compensation for this time.

66. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff and class members. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

67. As result, Defendants regularly failed to pay at least minimum wages to Plaintiff and class members for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

THIRD CAUSE OF ACTION

Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period

Violations

(Against all Defendants)

68. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

69. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

70. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

71. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

72. During the relevant period, Defendants had, and continue to have, a company-

1 wide policy and/or practice of maintaining and implementing a non-compliant written meal and
2 rest period policy that prevents Plaintiff and class members from taking meal periods.
3 Defendants' non-compliant meal period policy misclassifies Plaintiff and class members under
4 IWC Wage Order No. 15-2001, which governs household occupations, and erroneously states
5 that Plaintiff and class members are not entitled to meal periods because they are hired as a
6 "Personal Attendant." as defined by Labor Code section 1451(d).

7 73. Defendants' "Meal and Rest Break Policy" states in relevant part: "I ...
8 understand that, due to my employment classification, and my actual tasks, I will not receive
9 either meal or rest breaks during employment hours as a Personal Attendant." Codified in Labor
10 Code sections 1450, *et seq.*, California's Domestic Worker Bill of Rights was enacted to provide
11 protections, including overtime pay rights, to certain personal attendants who work in the home.
12 Labor Code section 1451(a)(1) defines "domestic work" as services related to the care of
13 persons in private households. Pursuant to Labor Code section 1451(a)(2), domestic work "does
14 not include care of persons in facilities providing board or lodging in addition to medical,
15 nursing, convalescent, aged, or child care, including, but not limited to, residential care facilities
16 for the elderly." Thus, an employee who performs the tasks of a personal attendant in a
17 residential care facility is not covered by the definition of a "Personal Attendant" under Labor
18 Code section 1451(d) because they are not employed by a private householder.

19 74. Further, the Division of Labor Standards Enforcement ("DLSE") has interpreted
20 Labor Code section 1451 as not applying to group homes or residential care facilities based on
21 section 1451(a)(2): "The Domestic Worker Bill of Rights does not apply to employees working
22 in a residential care facility. Your business is governed by other provisions in the California
23 Labor Code and by Industrial Welfare Commission Order 5-2001 ('Wage Order 5'), Regulating
24 Wages, Hours and Working Conditions in the Public Housekeeping Industry." *DLSE opinion*
25 *letter* 2014-11-06.

26 75. Moreover, IWC Wage Order No. 5-2001 narrows the definition of "Personal
27 Attendant" as "includ[ing] baby sitters and means any person employed by a non-profit
28 organization covered by this order to supervise, feed or dress a child or person who by reason

1 of advanced age, physical disability or mental deficiency needs supervision.” Cal. Code Regs.
2 Tit. 8, § 11050(2)(O). On information and belief, Defendants are not non-profit organizations
3 and therefore Plaintiff and class members are and were entitled to meal periods as provided by
4 the California Labor Code and IWC Wage Order No. 5-2001. Thus, Defendants systematically
5 misclassified Plaintiff and class members and, on that basis, did not provide them with meal
6 periods and did not take any measures to relieve them of their duties to take compliant meal
7 periods.

8 76. As a result of Defendants’ policies and/or practices, Plaintiff and class members
9 were not afforded 30-minute meal periods on days that they worked in excess of five (5) hours
10 or in excess of ten (10) hours in one day. For example, Plaintiff frequently worked shifts in
11 excess of ten (10) or more hours per day, but Defendants did not schedule her to take a first or
12 second meal period and did not provide her with the opportunity to take a first or second 30-
13 minute meal period. Plaintiff and class members did not sign valid meal period waivers on days
14 that they were entitled to meal periods and were not relieved of all duties.

15 77. At all times mentioned herein, Defendants knew or should have known that as a
16 result of their policies, Plaintiff and class members were not actually relieved of all duties to
17 take timely, uninterrupted meal periods. Defendants further knew or should have known that
18 they did not pay Plaintiff and class members meal period premiums when meal periods were
19 late, missed, shortened, or interrupted.

20 78. Furthermore, Defendants engaged in a company-wide practice and/or policy of
21 not paying all meal period premiums owed when compliant meal periods are not provided.
22 Because of this practice and/or policy, Plaintiff and class members have not received premium
23 pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that
24 Defendants did pay Plaintiff and class members premium pay for missed, late, and interrupted
25 meal periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
26 premiums because Defendants systematically failed to include all forms of compensation, such
27 as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular
28 rate of pay. As a result, Defendants failed to provide Plaintiff and class members compliant

1 meal periods in violation of California Labor Code sections 226.7, 512(a), and 516 and failed
2 to pay the full meal period premiums due.

3 79. Defendants' conduct violates the applicable IWC Wage Order, and California
4 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
5 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
6 rate of compensation for each work day that the meal period was not provided.

7 **FOURTH CAUSE OF ACTION**

8 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 9 **(Against all Defendants)**

10 80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
11 and every allegation set forth above.

12 81. At all relevant times herein set forth, the applicable IWC Wage Order and
13 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
14 members' employment by Defendants.

15 82. At all relevant times, the applicable IWC Wage Order provides that "[e]very
16 employer shall authorize and permit all employees to take rest periods, which insofar as
17 practicable shall be in the middle of each work period" and that the "rest period time shall be
18 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
19 hours or major fraction thereof" unless the total daily work time is less than three and one-half
20 (3 ½) hours.

21 83. At all relevant times, California Labor Code section 226.7 provides that no
22 employer shall require an employee to work during any rest period mandated by an applicable
23 order of the California IWC. To comply with its obligation to authorize and permit rest periods
24 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
25 must "relinquish any control over how employees spend their break time, and relieve their
26 employees of all duties—including the obligation that an employee remain on call. A rest
27 period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th
28 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code

1 section 226.7(c), Plaintiff and class members are entitled to recover from Defendants one (1)
2 additional hour of pay at their regular rates of pay for each work day that a required rest period
3 was not authorized and permitted.

4 84. During the relevant time period, Defendants regularly failed to authorize and
5 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
6 period worked or major fraction thereof. As stated above, during the relevant time period,
7 Defendants maintained and implemented, on a company-wide basis, a non-compliant written
8 meal and rest period policy which misclassifies Plaintiff and class members as “Personal
9 Attendants” under Labor Code section 1451(d) and erroneously exempts them from receiving
10 compliant rest periods under IWC Wage Order No. 15-2001. As a result, Defendants failed to
11 schedule rest periods and therefore had no policy for authorizing and permitting Plaintiff and
12 class members from taking compliant rest periods.

13 85. Furthermore, upon information and belief, during the relevant time period,
14 Defendants maintained a company-wide on-premises rest period policy, which effectively
15 required that Plaintiff and class members remain on Defendants’ premises during their rest
16 periods. Because Plaintiff and class members were restricted from leaving the premises during
17 rest periods, they were denied the ability to use their rest periods freely for their own purposes,
18 such as running personal errands. Thus, Defendants effectively maintained control over
19 Plaintiff and class members during rest periods.

20 86. As a result of Defendants’ practices and policies, Plaintiff and class members
21 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
22 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
23 throughout her employment, Plaintiff was never authorized or permitted to take a full and
24 compliant 10-minute rest period.

25 87. Defendants have also engaged in a systematic, company-wide practice and/or
26 policy of not paying rest period premiums owed when rest periods are not authorized and
27 permitted. Because of this practice and/or policy, Plaintiff and class members have not received
28 premium pay for all missed rest periods. Alternatively, to the extent that Defendants did pay

1 Plaintiff and class members one (1) additional hour of premium pay for missed rest periods,
2 Defendants did not pay Plaintiff and class members at the correct rate of pay for premium wages
3 because Defendants failed to include all forms of compensation, such as incentive pay,
4 nondiscretionary bonuses, and/or other forms of compensation, in the regular rate of pay. As a
5 result, Defendants denied Plaintiff and class members rest periods and failed to pay them rest
6 period premiums due, in violation of Labor Code sections 226.7 and 516, and the applicable
7 IWC Wage Order.

8 88. Defendants' conduct violates the applicable IWC Wage Order and California
9 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
10 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
11 compensation for each work day that a compliant rest period was not authorized and permitted.

12 **FIFTH CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 14 **Statements and Failure to Maintain Accurate Payroll Records** 15 **(Against all Defendants)**

16 89. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 90. At all relevant times herein set forth, California Labor Code section 226(a)
19 provides that every employer shall furnish each of his or her employees an accurate and
20 complete itemized wage statement in writing, including, but not limited to, the name and address
21 of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked,
22 and all applicable rates of pay.

23 91. At all relevant times, Defendants have knowingly and intentionally provided
24 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For
25 example, Defendants issued uniform wage statements to Plaintiff and Subclass members that
26 fail to correctly list: gross wages earned; total hours worked; net wages earned; the address of
27 the legal entity that is the employer; and all applicable hourly rates in effect during the pay
28 period, including rates of pay for overtime wages and/or meal and rest period premiums, and

the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

92. First, because Defendants did not accurately record the time Plaintiff and Subclass members spent working off-the-clock and improperly rounded Plaintiff's and Subclass members' total hours worked, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and Subclass members in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and Subclass members, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

93. Second, Defendants did not calculate Plaintiff's and Subclass members' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, Defendants did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, Defendants failed to list the correct amount of net wages in violation of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

94. Third, and separately from these violations, Defendants issued uniform wage statements to Plaintiff and Subclass members that failed to list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. During the relevant time period, Defendants systematically, and on a company-wide basis, issued wage statements to Plaintiff and Subclass members that fail to correctly list the employing entity's correct address. Plaintiff's and Subclass members' wage statements incorrectly list the employer's address as

1 “2125 CANOAS GARDEN AVE #120, SAN JOSE, CA 95125,” but according to the California
2 Secretary of State’s website, Defendant SUMMIT THERAPEUTIC SERVICES, INC.’s entity
3 address is “6840 VIA DEL ORO #205, SAN JOSE, CA 95119.”

4 95. The wage statement deficiencies also include, among other things, failing to list
5 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
6 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
7 which employees were paid; failing to list the name of the employee and only the last four digits
8 of his or her social security number or an employee identification number other than a social
9 security number; failing to list the name of the legal entity that is the employer; and/or failing
10 to state all hours worked as a result of not recording or stating hours worked off-the-clock.

11 96. California Labor Code section 1174(d) provides that “[e]very person employing
12 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
13 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
14 plants or establishments at which employees are employed, payroll records showing the hours
15 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
16 applicable piece rate paid to, employees employed at the respective plants or
17 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
18 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
19 members showing the daily hours they worked and the wages paid thereto as a result of failing
20 to record the off-the-clock hours that they worked and improperly rounding Plaintiff’s and
21 Subclass members’ total hours worked.

22 97. California Labor Code section 1198 provides that the maximum hours of work
23 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
24 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
25 of any employees for longer hours than those fixed by the order or under conditions of labor
26 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
27 are required to keep accurate time records showing when the employee begins and ends each
28 work period. During the relevant time period, Defendants engaged in company-wide practices

1 and/or policies of failing to record actual hours worked, and thereby failed to keep accurate
2 records of work period and meal period start and end times for Plaintiff and Subclass members,
3 in violation of section 1198. Furthermore, in light of Defendants' failure to provide Plaintiff
4 and Subclass members with second 30-minute meal periods to which they were entitled,
5 Defendants kept no records of meal start and end times for second meal periods.

6 98. Plaintiff and Subclass members are entitled to recover from Defendants the
7 greater of their actual damages caused by Defendants' failure to comply with California Labor
8 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
9 employee.

10 **SIXTH CAUSE OF ACTION**

11 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 12 **Termination** 13 **(Against all Defendants)**

14 99. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
15 and every allegation set forth above.

16 100. This cause of action is dependent upon, and wholly derivative of, the overtime
17 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to
18 Plaintiff and those class members no longer employed by Defendants upon their termination.

19 101. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
20 that if an employer discharges an employee, the wages earned and unpaid at the time of
21 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
22 her employment, his or her wages shall become due and payable not later than seventy-two (72)
23 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his
24 or her intention to quit, in which case the employee is entitled to his or her wages at the time of
25 quitting.

26 102. During the relevant time period, Defendants willfully failed to pay Plaintiff and
27 class members who are no longer employed by Defendants the earned and unpaid wages set
28 forth above, including but not limited to, overtime wages, minimum wages, and/or meal and

1 rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their
2 leaving Defendants' employ.

3 103. Defendants' failure to pay Plaintiff and class members who are no longer
4 employed by Defendants their wages earned and unpaid at the time of discharge, or within
5 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
6 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
7 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
8 thirty (30) day maximum pursuant to California Labor Code section 203.

9 SEVENTH CAUSE OF ACTION

10 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 11 **Employment** 12 **(Against all Defendants)**

13 104. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

15 105. This cause of action is dependent upon, and wholly derivative of, the overtime
16 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to
17 Plaintiff and class members during their employment.

18 106. At all times relevant herein set forth, Labor Code section 204 provides that all
19 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
20 days, inclusive, of any calendar month, other than those wages due upon termination of an
21 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
22 the month during which the labor was performed. Labor Code section 204 further provides that
23 all wages earned by any person in any employment between the sixteenth (16th) and the last
24 day, inclusive, of any calendar month, other than those wages due upon termination of an
25 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
26 month.

27 107. At all times relevant herein, Labor Code section 204 also requires that all wages
28 earned for labor in excess of the normal work period shall be paid no later than the payday for

1 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
2 204 provides that the requirements of this section are deemed satisfied by the payment of wages
3 for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7)
4 calendar days following the close of the payroll period.

5 108. During the relevant time period, Defendants willfully failed to pay Plaintiff and
6 class members all wages due including, but not limited to, overtime wages, minimum wages,
7 and/or, meal and rest period premiums, within the time periods specified by California Labor
8 Code section 204.

9 109. Defendants' failure to timely pay Plaintiff and class members all wages due
10 violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover
11 from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

12 EIGHTH CAUSE OF ACTION

13 Violation of California Labor Code § 2802—Unpaid Business-Related Expenses 14 (Against all Defendants)

15 110. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
16 and every allegation set forth above.

17 111. At all times herein set forth, California Labor Code section 2802 provides that
18 an employer must reimburse employees for all necessary expenditures and losses incurred by
19 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
20 to prevent employers from passing off their cost of doing business and operating expenses on
21 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
22 (2014). The applicable wage order, IWC Wage Order No. 5-2001, "[w]hen tools or equipment
23 are required by the employer or are necessary to the performance of a job, such tools and
24 equipment shall be provided and maintained by the employer, except that an employee whose
25 wages are at least two (2) times the minimum wage provided herein may be required to provide
26 and maintain hand tools and equipment customarily required by the trade or craft."

27 112. First, during the relevant time period, Defendants, on a company-wide basis,
28 required that Plaintiff and class members use their own personal mobile devices, including, but

1 not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to fully
2 reimburse them for the costs of their work-related mobile device expenses. For example,
3 Plaintiff and class members would be contacted on their personal mobile devices by their
4 managers and/or supervisors to discuss work-related matters. As a further example, Plaintiff
5 used her personal mobile phone to look up directions when picking up or dropping off clients
6 from various locations. Additionally, Plaintiff was required to download a mobile application,
7 “Paycom,” in order to clock in and out for her shifts. Although Defendants required Plaintiff
8 and class members to utilize their personal mobile devices and/or mobile data to carry out their
9 work-related responsibilities, Defendants failed to fully reimburse them for this cost.

10 113. Second, during the relevant time period, Defendants, on a company-wide basis,
11 required that Plaintiff and class members use their own personal vehicles to run company
12 errands. For example, on a number of occasions throughout her employment, Plaintiff was
13 required to use her personal vehicle and drive to pick up Defendants’ clients from various
14 locations and take them to Defendants’ facility. Although Defendants required Plaintiff and
15 class members to utilize their personal vehicles to carry out their work-related responsibilities,
16 Defendants failed to fully reimburse them for their mileage or travel expenses.

17 114. Defendants could have provided Plaintiff and class members with company
18 mobile devices and company vehicles, or, Defendants could have reimbursed employees for the
19 costs of their mobile device usage, mileage, and travel expenses. Instead, Defendants passed
20 these operating costs off onto Plaintiff and class members. At all relevant times, Plaintiff did
21 not earn at least two (2) times the minimum wage.

22 115. Defendants’ company-wide policy and/or practice of not reimbursing employees
23 for expenses necessarily incurred and passing on their operating costs to Plaintiff and class
24 members violates California Labor Code section 2802. Defendants have intentionally and
25 willfully failed to reimburse Plaintiff and class members for necessary business-related
26 expenses and costs.

27 116. Plaintiff and class members are entitled to recover from Defendants their
28 business-related expenses incurred during the course and scope of their employment, plus

1 interest.

2 **NINTH CAUSE OF ACTION**

3 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

4 **(Against all Defendants)**

5 117. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 118. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
8 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
9 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510,
10 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c)
11 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
12 those Labor Code sections not found in section 2699.5, including sections 516, 1182.12, and
13 2810.5.

14 119. Defendants’ conduct, as alleged herein, violates numerous sections of the
15 California Labor Code, including, but not limited to, the following:

- 16 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
17 Wage Order for Defendants’ failure to compensate Plaintiff and other
18 aggrieved employees with all required overtime pay, as alleged herein;
- 19 (b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable
20 IWC Wage Order for Defendants’ failure to include all forms of
21 remuneration in the regular rate of pay as required by law for purposes of
22 paying overtime wages and/or meal and rest period premiums to Plaintiff
23 and other aggrieved employees, as alleged herein;
- 24 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198,
25 and the applicable IWC Wage Order for Defendants’ failure to
26 compensate Plaintiff and other aggrieved employees with at least
27 minimum wages for all hours worked, as alleged herein;
- 28 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the

- 1 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
2 and other aggrieved employees with meal periods, as alleged herein;
- 3 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable
4 IWC Wage Order for Defendants' failure to authorize and permit Plaintiff
5 and other aggrieved employees to take rest periods, as alleged herein;
- 6 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
7 IWC Wage Order for failure to provide accurate and complete wage
8 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 9 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
10 IWC Wage Order for failure to maintain payroll records, as alleged
11 herein;
- 12 (h) Violation of Labor Code sections 201 and 202 for failure to pay all earned
13 wages upon termination, as alleged herein;
- 14 (i) Violation of Labor Code section 204 for failure to pay all earned wages
15 during employment, as alleged herein;
- 16 (j) Violation of Labor Code section 551 and 552 for failure to provide
17 Plaintiff and other aggrieved employees one day's rest in seven, as set
18 forth below;
- 19 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
20 and other aggrieved employees for all business expenses necessarily
21 incurred, as alleged herein; and
- 22 (l) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
23 provide written notice of information material to Plaintiff's and other
24 aggrieved employees' employment with Defendants, as set forth below.

25 120. At all relevant times herein, California Labor Code section 551 provides that
26 every person employed in any occupation of labor is entitled to one day's rest in seven.
27 Additionally, California Labor Code section 552 prohibits employers from requiring employees
28 to work more than six consecutive days without a day of rest.

121. At all relevant times herein set forth, California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

122. During the relevant time period, on information and belief, Defendants scheduled Plaintiff and other aggrieved employees to work six (6) or more hours per day and seven (7) consecutive days in a workweek. Because Plaintiff and other aggrieved employees worked over 30 hours per week and over six (6) hours per day in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Plaintiff and other aggrieved employees may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

123. Thus, during the relevant time period, and in violation of Labor Code sections 551 and 552, Defendants caused Plaintiff and other aggrieved employees to work more than six days in seven. Plaintiff and other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

124. At all relevant times herein, California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

125. At all relevant times, on information and belief, Defendants failed, on a company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants'

1 failure to provide Plaintiff and other aggrieved employees with written notice of basic
2 information regarding their employment with Defendants is in violation of Labor Code section
3 2810.5. Plaintiff and other aggrieved employees are therefore entitled to recover civil penalties
4 pursuant to Labor Code sections 2699(a), (f), and (g).

5 **TENTH CAUSE OF ACTION**

6 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

7 **Unlawful Business Practices**

8 **(Against all Defendants)**

9 126. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
10 and every allegation set forth above.

11 127. Defendants are “persons” as defined by California Business & Professions Code
12 section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
13 associations.

14 128. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
15 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
16 suffered injury in fact and has lost money as a result of Defendants’ unlawful business practices.
17 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of
18 Code of Civil Procedure section 1021.5.

19 129. Defendants’ activities, as alleged herein, are violations of California law, and
20 constitute unlawful business acts and practices in violation of California Business & Professions
21 Code sections 17200, *et seq.*

22 130. A violation of California Business & Professions Code sections 17200, *et seq.*
23 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
24 policies and practices have violated state law in at least the following respects:

- 25 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
26 class members, to work overtime without paying them proper
27 compensation in violation of California Labor Code sections 510 and
28 1198, and the applicable IWC Wage Order, as alleged herein;

- 1 (b) Failing to include all forms of remuneration in the regular rate of pay as
2 required by law for purposes of paying overtime wages and/or meal and
3 rest period premiums to Plaintiff and class members, in violation of
4 California Labor Code sections 226.7, 510, and 1198, and the applicable
5 IWC Wage Order, as alleged herein;
- 6 (c) Failing to pay at least minimum wage to Plaintiff and class members in
7 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1,
8 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 9 (d) Failing to provide all meal periods to Plaintiff and class members in
10 violation of California Labor Code sections 226.7, 512(a), 516, and 1198,
11 and the applicable IWC Wage Order, as alleged herein;
- 12 (e) Failing to authorize and permit Plaintiff and class members to take all rest
13 periods in violation of California Labor Code sections 226.7, 516, and
14 1198, and the applicable IWC Wage Order, as alleged herein;
- 15 (f) Failing to provide Plaintiff and class members with accurate wage
16 statements and failing to maintain accurate payroll records in violation of
17 California Labor Code sections 226(a), 1174(d), and 1198, and the
18 applicable IWC Wage Order, as alleged herein;
- 19 (g) Failing to timely pay all earned wages to Plaintiff and class members in
20 violation of California Labor Code section 204, as alleged herein;
- 21 (h) Failing to provide one day's rest in seven to Plaintiff and class members
22 in violation of California Labor Code sections 551 and 552, as set forth
23 below;
- 24 (i) Failing to reimburse Plaintiff and class members for all business expenses
25 necessarily incurred in violation of California Labor Code section 2802,
26 as alleged herein; and
- 27 (j) Failing to provide written notice of information material to Plaintiff's and
28 class members' employment with Defendants in violation of California

1 Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

2 131. At all relevant times herein, California Labor Code section 551 provides that
3 every person employed in any occupation of labor is entitled to one day's rest in seven.
4 Additionally, California Labor Code section 552 prohibits employers from requiring employees
5 to work more than six consecutive days without a day of rest.

6 132. At all relevant times herein set forth, California Labor Code section 556 exempts
7 an employer from the day-of-rest requirement when the total hours worked by an employee do
8 not exceed 30 hours in any week or six hours in any one day thereof.

9 133. During the relevant time period, on information and belief, Defendants scheduled
10 Plaintiff and class members to work six (6) or more hours per day and seven (7) consecutive
11 days in a workweek. Because Plaintiff and class members worked over 30 hours per week and
12 over six (6) hours per day in any one day in a workweek, they were not exempt from the day-
13 of-rest requirement. To the extent that Plaintiff and class members may have signed purported
14 waivers of their right to a day's rest in seven, such waivers are invalid. Thus, Defendants
15 willfully caused Plaintiff and class members to work more than six days in seven, in violation
16 of Labor Code sections 551 and 552.

17 134. At all relevant times herein, California's Wage Theft Prevention Act was enacted
18 to ensure that employers provide employees with basic information material to their
19 employment relationship at the time of hiring, and to ensure that employees are given written
20 and timely notice of any changes to basic information material to their employment. Codified
21 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
22 time of hiring, an employer must provide written notice to employees containing basic and
23 material payroll information, including, among other things, the rate(s) of pay and basis thereof,
24 whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
25 any rates for overtime, the regular payday designated by the employer, and any allowances
26 claims as part of the minimum wage, including meal or lodging allowances. Labor Code
27 § 2810.5(a)(1)(A)-(C).

28 135. At all relevant times, on information and belief, Defendants failed, on a

1 company-wide basis, to provide written notice to Plaintiff and class members that lists the
2 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure
3 to provide Plaintiff and class members with written notice of basic information regarding their
4 employment with Defendants is in violation of California Labor Code section 2810.5.

5 136. As a result of the violations of California law herein described, Defendants
6 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have
7 suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

8 137. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
9 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
10 Defendants during a period that commences four years prior to the filing of the initial complaint;
11 a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
12 class members; and an award of attorneys' fees pursuant to California Code of Civil Procedure
13 section 1021.5 and other applicable laws; and an award of costs.

14 **ELEVENTH CAUSE OF ACTION**

15 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

16 **Unfair Business Practices**

17 **(Against all Defendants)**

18 138. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 139. Defendants are "persons" as defined by California Business & Professions Code
21 section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
22 associations.

23 140. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and
24 harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in
25 fact and has lost money as a result of Defendants' unfair business practices. Plaintiff seeks to
26 enforce important rights affecting the public interest within the meaning of Code of Civil
27 Procedure section 1021.5.

28 141. Defendants' activities, namely Defendants' company-wide practice and/or policy

of not paying Plaintiff and class members all meal and rest period premiums due to them under California Labor Code section 226.7, deprived Plaintiff and class members of the compensation guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiff and class members as part of their employment with Defendants, and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

142. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants’ policies and practices have violated the spirit of California’s meal and rest period laws and constitute acts against the public policy behind these laws.

143. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of the initial complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys’ fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys’ fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

1 **Class Certification**

- 2 2. That this case be certified as a class action;
- 3 3. That Plaintiff be appointed as the representative of the Class and Subclass;
- 4 4. That counsel for Plaintiff be appointed as class counsel.

5 **As to the First Cause of Action**

- 6 5. That the Court declare, adjudge, and decree that Defendants violated California
- 7 Labor Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to
- 8 pay all overtime wages due to Plaintiff and class members;
- 9 6. For general unpaid wages at overtime wage rates and such general and special
- 10 damages as may be appropriate;
- 11 7. For pre-judgment interest on any unpaid overtime compensation commencing
- 12 from the date such amounts were due, or as otherwise provided by law;
- 13 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
- 14 California Labor Code section 1194(a); and
- 15 9. For such other and further relief as the Court may deem equitable and
- 16 appropriate.

17 **As to the Second Cause of Action**

- 18 10. That the Court declare, adjudge and decree that Defendants violated California
- 19 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage
- 20 Order by willfully failing to pay minimum wages to Plaintiff and class members;
- 21 11. For general unpaid wages and such general and special damages as may be
- 22 appropriate;
- 23 12. For pre-judgment interest on any unpaid compensation from the date such
- 24 amounts were due, or as otherwise provided by law;
- 25 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
- 26 California Labor Code section 1194(a);
- 27 14. For liquidated damages pursuant to California Labor Code section 1194.2; and
- 28 15. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiff and class members;

17. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For premiums pursuant to California Labor Code section 226.7(c);

20. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully failing to authorize and permit Plaintiff and class members to take all rest periods;

24. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not authorized and permitted;

25. For all actual, consequential, and incidental losses and damages, according to proof;

26. For premiums pursuant to California Labor Code section 226.7(c);

27. For pre-judgment interest on any unpaid rest period premiums from the date such

1 amounts were due, or as otherwise provided by law;

2 28. For attorneys' fees pursuant to California Code of Civil Procedure section
3 1021.5, or as otherwise provided by law; and

4 29. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Fifth Cause of Action**

7 30. That the Court declare, adjudge and decree that Defendants violated the
8 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
9 Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate
10 itemized wage statements thereto;

11 31. For all actual, consequential, and incidental losses and damages, according to
12 proof;

13 32. For injunctive relief pursuant to California Labor Code section 226(h);

14 33. For statutory penalties pursuant to California Labor Code section 226(e);

15 34. For attorneys' fees and costs pursuant to California Labor Code section
16 226(e)(1); and

17 35. For such other and further relief as the Court may deem equitable and
18 appropriate.

19 **As to the Sixth Cause of Action**

20 36. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
22 and/or meal and rest period premiums owed at the time of termination of the employment of
23 Plaintiff and other terminated class members;

24 37. For all actual, consequential and incidental losses and damages, according to
25 proof;

26 38. For waiting time penalties according to proof pursuant to California Labor Code
27 section 203 for all employees who have left Defendants' employ;

28 39. For pre-judgment interest on any unpaid wages from the date such amounts were

1 due, or as otherwise provided by law;

2 40. For attorneys' fees pursuant to California Code of Civil Procedure section
3 1021.5, or as otherwise provided by law; and

4 41. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Seventh Cause of Action**

7 42. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime
9 wages, minimum wages, and/or meal and rest period premiums during their employment;

10 43. For all actual, consequential and incidental losses and damages, according to
11 proof;

12 44. For statutory penalties according to proof pursuant to California Labor Code
13 section 210;

14 45. For pre-judgment interest on any unpaid wages from the date such amounts were
15 due, or as otherwise provided by law;

16 46. For attorneys' fees pursuant to California Code of Civil Procedure section
17 1021.5, or as otherwise provided by law; and

18 47. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Eighth Cause of Action**

21 48. That the Court declare, adjudge and decree that Defendants violated California
22 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related
23 expenses and costs incurred by Plaintiff and class members;

24 49. For unpaid business-related expenses and such general and special damages as
25 may be appropriate;

26 50. For pre-judgment interest on any unpaid business-related expenses from the date
27 such amounts were due, or as otherwise provided by law;

28 51. For all actual, consequential, and incidental losses and damages, according to

1 proof;

2 52. For attorneys' fees and costs pursuant to California Labor Code section 2802(c),
3 or as otherwise provided by law; and

4 53. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Ninth Cause of Action**

7 54. That the Court declare, adjudge and decree that Defendants violated the
8 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
9 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing to
10 include all forms of remuneration in the regular rate of pay for purposes of paying overtime
11 wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and 1198 (by
12 failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by
13 failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all
14 rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and
15 maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages upon
16 termination); 204 (by failing to timely pay all earned wages during employment); 551 and 552
17 (by failing to provide one day's rest in seven); 2802 (by failing to reimburse business expenses);
18 and 2810.5 (by failing to provide notice of material terms of employment);

19 55. For civil penalties pursuant to the California Labor Code, including sections 210,
20 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections
21 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1,
22 1198, and 2802, and 2810.5;

23 56. For attorneys' fees and costs pursuant to California Labor Code section
24 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
25 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12,
26 1194, 1197, 1197.1, 1198, and 2802, and 2810.5;

27 57. For pre-judgment and post-judgment interest as provided by law; and

28 58. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Tenth Cause of Action

59. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiff and class members all overtime wages due to them, failing to include all forms of remuneration in the regular rate of pay for purposes of paying overtime wages and/or meal and rest period premiums to Plaintiff and class members, failing to provide Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and class members all meal periods, failing to authorize and permit Plaintiff and class members to take all rest periods, failing to provide Plaintiff and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiff and class members, failing to timely pay Plaintiff and class members all earned wages during employment, failing to provide one day's rest in seven, failing to reimburse Plaintiff and class members for business-related expenses, and failing to provide written notice of material terms of employment, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

60. For restitution of unpaid wages to Plaintiff and all class members and prejudgment interest from the day such amounts were due and payable;

61. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

62. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

63. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eleventh Cause of Action

64. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiff and class members the statutory benefits guaranteed under California Labor Code

1 section 226.7 constitutes an unfair business practice in violation of California Business and
2 Professions Code sections 17200, *et seq.*;

3 65. For restitution of the statutory benefits under California Labor Code section
4 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the day
5 such amounts were due and payable;

6 66. For the appointment of a receiver to receive, manage and distribute any and all
7 funds disgorged from Defendants and determined to have been wrongfully acquired by
8 Defendants as a result of violations of California Business & Professions Code sections 17200,
9 *et seq.*;

10 67. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
11 California Code of Civil Procedure section 1021.5;

12 68. For pre-judgment and post-judgment interest as provided by law; and

13 69. For such other and further relief as the Court may deem equitable and
14 appropriate.

15
16 Dated: July 8, 2024

Respectfully submitted,

17 Capstone Law APC

18
19 By: 

20 Bevin Allen Pike
21 Daniel S. Jonathan
22 Trisha K. Monesi
23 Shealene P. Mancuso

24 Attorneys for Plaintiff Chequita Davis
25
26
27
28

EXHIBIT “1”

NINEL KOCHARYAN
310.712.8146 Direct
Ninel.Kocharyan@capstonelawyers.com

May 1, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Chequita Davis v. Summit Therapeutic Services, Inc.*

Dear PAGA Administrator:

This office represents Chequita Davis in connection with her claims under the California Labor Code. Ms. Davis was an employee of SUMMIT THERAPEUTIC SERVICES, INC. ("SUMMIT").

The employer may be contacted directly at the address below:

SUMMIT THERAPEUTIC SERVICES, INC.
6840 VIA DEL ORO #205
SAN JOSE, CA 95119

Ms. Davis intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Davis seeks relief on behalf of herself, the State of California, and other persons who are or were employed by SUMMIT as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

SUMMIT employed Ms. Davis as an hourly paid, non-exempt employee from approximately July 2019 to November 2023. Ms. Davis worked for SUMMIT as a Direct Support Professional out of its facility in Shingle Springs, California. During her employment, Ms. Davis typically worked eight (8) or more hours per day and six (6) or more days per week. At the time Ms. Davis's employment with SUMMIT ended, she earned \$28.00 per hour. Ms. Davis's primary job duties included, without limitation, delegating visitors around the facility, preparing meals, cleaning, and taking care of clients.

SUMMIT committed one or more of the following Labor Code violations against Ms. Davis, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

SUMMIT’s Company-Wide and Uniform Payroll and HR Practices

SUMMIT THERAPEUTIC SERVICES, INC. is a California corporation that provides residential, day program, clinical, and group home services to adults and children with developmental disabilities and operate approximately 40 locations in California. Upon information and belief, SUMMIT maintains a single, centralized Human Resources (HR) department at its corporate headquarters in San Jose, California, for all non-exempt, hourly paid employees working for SUMMIT in California, including Ms. Davis and other aggrieved employees. At all relevant times, SUMMIT issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Davis and other aggrieved employees, regardless of their location or position.

Upon information and belief, SUMMIT maintains a centralized Payroll department at its corporate headquarters in San Jose, California, which processes payroll for all non-exempt, hourly paid employees working for SUMMIT in California, including Ms. Davis and other aggrieved employees. Further, SUMMIT issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees in California, including Ms. Davis and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, SUMMIT utilized the same methods and formulas when calculating wages due to Ms. Davis and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

SUMMIT willfully failed to pay all overtime wages owed to Ms. Davis and other aggrieved employees. During the relevant time period, Ms. Davis and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of

¹ These facts, theories, and claims are based on Ms. Davis’s experience and counsel’s review of those records currently available relating to Ms. Davis’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Davis reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, SUMMIT had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out times in its timekeeping system to the nearest quarter (0.25) of an hour. SUMMIT's rounding policy resulted in the failure to compensate Ms. Davis and other aggrieved employees fully for all hours worked, causing Ms. Davis and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, SUMMIT's rounding policy was, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Ms. Davis and other aggrieved employees. To the extent SUMMIT's rounding policy took away time worked that was eligible for overtime, Ms. Davis and other aggrieved employees were denied overtime pay for all hours worked.

Second, SUMMIT had, and continues to have, a company-wide policy and/or practice of requiring Ms. Davis and other aggrieved employees to perform work off-the-clock before and after their scheduled shifts. For example, before and after nearly every shift, Ms. Davis was required to assist clients with any requests and/or emergencies for up to 30 minutes each occurrence. As another example, SUMMIT implemented, on a company-wide basis, an employer-imposed requirement that Ms. Davis and other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to her shift, Ms. Davis was required to spend time undergoing a mandatory temperature check and filling out a symptom related form before being permitted to clock in for her shift. Thus, SUMMIT required Ms. Davis and other aggrieved employees to work off-the-clock and did not compensate them for this time worked.

Third, during the relevant time period, upon information and belief, SUMMIT has systematically, and on a company-wide basis, understaffed its locations and failed to provide adequate meal period coverage to permit employees to take compliant meal periods. Because there was no one available to relieve other aggrieved employees needing meal period coverage, SUMMIT required other aggrieved employees to remain available to attend to residents and address any incidents as they arose, including during unpaid meal periods. Moreover, SUMMIT also had a practice of failing to schedule meal periods which, in conjunction with the assignment of heavy workloads, further caused other aggrieved employees to not be relieved of their duties for compliant meal periods.

SUMMIT knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Davis and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and/or during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Davis and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Davis and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Moreover, SUMMIT did not pay Ms. Davis and other aggrieved employees the correct overtime and/or double-time wage rates for the recorded overtime hours that they generated. In addition to an hourly wage, SUMMIT paid Ms. Davis and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SUMMIT failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime and/or double-time wage rates. Therefore, during times when Ms. Davis and other aggrieved employees worked overtime and received these other

forms of pay, SUMMIT failed to pay all overtime wages by paying a lower overtime and/or double-time rate than required.

For example, SUMMIT paid Ms. Davis and other aggrieved employees bonuses and/or incentive pay which were listed on Ms. Davis's and other aggrieved employees' wage statements as "Bonus." During pay periods that Ms. Davis and other aggrieved employees were paid overtime wages, SUMMIT did not incorporate the incentive pay into Ms. Davis's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime and/or double-time hours worked. Specifically, SUMMIT paid Ms. Davis and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay for overtime wages, and during pay periods that Ms. Davis and other aggrieved employees worked more than twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh (7th) day of work, SUMMIT paid Ms. Davis and other aggrieved employees two (2) times their hourly rate of pay instead of two (2) times their regular rate of pay for double-time wages. SUMMIT's failure to properly calculate the overtime and/or double-time rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Ms. Davis and other aggrieved employees on a company-wide basis.

SUMMIT's failure to pay Ms. Davis and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. Tit. 8, § 11050(2)(K) (defining "Hours Worked").

As stated, SUMMIT had a company-wide policy and/or practice of rounding Ms. Davis's and other aggrieved employees' clock-in and clock-out times in its timekeeping system to the nearest quarter hour, instead of the actual worktime captured by its timekeeping system, resulting in the failure to compensate Ms. Davis and other aggrieved employees fully for all hours worked. Also, as stated above, SUMMIT had a company-wide policy and/or practice requiring Ms. Davis and other aggrieved employees to perform work-related tasks while off-the-clock prior to the start of their shifts and/or after their shifts, including assisting clients with requests and/or emergencies, and undergoing health screenings. SUMMIT failed to track this time Ms. Davis and other aggrieved employees spent working off-the-clock, and Ms. Davis and other aggrieved employees received no compensation for this time.

Moreover, as set forth above, due to SUMMIT's policies and/or practices of understaffing its locations, assigning heavy workloads, and failing to schedule meal periods, other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and

were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods.

Thus, SUMMIT did not pay minimum wages for all hours worked by Ms. Davis and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, SUMMIT did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, SUMMIT regularly failed to pay at least minimum wages to Ms. Davis and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

During the relevant period, SUMMIT had, and continues to have, a company-wide policy and/or practice of maintaining and implementing a non-compliant written meal and rest period policy that prevents Ms. Davis and other aggrieved employees from taking meal periods. SUMMIT's non-compliant meal period policy misclassifies Ms. Davis and other aggrieved employees under IWC Wage Order No. 15-2001, which governs household occupations, and erroneously states that Ms. Davis and other aggrieved employees are not entitled to meal periods because they are hired as a "Personal Attendant" as defined by Labor Code section 1451(d).

SUMMIT's "Meal and Rest Break Policy" states in relevant part: "I . . . understand that, due to my employment classification, and my actual tasks, I will not receive either meal or rest breaks during employment hours as a Personal Attendant." Codified in Labor Code sections 1450, *et seq.*, California's Domestic Worker Bill of Rights was enacted to provide protections, including overtime pay rights, to certain personal attendants who work in the home. Labor Code section 1451(a)(1) defines "domestic work" as services related to the care of persons in private households. Pursuant to

Labor Code section 1451(a)(2), domestic work “does not include care of persons in facilities providing board or lodging in addition to medical, nursing, convalescent, aged, or child care, including, but not limited to, residential care facilities for the elderly.” Thus, an employee who performs the tasks of a personal attendant in a residential care facility is not covered by the definition of a “Personal Attendant” under Labor Code section 1451(d) because they are not employed by a private householder.

Further, the Division of Labor Standards Enforcement (“DLSE”) has interpreted Labor Code section 1451 as not applying to group homes or residential care facilities based on section 1451(a)(2): “The Domestic Worker Bill of Rights does not apply to employees working in a residential care facility. Your business is governed by other provisions in the California Labor Code and by Industrial Welfare Commission Order 5-2001 (‘Wage Order 5’), Regulating Wages, Hours and Working Conditions in the Public Housekeeping Industry.” *DLSE opinion letter* 2014-11-06.

Moreover, IWC Wage Order No. 5-2001 narrows the definition of “Personal Attendant” as “includ[ing] baby sitters and means any person employed by a non-profit organization covered by this order to supervise, feed or dress a child or person who by reason of advanced age, physical disability or mental deficiency needs supervision.” Cal. Code Regs. Tit. 8, § 11050(2)(O). On information and belief, SUMMIT is not a non-profit organization and therefore Ms. Davis and other aggrieved employees are and were entitled to meal periods as provided by the California Labor Code and IWC Wage Order No. 5-2001. Thus, SUMMIT systematically misclassified Ms. Davis and other aggrieved employees and, on that basis, did not provide them with meal periods and did not take any measures to relieve them of their duties to take compliant meal periods.

Further, as stated above, on information and belief, SUMMIT had, and continues to have, company-wide policies and/or practices of understaffing its locations, which, combined with the assignment of heavy workloads and a failure to schedule meal periods, has resulted in a lack of meal period coverage. As a result of SUMMIT’s policies and/or practices, Ms. Davis and other aggrieved employees were not afforded 30-minute meal periods on days that they worked in excess of five (5) hours or in excess of ten (10) hours in one day. For example, Ms. Davis frequently worked shifts in excess of ten (10) or more hours per day, but SUMMIT did not schedule her to take a first or second meal period and did not provide her with the opportunity to take a first or second 30-minute meal period. Ms. Davis and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, SUMMIT knew or should have known that as a result of its policies, Ms. Davis and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. SUMMIT further knew or should have known that it did not pay Ms. Davis and other aggrieved employees meal period premiums when meal periods were late, missed, shortened, or interrupted. Additionally, to the extent that SUMMIT’s rounding policy reported that other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Furthermore, SUMMIT engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Davis and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that SUMMIT did pay Ms. Davis and other aggrieved employees premium pay for missed, late, and interrupted meal periods,

SUMMIT did not pay Ms. Davis and other aggrieved employees at the correct rate of pay for premiums because SUMMIT systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, SUMMIT failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Davis and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, SUMMIT regularly failed to authorize and permit Ms. Davis and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As stated above, during the relevant time period, SUMMIT maintained and implemented, on a company-wide basis, a non-compliant written meal and rest period policy which misclassifies Ms. Davis and other aggrieved employees as "Personal Attendants" under Labor Code section 1451(d) and erroneously exempts them from receiving compliant rest periods under IWC Wage Order No. 15-2001. As a result, SUMMIT failed to schedule rest periods and therefore had no policy for authorizing and permitting Ms. Davis and other aggrieved employees from taking compliant rest periods. Additionally, as with meal periods, SUMMIT's company-wide practices of understaffing while assigning heavy workloads further led to Ms. Davis and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, SUMMIT maintained a company-wide on-premises rest period policy, which effectively required that Ms. Davis and other aggrieved employees remain on SUMMIT's premises during their rest periods. Because Ms. Davis and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, SUMMIT effectively maintained control over Ms. Davis and other aggrieved employees during rest periods.

As a result of SUMMIT's practices and policies, Ms. Davis and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Davis was never authorized or permitted to take a full and compliant 10-minute rest period.

SUMMIT has also engaged in a systematic, company-wide practice and/or policy of not paying rest period premiums owed when rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Davis and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that SUMMIT did pay Ms. Davis and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, SUMMIT did not pay Ms. Davis and other aggrieved employees at the correct rate of pay for premium wages because SUMMIT failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of compensation, in the regular rate of pay.

Accordingly, SUMMIT failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Davis and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. SUMMIT has not provided Ms. Davis and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, SUMMIT has knowingly and intentionally provided Ms. Davis and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, SUMMIT issued uniform wage statements to Ms. Davis and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, SUMMIT violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, because SUMMIT did not accurately record the time Ms. Davis and other aggrieved employees spent working off-the-clock and improperly rounded Ms. Davis's and other aggrieved employees' total hours worked, SUMMIT did not list the correct amount of gross wages and net wages earned by Ms. Davis and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, SUMMIT failed to accurately list the total number of

hours worked by Ms. Davis and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because SUMMIT did not calculate Ms. Davis's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, SUMMIT did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). SUMMIT also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

Third, and separately from these violations, SUMMIT issued uniform wage statements to Ms. Davis and other aggrieved employees that failed to list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. During the relevant time period, SUMMIT systematically, and on a company-wide basis, issued wage statements to Ms. Davis and other aggrieved employees that fail to correctly list the employing entity's correct address. Ms. Davis's and other aggrieved employees' wage statements incorrectly list the employer's address as "2125 CANOAS GARDEN AVE #120, SAN JOSE, CA 95125," but according to the California Secretary of State's website, Defendant SUMMIT THERAPEUTIC SERVICES, INC.'s entity address is "6840 VIA DEL ORO #205, SAN JOSE, CA 95119."

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments" Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). At all relevant times, and in violation of Labor Code section 1174(d), SUMMIT willfully failed to maintain accurate payroll records for Ms. Davis and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Ms. Davis's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for

longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, SUMMIT engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Davis and other aggrieved employees, in violation of section 1198. Furthermore, in light of SUMMIT’s failure to provide Ms. Davis and other aggrieved employees with second 30-minute meal periods to which they were entitled, SUMMIT kept no records of meal start and end times for second meal periods.

Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, SUMMIT failed to pay Ms. Davis and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick pay leave, within any time period specified by California Labor Code section 204.

Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time, SUMMIT willfully failed to pay Ms. Davis and other aggrieved employees who are no longer employed by SUMMIT the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick pay

leave, either at the time of discharge, or within seventy-two (72) hours of their leaving SUMMIT's employ.

Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave and Provide Written Notice of Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Effective January 1, 2024, California Labor Code section 246(b)(4) requires that employers must provide no less than 40 hours or five (5) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, on information and belief, SUMMIT did not pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, SUMMIT paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SUMMIT failed to incorporate all remunerations, including incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, SUMMIT failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, SUMMIT paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

SUMMIT's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l).

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from

requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six (6) hours in any one day thereof.

During the relevant time period, on information and belief, SUMMIT scheduled Ms. Davis and other aggrieved employees to work six (6) or more hours per day and seven (7) consecutive days in a workweek. Because Ms. Davis and other aggrieved employees worked over 30 hours per week and over six (6) hours per day in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Ms. Davis and other aggrieved employees may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

Thus, SUMMIT caused Ms. Davis and other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

First, during the relevant time period, SUMMIT, on a company-wide basis, required that Ms. Davis and other aggrieved employees use their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to fully reimburse them for the costs of their work-related mobile device expenses. For example, Ms. Davis and other aggrieved employees would be contacted on their personal mobile devices by their managers and/or supervisors to discuss work-related matters. As a further example, Ms. Davis used her personal mobile phone to look up directions when picking up or dropping off clients from various locations. Additionally, Ms. Davis was required to download a mobile application, "Paycom," in order to clock in and out for her shifts. Although SUMMIT required Ms. Davis and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, SUMMIT failed to fully reimburse them for this cost.

Second, during the relevant time period, SUMMIT, on a company-wide basis, required that Ms. Davis and other aggrieved employees use their own personal vehicles to run company errands. For example, on a number of occasions throughout her employment, Ms. Davis was required to use her personal vehicle and drive to pick up SUMMIT's clients from various locations and take them to SUMMIT's facility. Although SUMMIT required Ms. Davis and other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, SUMMIT failed to fully reimburse them for their mileage or travel expenses.

SUMMIT could have provided Ms. Davis and other aggrieved employees with company mobile devices and company vehicles, or, SUMMIT could have reimbursed employees for the costs of their mobile device usage, mileage, and travel expenses. Instead, SUMMIT passed these operating costs off onto Ms. Davis and other aggrieved employees. At all relevant times, Ms. Davis did not earn at least two (2) times the minimum wage.

Thus, SUMMIT had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

At all relevant times, on information and belief, SUMMIT failed, on a company-wide basis, to provide written notice to Ms. Davis and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). SUMMIT's failure to provide Ms. Davis and other aggrieved employees with written notice of basic information regarding their employment with SUMMIT is in violation of California Labor Code section 2810.5.

Ms. Davis and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid" Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." SUMMIT, at all relevant times, was an employer or person acting on behalf of an employer(s) who

violated Ms. Davis's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Davis seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Davis, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against SUMMIT for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Davis seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Ninel Kocharyan
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

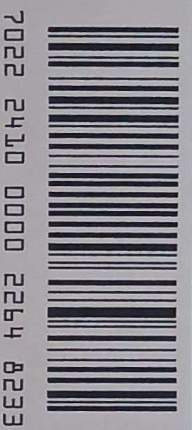
Best Regards,



Ninel Kocharyan

Copy: SUMMIT THERAPEUTIC SERVICES, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2264 8233

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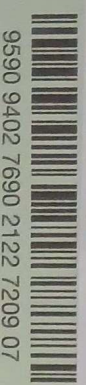
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PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **July 8, 2024**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Dawn Landrine
6840 Via Del Oro, #205
San Jose, CA 95119

Registered Agent for Defendant(s)
SUMMIT THERAPEUTIC SERVICES, INC.

☒ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY FAX:** I hereby certify that this document was served from Los Angeles, California, by facsimile delivery on the parties listed herein at their most recent fax number of record in this action.

☐ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **July 8, 2024**, at Los Angeles, California.

Xochitl Tapia
Type/Print Name


Signature