

May 29, 2024

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128>

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

(by certified mail to AHMC Healthcare, Inc. and AHMC Seton Medical Center LLC)

AHMC Seton Medical Center LLC
55 S. Raymond Ave. Suite 105
Alhambra, CA. 91801
Certified Mail Tracking Number: 9414 8112 0620 4721 6511 52

Jonathan Wu
Agent for Service of Process for AHMC Seton Medical Center LLC
55 S. Raymond Ave. Suite 105
Alhambra, CA. 91801
Certified Mail Tracking Number: 9414 8112 0620 4721 9749 23

AHMC Healthcare, Inc
55 S. Raymond Ave. Suite 105
Alhambra, CA. 91801
Certified Mail Tracking Number: 9414 8112 0620 4721 9969 18

Jonathan Wu
Agent for Service of Process for AHMC Healthcare, Inc.
55 S. Raymond Ave. Suite 105
Alhambra, CA. 91801
Certified Mail Tracking Number: 9414 8112 0620 4721 9990 56

**Re: Labor Code § 2698, et seq. Private Attorneys' General Act Claim
PAGA Notice Letter to LWDA
Jessica L. Castech v. AHMC Seton Medical Center LLC and AHMC Healthcare Inc.
Superior Court for the County of Los Angeles**

Dear Gentilepersons:

This office represents Plaintiff Jessica L. Castech ("Plaintiff") and other similarly aggrieved employees employed as non-exempt, hourly recreation therapists, food service aids, restorative nursing assistants, certified nursing assistants, and in similar and related positions in connection with providing healthcare related services to Defendants' customers and patients at Defendants' locations in California during the relevant period (collectively "Aggrieved Employees") for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 227.3, 246, 248.1, 248.2, 248.5, 351, 354, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2810.5, 2698, and 2699, et seq.; provisions of the Industrial



Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of herself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants AHMC Seton Medical center, a business organization in the form of a limited liability corporation; AHMC Healthcare Inc., a business organization of the form of a limited liability company; and Does 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with Plaintiff’s Class Action Complaint, which is attached to this Notice letter. The Complaint is being filed concurrently in Los Angeles County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff’s class-wide claims and representative claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

The Aggrieved Employees, including Plaintiff, are non-exempt employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”). During the period of four years prior to the filing of this action through its resolution, Plaintiff and the Aggrieved Employees were either not paid by Defendants for all hours worked were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiff also contends that Defendants failed to pay Plaintiff and the Aggrieved Employees all wages due and owing, including by miscalculating wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and failing to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

Plaintiff worked at Defendants’ facilities in Daly City, California as a “Recreation therapist.” Plaintiff generally worked at least 40 hours per week, five shifts per week. Plaintiff’s scheduled hours were generally from 10:00 a.m. through 7:00 p.m. Plaintiff was required to and did supply her own personal mobile phone for performing her job duties.

Defendant AHMC SETON MEDICAL CENTER LLC (“AHMC SETON”) is a California limited liability company which lists its principal address with the California Secretary of State in Alhambra, Los Angeles County, California. It lists its type of business as “Ownership and



Operation of Hospital.” Defendant AHMC SETON is listed as the employer on the wage statements issued to Plaintiff by Defendants, and upon information and belief to other Aggrieved Employees, but with a different address in Daly City, San Mateo, California. Upon information and belief, AHMC SETON operates various facilities where their California Employees are based out of, including the Daly City, California facilities where Plaintiff were based. AHMC SETON’s website explains that: “AHMC Seton Medical Center has been serving the health care needs of San Francisco and northern San Mateo County since its founding as Mary’s Help Hospital in 1893.”

Defendant AHMC HEALTHCARE INC. (“AHMC HEALTHCARE”) is a California corporation which lists its principal address with the California Secretary of State at the same address as AMHC SETON in Alhambra, Los Angeles County, California. It lists its type of business as “Hospital Investment and Management.” Upon information and belief, AHMC HEALTHCARE operates various facilities where their California Employees are based out of, including the facilities where Plaintiff were based. On information and belief, Defendants maintain operations and locations throughout Los Angeles County and California. AHMC HEALTHCARE’s website states that they, along with AHMC Anaheim Regional Medical Center, Garfield Medical center, Greater El Monte Community Hospital, Monterrey Park Hospital, Parkview Community Medical Center, San Gabriel Valley Medical Center, Seton Coastside Medical Center, Whittier Hospital Medical Center, and Defendant AHMC SETON are: “[s]erving the Greater Los Angeles and San Francisco Metro Areas, the AHMC Healthcare Inc. affiliated hospitals provide comprehensive health services.”

Defendants utilized a timekeeping system whereby employees swiped an identification badge into the time keeping device. There was one timeclock on each floor of the location where the Plaintiff worked. To access locked units where the Plaintiff worked, she required an elevator key. Not all employees were permitted an elevator key. This caused Plaintiff’s and Aggrieved Employees to ask security personnel admission into the elevators which could take 20-30 minutes of waiting off the clock and not getting paid by the Defendants. Approximately two to three times per week, if the census was full, the Plaintiff had to help waiting patients as soon as they arrived at their unit before clocking in for about 5 minutes each time.

Moreover, Plaintiff and Aggrieved Employees were also required to record a thirty-minute meal period by swiping their badges on the timeclock at the start and end time of the meal period. Plaintiff was also instructed by Defendants to “set an alarm” on her personal mobile phone for 8 hours so she could “clock out and go back to work.” Plaintiff and Aggrieved Employees were required, approximately 2-3 times per week, to work after they clocked out for work and were not paid. Further, Plaintiff and Aggrieved Employees were required to be available on their personal mobile telephones both on and off the clock to receive calls and texts from Defendants’ managers.

This in turn resulted in untimely and unlawfully shortened meal periods as Plaintiff and the Aggrieved Employees were required to work during breaks or otherwise remain under Defendants’ control. Employees were unable to use their break time to do as they saw fit



because they were required by Defendants to remain responsive to work demands and management and patient inquiries and calls. Employees were therefore required to remain under Defendants' control to respond as needed to work demands despite the fact they were in the middle of an unpaid meal period. Defendants failed to record any such time as hours worked in their timekeeping systems.

In addition to unpaid hours worked during their meal periods, Plaintiff and the Aggrieved Employees were required to complete job duties or otherwise remain under Defendants' control before and after their scheduled shift hours. For example, Plaintiff was repeatedly required to attend to patient needs before clocking in or continued working after scheduled shift end times. Accordingly, Defendants systematically failed to pay Employees for all their hours worked and failed to pay for all such hours worked at the required rates of pay. Perpetrating these wage payment violations allowed Defendants to paint a picture of compliance by conforming timekeeping records to scheduled work hours rather than contemporaneously reflecting the actual hours Employees worked.

Plaintiff and the Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiff also contends that Defendants failed to pay Plaintiff and the Aggrieved Employees all wages due and owing, including by miscalculating wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and failing to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable IWC Wage Orders.

During the course of Plaintiff's and the Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in "off the clock" work) and for all their overtime hours worked, or were not paid at the correct rates. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees including recreation therapists, food service aids, restorative nursing assistants, certified nursing assistants, and those in similar and related positions based out of Defendants' facilities in California.

Plaintiff and Aggrieved Employees were sometimes asked to work shifts over eight hours in a day and to work over forty hours in a work week, but they were not paid at the appropriate overtime rate for all such hours, including by being required to perform work duties and tasks without pay and while off-the-clock. In these instances, Plaintiff and the Aggrieved Employees began incurring overtime hours before Defendants recognized and began paying any overtime hours worked by virtue of the systematic off the clock work. Defendants also miscalculated and underpaid overtime by failing to account for bonuses and other forms of remuneration in the regular rate used to calculate overtime payments. As a result, Plaintiff and the Aggrieved Employees were not paid at the correctly calculated overtime rate for all their overtime hours worked or otherwise worked overtime hours during their employment with Defendants for which they were not compensated, in violation of the California Labor Code.



When the Aggrieved Employees did work overtime, they were not compensated at the required and correct rate because Defendants failed to incorporate bonuses and other additional forms of remuneration they received into the regular rate of pay used to calculate and pay overtime. More specifically, during each pay period, the Aggrieved Employees paid bonuses that were non-discretionary and were tied directly to their performance. However, contrary to the requirements of the Labor Code and IWC Wage Orders under California law, Defendants did not incorporate these bonuses and other forms of remuneration they paid Employees into the regular rate of pay Defendants used to calculate and pay overtime to Plaintiff and the Aggrieved Employees.

Defendants did this, upon information and belief, in connection with other Employees in a concerted effort to underpay wages to Plaintiff and the other Aggrieved Employees. Employees were therefore not paid for all their hours worked at the required minimum, overtime, and double time wage rates due to Defendants' policy and practice of requiring work off the clock and without pay or failing to pay for all hours worked at the correct rates of pay. With work shifts generally scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiff and the Aggrieved Employees working past eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate. Moreover, Defendants required Plaintiff and Aggrieved Employees to complete training while not clocked in for work. Therefore, the Plaintiff and Aggrieved Employees were required to work without remuneration. Defendants thus systematically underpaid Plaintiff and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and work policies which Defendants required them to follow and endured similar violations at Defendants' hands as Plaintiff.

Defendants did this, upon information and belief, in connection with other Employees in a concerted effort to underpay wages to Plaintiff and the other Aggrieved Employees. Employees were therefore not paid for all their hours worked at the required minimum, overtime, and double time wage rates due to Defendants' policy and practice of requiring work off the clock and without pay or failing to pay for all hours worked at the correct rates of pay. With work shifts generally scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiff and the Aggrieved Employees working past eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate. Moreover, Defendants required Plaintiff and Aggrieved Employees to complete training while not clocked in for work. Therefore, the Plaintiff and Aggrieved Employees were required to work without remuneration. Defendants thus systematically underpaid Plaintiff and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and work policies which Defendants required them to follow and endured similar violations at Defendants' hands as Plaintiff.



Defendants have either failed to maintain timekeeping records for Plaintiff that would permit Plaintiff to discover the nature and extent of the underpayment of wages, the off the clock work Defendants required, and the actual hours worked and bonuses Plaintiff earned or have otherwise declined to produce them to Plaintiff in response to a timely and lawful request. By failing to pay for all hours worked, Defendants have committed knowing and intentional ongoing violations of the record keeping requirements under the Labor Code §§ 226 and 1174.

As a result of the above-described unlawful requirements to work off the clock, to work without payment and the failure to accurately record all hours worked and unlawful rounding, and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and Aggrieved Employees incurred overtime hours worked for which they were not adequately and completely compensated, in addition to the hours they were required to work off the clock at their regular rates.

The failure to pay for all hours worked and underpayment of wages to Plaintiff and the Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which upon information and belief applied uniformly to the Aggrieved Employees working at Defendants' locations and facilities. As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked and pay wages at the correct rates, the failure to compensate employees for time under Defendants' control and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week.

Therefore, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wages for all time worked, as required by California law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants paid Plaintiff and the Aggrieved Employees bonuses and shift differentials and other forms of remuneration above and beyond their hourly pay, upon information and belief Defendants miscalculated and therefore underpaid any overtime they paid during these pay periods by failing to include all forms of remuneration in the regular rate used to calculate and pay overtime.

Defendants also failed to provide Plaintiff and the Aggrieved Employees with their required meal periods and the at least two ten-minute rest breaks required for scheduled shifts of eight



hours. Demanding workloads contributed to Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Aggrieved Employees, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to authorize and permit Plaintiff and the employee Aggrieved Employees to take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

More specifically, Plaintiff worked shifts that entitled her to at least one meal period, but Defendants' managers required Plaintiff and the Aggrieved Employees to prioritize work over taking lawful meal periods. To whatever extent there was ever a schedule for meal periods, it went by the wayside quickly as there always seemed to be a patient that needed assistance. Constant short-staffing led to systematically late meal periods, and on-duty meal periods that were incessantly interrupted by patient and management demands and required job duties and tasks. The heavy workload and management expectations also contributed to Employees working through meal periods or not taking them or taking them late so work could be accomplished or they were otherwise required to remain under Defendants' control during meal periods.

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

Defendants thus failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants or otherwise remain under Defendants' control for more than five hours during a shift, or ten hours in a shift, but were often required to do so without receiving a lawful, timely, and duty-free 30-minute meal breaks. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work, in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

Defendant paying some meal period premium payments under Labor Code § 226.7 to Plaintiff. As addressed above, Defendants committed similar and ongoing violations by failing to include all forms of remuneration, including bonuses in the regular hourly rate at which they paid the premiums to Plaintiff and Aggrieved Employees.

Defendants thus followed uniformly applied policies of not providing all required meal periods to their Employees. Meal periods were often not properly provided, as work demands impermissibly shortened their breaks. Even when Plaintiff and the Aggrieved



Employees were able to take a meal period, it was generally interrupted by work duties or was taken after the fifth hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

As a result, Defendants' failure to provide Plaintiff and the Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at least four years prior to the filing of this action and through to the present, Plaintiff and the Aggrieved Employees were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks as required under the Labor Code and Wage Orders due to Defendants' policies and practices. On the occasions when Plaintiff and the Aggrieved Employees were provided with a meal period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.

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

Defendants thus failed to authorize and permit duty-free ten minute rest breaks as required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even schedule or otherwise account for time for Plaintiff and the Aggrieved Employees to use for duty-free, net ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees during the relevant period, meaning Defendants' rest break policy was not to schedule or otherwise authorize and permit them. Plaintiff and the Aggrieved Employees worked eight to twelve hours on an average shift, and were required to receive at least two rest breaks or three rest breaks on shifts over ten hours. Given the work demands, understaffing, and pressure from Defendants' management, Plaintiff and the Aggrieved Employees were compelled to not take rest breaks despite working extended shifts. Defendants have produced no evidence of any payments for rest break violations under Labor Code § 226.7. To the extent Defendants have paid any such premiums, upon information and belief they failed to include all forms of remuneration, including bonuses in the regular rate at which Defendants paid the premium.

During rest periods, employers must relieve employees of all duties and relinquish control over how employees spend their time. Plaintiff and the Aggrieved Employees were and are under Defendants' control when they are working through rest breaks. Defendants have also provided



either impermissibly shortened or untimely meal and rest breaks to Plaintiff and the Aggrieved Employees. Plaintiff and the Employees in the Aggrieved Employees were thus not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks, and were not provided with one hour's wages in lieu thereof. Plaintiff and the Aggrieved Employees were also required to remain on-duty during breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and they were also prevented from leaving the premises and otherwise remain under Defendants' control during rest breaks under Defendants' uniformly applied policies and practices.

Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages by requiring off the clock work during breaks and before and after work shifts and by miscalculating the regular rate and accordingly underpaying overtime wages and meal and rest break premiums. By not compensating Employees for all hours worked and at the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiff and the Aggrieved Employees, in violation of Labor Code § 221.

Defendants also violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246 provides that an Employee who "works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Paid sick time for nonexempt employees shall be calculated in the same manner as the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and earned sick days paid at the correct rate of pay, in violation of Labor Code § 246. Additionally and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to the Aggrieved Employees during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave paid at the correct rates as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty." Plaintiff accordingly seek this relief available for Defendants' failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Upon information and belief, Defendants also failed to provide Employees such as Plaintiff at the time of her employment and thereafter with written notice complying with all the requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing" specifically



required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to provide Plaintiff and the Aggrieved Employees certain specific information upon hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with any such information when she was hired, or have failed to produce it, and upon information and belief, Defendants committed similar violations in connection with similarly situated Aggrieved Employees.

Defendants have also consistently failed to provide Aggrieved Employees with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by understating bonuses, the requirement of off the clock work, the failure to pay all overtime and double time wages owed and failure to pay them at the appropriate premium rates, and the failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff and the Aggrieved Employees, during the liability period, including because they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were not maintained or were not accurately maintained for work shifts and meal periods. Defendants also failed to accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff and the Aggrieved Employees, including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

Defendants thus provided Plaintiff and the Aggrieved Employees with wage statements that failed to report all hours worked accurately, applicable hourly rates for all hours worked and bonuses. For the same reasons as explained above, Plaintiff and the Aggrieved Employees were provided with unlawful wage statements that failed to reflect all bonuses earned and all hours worked and failed to pay for all overtime hours or failed to pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and rest break premiums, and sick time if and when they did pay them. Defendants followed this unlawful policy and practice even though both Plaintiff and Defendants were aware that Plaintiff and the Aggrieved Employees worked more total hours or earned more bonuses than were reflected on the wage statements, including overtime hours, and were underpaid by regular rate miscalculation. Plaintiff and the Aggrieved Employees were unable to discern from their wage statements alone the actual hours they worked in total during a pay period and the rates they were paid for those hours worked. Defendants have thus also failed to comply with Labor Code § 226(a) by inaccurately reporting total hours worked and total wages earned by Plaintiff and the Aggrieved Employees, along with the appropriate applicable rates, among other requirements.

Defendants also required Plaintiff and the Aggrieved Employees to work hours off the clock for which they were not compensated. They were required to endure off the clock work addressed



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

Plaintiff has also requested records from Defendants and they have failed to constructively respond or to fully respond. Therefore, Plaintiff also asserts that Defendants have had a consistent policy of denying Plaintiff and Aggrieved Employees the right to inspect and receive all of their payroll records, timecards, and personnel records.

Additionally, Defendants have regularly required Plaintiff and the Aggrieved Employees to incur necessary business expenses in the course of performing their required job duties without reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to calls from management. Plaintiff and the Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802, and Defendants systematically failed to do so.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees the minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants’ control during breaks and due to the work demands placed upon them by Defendants’ management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Aggrieved Employees,



including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the foregoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement.

Defendants have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties or remain under Defendant's control. When considered in combination with the unlawful rounding to their detriment, Aggrieved Employees were not properly compensated, nor were they paid overtime rates or the



correct overtime rate (addressed above) for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the foregoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code § 226.7 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods due to the work demands placed upon them by Defendants' management, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks due to Defendants' policies and practices.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e., one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes.



Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants generally failed to authorize and permit any rest breaks, or provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond job requirements or simply failed to authorize and permit them at all. Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest break not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.



Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees inaccurately list the name and address of the legal entity that is the employer and failed to accurately account for unpaid wages, overtime, hours worked, bonuses earned and premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above, and failed to list accurate rates of pay due to miscalculations of overtime and premium pay. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods and by rounding. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees, and costs pursuant to Labor Code §§ 210, 218.5, 558, and 1194. In



failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the foregoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and



accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work-related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred in responding to calls from management. Plaintiff and the Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

Defendants thus uniformly failed to reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees.

Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 et seq.

Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.



Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 227.3, 246, 248.1, 248.2, 248.5, 351, 354, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2810.5, 2698, and 2699, *et seq.*; including as follows:

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

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

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

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



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

(f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants' failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code §§ 227.3, 2810.5, and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

///

///

///



This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against AHMC Seton Medical Center LLC; AHMC Healthcare Inc.; and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,
D.LAW, INC.

A handwritten signature in black ink, appearing to read 'Alvin B. Lindsay'.

Alvin B. Lindsay

a.lindsay@d.law

Jean Hopkins Power

jean@d.law

Cc: AHMC Healthcare, Inc. and AHMC Seton Medical Center LLC by Certified Mail

D.LAW, INC.
Emil Davtyan (SBN 299363)
emil@d.law
David Yeremian (SBN 226337)
d.yeremian@d.law
Alvin B. Lindsay (SBN 220236)
a.lindsay@d.law
Jean Hopkins Power (SBN 326509)
j.power@d.law
880 E Broadway
Glendale, CA 91205
Telephone: (818) 962-6465
Facsimile: (818) 962-6469

Attorneys for Plaintiff JESSICA L. CASTECH
on behalf of herself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JESSICA L. CASTECH, an individual, on
behalf of herself and others similarly
situated,

Plaintiff,

vs.

AHMC SETON MEDICAL CENTER
LLC, a California limited liability
company; AHMC HEALTHCARE INC., a
California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

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

DEMAND FOR JURY TRIAL

1 Plaintiff JESSICA L. CASTECH (hereinafter “Plaintiff”), on behalf of herself and all other
2 similarly situated non-exempt, hourly employees employed by Defendants in California during the
3 relevant period (collectively, “Employees”; individually, “Employee”), complain of Defendants as
4 follows:

5 **INTRODUCTION**

6 1. Plaintiff bring this action on behalf of herself and all current and former
7 Employees within the State of California who, at any time during the four years prior to the filing
8 of this lawsuit, are or were employed as non-exempt, hourly employees by Defendants AHMC
9 SETON MEDICAL CENTER LLC, a California limited liability company; AHMC
10 HEALTHCARE INC., a California corporation; and DOES 1 through 50 (all defendants being
11 collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants violated various
12 provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission
13 (IWC), and California Business & Professions Code, and seek redress for these violations.

14 2. Plaintiff, JESSICA L. CASTECH (“CASTECH”) worked as a recreation therapist
15 at one of Defendants’ facilities and locations in California. Defendants employed other similarly
16 situated Class members as recreation therapists, food service aids, restorative nursing assistants,
17 certified nursing assistants, and in similar and related positions in connection with providing
18 healthcare related services to Defendants’ customers and patients throughout California. Plaintiff
19 and the other similarly situated Class members worked at Defendants’ behest without being paid
20 all wages due and without being provided all required breaks. More specifically, Plaintiff and the
21 other similarly situated Class members were employed by Defendants and (1) shared similar job
22 duties and responsibilities (2) were subjected to the same policies and practices (3) and endured
23 similar violations at the hands of Defendants as the other Employees who served in similar and
24 related positions.

25 3. Defendants required Plaintiff and the Employees in the Class to work off the clock
26 and failed to record accurate time worked by these Employees, failed to pay them at the
27 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
28 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that

1 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
2 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain
3 under Defendants' control and were not provided with the opportunity to take full uninterrupted,
4 timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the
5 applicable paragraphs of the IWC Wage Orders.

6 4. Defendant AHMC SETON MEDICAL CENTER LLC ("AHMC SETON") is a
7 California limited liability company which lists its principal address with the California Secretary
8 of State in Alhambra, California in Los Angeles County. It lists its type of business as "Ownership
9 and Operation of Hospital." Defendant AHMC SETON is listed as the employer on the wage
10 statements issued to Plaintiff by Defendants, and upon information and belief to other Class
11 members, but with a different address in Daly City, California. Upon information and belief,
12 AHMC SETON operates various facilities where their California Employees are based out of,
13 including the Daly City, California facilities where Plaintiff worked. AHMC SETON's website
14 explains that: "AHMC Seton Medical Center has been serving the health care needs of San
15 Francisco and northern San Mateo County since its founding as Mary's Help Hospital in 1893."

16 5. Defendant AHMC HEALTHCARE INC. ("AHMC HEALTHCARE") is a
17 California corporation which lists its principal address with the California Secretary of State at the
18 same address as AMHC SETON in Alhambra, Los Angeles County, California. It lists its type of
19 business as "Hospital Investment and Management." Upon information and belief, AHMC
20 HEALTHCARE operates various facilities where their California Employees are based out of,
21 including the facilities where Plaintiff were based. On information and belief, Defendants maintain
22 operations and locations throughout Los Angeles County and California. AHMC
23 HEALTHCARE's website states that it, along with AHMC Anaheim Regional Medical Center,
24 Garfield Medical Center, Greater El Monte Community Hospital, Monterrey Park Hospital,
25 Parkview Community Medical Center, San Gabriel Valley Medical Center, Seton Coastside
26 Medical Center, Whittier Hospital Medical Center, and Defendant AHMC SETON are: "[s]erving
27 the Greater Los Angeles and San Francisco Metro Areas, the AHMC Healthcare Inc. affiliated
28 hospitals provide comprehensive health services."

1 6. This Court has jurisdiction over this Action pursuant to California Code of Civil
2 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
3 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
4 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
5 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
6 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Los Angeles
7 County, where Defendants are headquartered.

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

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

27 ///

28 ///

1 **FACTUAL BACKGROUND**

2 9. The Employees who comprise the Class, including Plaintiff, are non-exempt
3 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
4 Commission ("IWC"). During the period of four years prior to the filing of this action through its
5 resolution, Plaintiff and the Class members were either not paid by Defendants for all hours
6 worked or were not paid at the appropriate minimum, regular and overtime rates, including for
7 meal period and rest break premium payments. Plaintiff also contend that Defendants failed to pay
8 Plaintiff and the Class members all wages due and owing, including by miscalculating wages
9 owed and by requiring off the clock work, failed to provide meal and rest breaks, and failed to
10 furnish accurate wage statements and timely pay all wages owed, all in violation of various
11 provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

12 10. During the course of Plaintiff's and the Class members' employment with
13 Defendants, they were not paid all wages they were owed, including for all work performed
14 (resulting in "off the clock" work) and for all their overtime hours worked, or were not paid at the
15 correct rates. This has resulted in systematic and ongoing violations of the California Labor Code
16 and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-
17 exempt, hourly employees as recreation aids, food service aids, restorative nursing assistants,
18 certified nursing assistants, and in similar and related positions in connection with providing
19 healthcare related services to Defendants' customers and patients throughout Defendants' facilities
20 in California.

21 11. Plaintiff was employed by Defendant as recreation therapists with duties that
22 included providing activities for patients, assessments, and charting. Plaintiff generally worked at
23 least 40 hours per week, five to six shifts per week. Plaintiff's scheduled hours were generally
24 from 10:00 a.m. to 7 p.m. Plaintiff occasionally worked on Saturdays as required.

25 12. Despite their obligation to maintain accurate timekeeping records for hours worked
26 by the Class members, Defendants maintained improper time record-keeping systems across their
27 California facilities and locations. In fact, for all of Plaintiff's employment, Defendants paid
28 Employees by their scheduled hours, or Defendants' desired number of hours rather than their

1 actual hours worked. Defendants utilized a timekeeping system whereby employees swiped an
2 identification badge into the time keeping device. There was one timeclock on each floor of the
3 location where the Plaintiff worked. To access locked units where the Plaintiff worked, she
4 required an elevator key. Not all employees were permitted an elevator key. This caused Plaintiff
5 and Class Members to ask security personnel to grant them admission into the elevators, which
6 could take 20-30 minutes of waiting off the clock and not getting paid by Defendants.

7 Approximately two to three times per week, if the census was full, Plaintiff had to help waiting
8 patients as soon as they arrived at their unit before clocking in for about 5 minutes each time.

9 13. Moreover, Plaintiff and Class Members Employees were also required to record a
10 thirty-minute meal period by swiping their badges on the timeclock at the start and end time of the
11 meal period.

12 14. Plaintiff CASTECH was instructed by Defendants to “set an alarm” on her personal
13 mobile phone for 8 hours so she could “clock out and go back to work.” Plaintiff and Class
14 Members were required, approximately 2-3 times per week, to work after they clocked out for
15 work without being paid. Further, Plaintiff and Class members were required to be available on
16 their personal mobile telephones both on and off the clock to receive calls and texts from
17 Defendants’ managers.

18 15. Defendants followed a similar unlawful practice, upon information and belief, in
19 connection with other Employees in a concerted effort to limit and restrict regular and overtime
20 hours earned by and owing to Plaintiff and the other Class members. Time worked off the clock
21 also caused Plaintiff and other Class members to work beyond eight hours in a shift. As a result
22 of the above-described rounding and other off the clock work, Defendants failed to pay Plaintiff
23 and Class members overtime for several minutes to hours at the end of work shifts which
24 Defendants did not record in any timekeeping or payroll records.

25 16. Plaintiff were therefore not paid for all her hours worked at the required minimum,
26 overtime and double time wage rates due to Defendants’ policy and practice of requiring them to
27 work off the clock and without pay. With work shifts generally scheduled for eight hours or
28 more, this unpaid off the clock work resulted in Plaintiff and the Class members working past

1 eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times
2 their regular rate. Defendants thus systematically underpaid Plaintiff and the Class members by
3 failing to pay them at the required overtime rates for all hours over eight in a work shift or over
4 forty in a work week, and all hours over twelve in a day at the required double time rate. Upon
5 information and belief, the Class members were bound by similar scheduling and work policies
6 which Defendants required them to follow and endured similar violations at Defendants' hands as
7 Plaintiff.

8 17. Defendants have either failed to maintain timekeeping records for Plaintiff that
9 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants
10 required and the actual hours Plaintiff worked or have otherwise declined to produce them to
11 Plaintiff in response to a timely and lawful request. By failing to pay for all hours worked,
12 Defendants have committed knowing and intentional ongoing violations of the record keeping
13 requirements under the Labor Code §§ 226 and 1174.

14 18. As a result of the above-described unlawful requirements to work off the clock,
15 the failure to accurately record all hours worked and unlawful rounding, and the other wage
16 violations they endured at Defendants' hands, Plaintiff and the Class members were not properly
17 paid all wages earned and all wages owed to them by Defendants, including when working more
18 than eight hours in any given day and/or more than forty hours in any given week. As a result of
19 Defendants' unlawful policies and practices, Plaintiff and Class members incurred overtime hours
20 worked for which they were not adequately and completely compensated, in addition to the hours
21 they were required to work off the clock at their regular rates.

22 19. The failure to pay for all hours worked and underpayment of wages to Plaintiff
23 and the Class members is and has been a direct consequence of Defendants' unlawful
24 compensation policies and practices, which upon information and belief applied uniformly to the
25 Class members working at Defendants' locations and facilities. As a result of the above-described
26 unlawful requirements to work off the clock and regular rate miscalculation, the failure to
27 accurately record all hours worked and pay wages at the correct rates, and the other wage
28 violations they endured at Defendants' hands, Plaintiff and the Class members were not properly

1 paid all wages earned and all wages owed to them by Defendants, including when working more
2 than eight hours in any given day and/or more than forty hours in any given week.

3 20. Therefore, from at least four years prior to the filing of this lawsuit and continuing
4 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
5 hours worked and failing to pay minimum wages for all time worked, as required by California
6 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
7 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
8 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
9 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
10 Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants
11 paid Plaintiff and the Class members bonuses and shift differentials and other forms of
12 remuneration above and beyond their hourly pay, upon information and belief Defendants
13 miscalculated and therefore underpaid any overtime they paid during these pay periods by failing
14 to include all forms of remuneration in the regular rate used to calculate and pay overtime.

15 21. Defendants also failed to provide Plaintiff and the Class members with their
16 required meal periods, and the at least two ten-minute rest breaks required for scheduled shifts of
17 eight hours. Demanding workloads contributed to Defendants' common policy of failing to
18 provide lawful meal periods to Plaintiff and the Class members, as required under the Labor Code
19 and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to
20 authorize and permit Plaintiff and the employee Class Members to take all required 10-minute
21 rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

22 22. More specifically, Plaintiff worked shifts that entitled her to at least one meal
23 period, but Defendants' required Plaintiff and the Class members to prioritize work over taking
24 proper meal periods. In fact, Defendants made no effort to even schedule or otherwise account for
25 time for Plaintiff and the Class members to use for duty-free, net thirty minute meal periods. To
26 the extent Defendants required Plaintiff to work over ten hours on a work shift, Defendants also
27 failed to provide second meal periods and Defendants have produced no evidence of premium
28 payments for meal period violations under Labor Code 226.7. To the extent Defendants have paid

1 any such premiums, upon information and belief they failed to include all forms of remuneration,
2 including bonuses, wage differentials, and prevailing rates, in the regular rate at which Defendants
3 paid the premium. Plaintiff have no recollection of agreeing to waive any of her meal periods.

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

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

21 25. As a result, Defendants' failure to provide Plaintiff and the Class members with all
22 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
23 periods is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at
24 least four years prior to the filing of this action and through to the present, Plaintiff and the Class
25 members were unable to take off-duty breaks or were otherwise not provided with the opportunity
26 to take required breaks as required under the Labor Code and Wage Orders due to Defendants'
27 policies and practices. On the occasions when Plaintiff and the Class members were provided with
28 a meal period, it was often untimely or interrupted, or was impermissibly shortened, and

1 Employees were not provided with one hour's wages in lieu thereof. Meal period violations thus
2 occurred in one or more of the following manners:

- 3 (a) Class members were not provided full thirty-minute duty free meal periods
4 for work days in excess of five hours and were not compensated one hour's
5 wages in lieu thereof, all in violation of, among others, Labor Code §§
6 226.7, 512, and the applicable Industrial Welfare Commission Wage
7 Order(s);
- 8 (b) Class members were not provided second full thirty-minute duty free meal
9 periods for work days in excess of ten hours;
- 10 (c) Class members were required to work through at least part of their daily
11 meal period(s);
- 12 (d) Meal periods were provided after five hours of continuous work during a
13 shift; and
- 14 (e) Class members were restricted in their ability to take a full thirty-minute
15 meal period and were not permitted to leave their work premises during
16 meal periods and were otherwise required to remain under Defendants'
17 control during meal periods.

18 26. Similar violations resulted from Defendants' failure to authorize and permit
19 Plaintiff and the Class members to take duty-free, net ten minute rest breaks for every four hours
20 of shift work, or major fraction thereof. Plaintiff and the other similarly situated Class members
21 were either not authorized permitted the opportunity to take a rest break, or were required to
22 remain under Defendants' control and respond to instructions from management and job and
23 customer demands if and when they even attempted to take one. Upon information and belief,
24 Defendants also failed to authorize and permit Employees to leave the facilities during rest
25 breaks, evidencing Defendants' policy and practice of requiring Plaintiff and the Class members
26 to remain under their control during required off-duty rest break times.

27 27. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as
28 required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even

1 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free,
2 net ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees
3 during the relevant period, meaning Defendants' rest break policy was not to schedule or
4 otherwise authorize and permit them. Plaintiff and the Class members worked eight to twelve
5 hours on an average shift, and were required to receive at least two rest breaks or three rest breaks
6 on shifts over ten hours. Given the work demands, and pressure from Defendants' management,
7 Plaintiff and the Class members were compelled to not take rest breaks despite working extended
8 shifts. Defendants have produced no evidence of any payments for rest break violations under
9 Labor Code § 226.7. To the extent Defendants have paid any such premiums, upon information
10 and belief they failed to include all forms of remuneration, including bonuses, wage differentials,
11 prevailing wages and the like in the regular rate at which Defendants paid the premium.

12 28. Defendants' uniformly applied policies and practices thus resulted in untimely and
13 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class
14 members worked shifts of at least eight hours, which required at least two rest breaks, and often
15 worked shifts over ten hours, which required at least three rest breaks. Even on the occasions
16 when Defendants authorized and permitted Plaintiff to take a first rest break, they were not
17 permitted to take a second or a third break, and those that were provided were often late and
18 generally interrupted by job duties and requirements.

19 29. During rest periods, employers must relieve employees of all duties and relinquish
20 control over how employees spend their time. Plaintiff and the Class members were and are under
21 Defendants' control when they are working through rest breaks and remaining under Defendants'
22 control. Defendants have also provided either impermissibly shortened or untimely meal and rest
23 breaks to Plaintiff and the Class members. Plaintiff and the Employees in the Class were thus not
24 authorized and permitted to take lawful rest periods, were systematically required by Defendants
25 to work through or during breaks, and were not provided with one hour's wages in lieu thereof.
26 They were required to remain on-duty during breaks or portions of their breaks, thus making
27 them either untimely or shortened and on-duty, and they were also prevented from leaving the
28 facility and otherwise remain under Defendants' control during rest breaks under Defendants'

1 uniformly applied policies and practices. Rest period violations therefore arose in one or more of
2 the following manners:

- 3 (a) Class members were required to work without being provided a minimum
4 ten minute rest period for every four hours or major fraction thereof worked
5 and were not compensated one hour of pay at their regular rate of
6 compensation for each workday that a rest period was not provided, and to
7 the extent Defendants paid any premiums, they failed to include all forms of
8 remuneration in the regular rate used to calculate and pay them.
- 9 (b) Class members were not authorized and permitted to take timely rest periods
10 for every four hours worked, or major fraction thereof;
- 11 (c) Class members were required to remain on duty and under Defendants'
12 control during rest periods or otherwise had their rest periods interrupted by
13 work demands.

14 30. From at least four years prior to the filing of this lawsuit and continuing to the
15 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
16 deducting the Employees' earned wages, including by requiring off the clock work during breaks
17 and before and after work shifts and by miscalculating the regular rate and accordingly
18 underpaying overtime wages and meal and rest break premiums. Moreover, Defendants
19 unlawfully failed to pay for hours worked labeled "PM PROD" on Plaintiff wage statements. By
20 not compensating Employees for all hours worked at the correct rates, Defendants unlawfully
21 deducted wages earned by and owed to Plaintiff and the Class members, in violation of Labor
22 Code § 221.

23 31. Defendants also violated California Labor Code § 246 by not providing all
24 required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246
25 provides that an Employee who "works in California for the same employer for 30 or more days
26 within a year from the commencement of employment is entitled to paid sick days as specified in
27 this section." Paid sick time for nonexempt employees shall be calculated in the same manner as
28 the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants

1 failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and
2 earned sick days paid at the correct rate of pay, in violation of Labor Code § 246. Additionally
3 and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick
4 leave to the Class members during the relevant time period, including by failing to provide two
5 work weeks of COVID-19 supplemental paid sick leave paid at the correct rates as required under
6 Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are
7 enforced through Labor Code § 248.5, which requires that: “If paid sick days were unlawfully
8 withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or
9 two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate
10 penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.”
11 Plaintiff accordingly seek this relief available for Defendants’ failure to provide Employees with
12 all their required and earned sick days and all their COVID-19 supplemental sick leave in
13 violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and
14 applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and
15 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

16 32. Upon information and belief, Defendants also failed to provide Employees such as
17 Plaintiff at the time of their employment and thereafter with written notice complying with all the
18 requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer
19 shall provide to each employee a written notice, in the language the employer normally uses to
20 communicate employment-related information to the employee, containing” specific required
21 information. Upon information and belief, Defendants failed to provide this information to the
22 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
23 provide Plaintiff and the aggrieved employee Class members certain specific information upon
24 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with
25 any such information when they were hired, or have failed to produce it, and upon information
26 and belief Defendants committed similar violations in connection with similarly situated and
27 aggrieved Class members.

1 33. As a result of these illegal policies and practices, Defendants also engaged in and
2 enforced the following additional unlawful practices and policies against Plaintiff and the Class
3 members they seek to represent:

- 4 (a) failing to pay all wages owed to Class members who either were discharged,
5 laid off, or resigned in accordance with the requirements of Labor Code §§
6 201, 202, 203;
- 7 (b) failing to pay all wages owed to the Class members twice monthly in
8 accordance with the requirements of Labor Code § 204;
- 9 (c) failing to pay Class members all wages owed, including all meal and rest
10 period premium wages, and failing to pay them at the regular rate of
11 compensation;
- 12 (d) failing to maintain accurate records of Class members' hours worked and
13 earned wages and meal periods in violation of Labor Code §§ 226 and
14 1174(d) and section 7 of the applicable IWC Wage Orders; and
- 15 (e) failing to produce timekeeping records in response to Plaintiff' timely and
16 lawful request to receive them under these authorities.

17 34. Defendants have also consistently failed to provide Class members with timely,
18 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
19 including by the above-described requirement of off the clock work, failure to pay all overtime
20 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
21 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
22 miscalculating any overtime or meal period or rest break premium wages and by the systematic
23 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
24 difficult to account with precision for the unlawfully withheld wages and meal and rest period
25 compensation owed to Plaintiff and the Class, during the liability period, including because they
26 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
27 and because they did not implement and preserve a record-keeping method as required for non-
28 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable

1 California Wage Orders. Upon information and belief, time clock punches were not maintained or
2 were not accurately maintained for work shifts and meal periods. Defendants also failed to
3 accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff
4 and the Class members, including by failing to pay all overtime hours at the correctly calculated
5 overtime premium rate.

6 35. Defendants also provided Plaintiff and the Class members with wage statements
7 that failed to accurately report all hours worked and applicable hourly rates for all hours worked.
8 For the same reasons as explained above, Plaintiff and the Class members were provided with
9 unlawful wage statements that failed to reflect all hours worked and failed to pay for all overtime
10 hours or failed to pay overtime wages at the correct overtime premium rate, and Defendants
11 miscalculated meal and rest break premiums, and sick time if and when they did pay them.
12 Defendants followed this unlawful policy and practice even though both Plaintiff and Defendants
13 were aware that Plaintiff and the Class members worked more total hours than were reflected on
14 the wage statements, including overtime hours, and were underpaid by regular rate miscalculation.
15 Plaintiff and the Employees in the Class were unable to discern from their wage statements alone
16 the actual hours they worked in total during a pay period and the rates they were paid for those
17 hours worked.

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

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

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

8 38. Additionally, from at least four years prior to the filing of this lawsuit and
9 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
10 incur necessary business expenses in the course of performing their required job duties without
11 reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to
12 calls from management and uniform maintenance costs. Class members must be reimbursed for
13 these necessary business expenses under Labor Code § 2802, and Defendants systematically failed
14 to do so.

15 39. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
16 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
17 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
18 1194.2 1197, 1198, 1198.5, 1199, 2802, 2810.5, and California Code of Regulations, Title 8,
19 section 11000 *et seq.*

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

24 **CLASS ALLEGATIONS**

25 41. Plaintiff brings this class action on behalf of herself and all others similarly situated
26 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or
27 “Class members”) defined as follows: “All individuals employed by Defendants at any time
28 during the period of four (4) years prior to the filing of this lawsuit and ending on a date as

determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees within the State of California.” This includes recreation therapists, food service aids, restorative nursing assistants, certified nursing assistants, and those in similar and related positions in connection with providing healthcare related services to Defendants’ customers and patients throughout California. Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

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

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

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

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

e. Subclass 5. On-Call Subclass: All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week while they were on-call.

f. Subclass 6. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Unauthorized Deductions from Wages Subclass. All Class members who were subject to Defendants’ policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.

h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All Class members who were subject to Defendants’ policy and practice of not timely paying all wages

1 earned when they were due and payable at least twice monthly.

2 i. Subclass 9. Termination Pay Subclass. All Class members who, within the
3 applicable limitations period, either voluntarily or involuntarily separated from their employment
4 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
5 termination.

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

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

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

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

19 43. Defendants, as a matter of company policy, practice and procedure, and in violation
20 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
21 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
22 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
23 worked by Plaintiff and the other members of the Class, even though Defendants enjoyed the
24 benefit of this work, required Employees to perform this work and permitted or suffered to permit
25 this work. Defendants have uniformly denied these Class members wages to which these
26 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
27 order to unfairly cheat the competition and unlawfully profit.

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

6 **A. Numerosity**

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

13 **B. Commonality**

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

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

or provide premium pay in lieu thereof;

- f. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements and wage statements that omitted many of the Section 226(a) requirements.
- g. Whether Defendants violated Labor Code § 221;
- h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- i. Whether Defendants' conduct was willful;
- j. Whether Defendants violated Labor Code § 226 and § 1174 and §1198 and the IWC Wage Orders by failing to maintain accurate records of Class members' earned wages and work periods;
- k. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- m. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;
- n. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave;
- o. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- q. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

47. The claims of the named Plaintiff are typical of those of the other Employees. The Employee Class members all sustained injuries and damages arising out of and caused by

1 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
2 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff' claims for the
3 off the clock work and meal and rest violations they were required to endure are typical of those of
4 the other Class members.

5 **D. Adequacy of Representation**

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

9 **E. Superiority of Class Action**

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

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

26 51. Class action treatment will allow those persons similarly situated to litigate their
27 claims in the manner that is most efficient and economical for the parties and the judicial system.
28 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.

1 Plaintiff contemplate the eventual issuance of notice to the proposed Class members that would set
2 forth the subject and nature of the instant action. The Defendants' own business records can be
3 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
4 that any further notice is required additional media and/or mailings can be used.

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

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

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

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

25 55. Defendants failed to pay Employees minimum wages for all hours worked.
26 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
27 would work hours and not receive wages, including as alleged above in connection with off the
28 clock work, including all the time required to remain on duty and under Defendants' control

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

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

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

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

1 unpaid balance of the full amount of this minimum wage or overtime compensation, including
2 interest thereon, reasonable attorney's fees and costs of suit."

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

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

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

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

26 63. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are
27 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
28 interest thereon.

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

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

19 **SECOND CAUSE OF ACTION**

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

21 **(Against All Defendants)**

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

24 67. California Labor Code § 1194 provides that "any employee receiving less than the
25 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
26 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
27 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
28 may be maintained directly against the employer in an employee's name without first filing a

1 claim with the Division of Labor Standards and Enforcement.

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

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

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

28

1 71. Therefore, Employees were not properly compensated, nor were they paid overtime
2 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
3 Based on information and belief, Defendants did not make available to Employees a reasonable
4 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
5 time entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
6 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
7 Class members to work through meal periods when they were required to be clocked out or to
8 otherwise work off the clock to complete their daily job duties.

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

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

27 74. Defendants' failure to pay compensation in a timely fashion also constituted a
28 violation of California Labor Code § 204, which requires that all wages shall be paid

1 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
2 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
3 and overtime compensation earned by Employees. Each such failure to make a timely payment of
4 compensation to Employees constitutes a separate violation of California Labor Code § 204.

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

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

19 **THIRD CAUSE OF ACTION**

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

21 **(Against All Defendants)**

22 77. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in
23 full herein.

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

1 not less than thirty (30) minutes.

2 79. Defendants failed to provide Employees with meal periods as required under the
3 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
4 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
5 provided them after Employees worked beyond the fifth hour of their shifts or Employees
6 otherwise had them shortened and interrupted by work demands and requirements to perform off
7 the clock work and remain under Defendants' control. Furthermore, upon information and belief,
8 on the occasions when Employees worked more than ten hours in a given shift, they did so
9 without receiving a second uninterrupted thirty-minute meal period as required by law.

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

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

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

penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and other statutes and applicable IWC Wage Order paragraphs.

FOURTH CAUSE OF ACTION

REST-BREAK PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

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

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

85. Employees consistently worked consecutive four hour shifts and were generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for each consecutive four hour shift, and Defendants failed to provide Employees with timely rest breaks of not less than ten minutes for each consecutive four hour shifts. Defendants made no effort to authorize and permit Plaintiff and the Class members to take lawful rest breaks. Employees were often required to work or to otherwise remain under Defendants' control during rest periods, including by responding to work requirements, being prohibited from leaving the worksites, and had breaks provided untimely as a result of the above described off the clock work.

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

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

1 88. Defendants failed to authorize and permit Plaintiff and the Class members to take
2 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
3 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
4 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
5 12 and 20 of the applicable IWC Wage Orders. To the extent Defendants paid any rest break
6 premiums, they upon information and belief, underpaid them by miscalculating the regular rate of
7 compensation by not including all forms of remuneration in it. Defendants thus failed to
8 compensate the Employees in the Class for each rest period not provided or inadequately
9 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
10 Wage Order.

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

16 **FIFTH CAUSE OF ACTION**
17 **VIOLATION OF LABOR CODE § 226(a)**
18 **(Against All Defendants)**

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

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

1 92. Defendants failed to provide Plaintiff and the similarly situated Employee Class
2 members with accurate itemized wage statements in writing, as required by the Labor Code and
3 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
4 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
5 including for all overtime and double time hours worked and for deficient meal periods and rest
6 breaks, all of which Defendants knew or reasonably should have known were owed to the
7 Employees, as alleged above.

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

20 94. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
21 and intentional failure to provide them with the wage and hour statements as required by law and
22 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
23 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
24 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
25 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the
26 wage statement alone one or more of the following: (i) The amount of the gross wages or net
27 wages paid to the employee during the pay period or any of the other information required to be
28 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of

1 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
2 wages paid to the employee during the pay period, (iii) The name and address of the employer
3 and, (iv) The name of the employee and only the last four digits of his or her social security
4 number or an employee identification number other than a social security number. For purposes
5 of Labor Code § 226(e) “promptly and easily determine” means a reasonable person [i.e. an
6 objective standard] would be able to readily ascertain the information without reference to other
7 documents or information.

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

16 96. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
17 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
18 Class suffered injuries, including among other things confusion over whether they received all
19 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
20 them to make mathematical computations to analyze whether the wages paid in fact compensated
21 them correctly for all hours worked.

22 97. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
23 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of
24 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
25 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
26 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
27 an award of costs and reasonable attorneys’ fees.
28

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 221
(Against All Defendants)

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

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

100. Defendants unlawfully received and/or collected wages from the Employees in the Class by requiring off the clock work, by miscalculating overtime, and by not paying one hour of pay at the regular rate of compensation for every meal and rest period violation endured by Plaintiff and the other Class members, as alleged above. Moreover, Defendants unlawfully made deductions labeled “DED-PKG TICKET” on Plaintiff wage statements. On information and belief, these deductions correspond to parking tickets purportedly incurred by Plaintiff. However, Plaintiff never authorized these deductions from her wages in accordance with Labor Code section 224. By not compensating Employees for all hours worked and meal and rest period premiums, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

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

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

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

103. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in

1 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
2 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
3 during which the labor was performed, and labor performed between the 16th and the last day,
4 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
5 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment
6 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.” As detailed above, Defendants
8 maintained a consistently applied policy and practice of not paying all wages earned between the
9 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
10 between the 16th and the last day of the month between the 1st and 10th day of the following month.
11 Defendants similarly failed to pay all wages earned by not more than seven calendar days
12 following the close of the payroll period.

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

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

27 106. As a result of the unlawful acts of Defendants, Plaintiff and the Class they seek to
28 represent have been deprived of wages in amounts to be determined at trial, and they are entitled

1 to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
2 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
3 applicable IWC Wage Orders.

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

7 107. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in
8 full herein.

9 108. Plaintiff and numerous Class members are no longer employed by Defendants; they
10 either quit Defendants' employ or were fired therefrom.

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

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

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

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

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

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

10 **NINTH CAUSE OF ACTION**

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

12 **(Against All Defendants)**

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

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

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

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

26 118. Defendants have maintained a common unlawful policy and practice of failing to
27 accurately record all hours worked and all meal period start and end times.

28

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

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

TENTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802

(Against All Defendants)

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

122. Plaintiff is informed and believes and based thereon allege that throughout the period applicable, Defendants required Plaintiff and the Class members to pay for necessary work related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred in responding and replying to calls from management. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

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

124. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

125. Therefore, Plaintiff and the Class members are entitled to reimbursement for any and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9

1 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
2 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
3 from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the
4 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

5 **ELEVENTH CAUSE OF ACTION**
6 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***
7 **(Against All Defendants)**

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

10 127. Plaintiff, on behalf of herself, the Employees in the Class, and the general public,
11 bring this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
12 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
13 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
14 the public interest within the meaning of Code of Civil Procedure § 1021.5.

15 128. Plaintiff is a "person" within the meaning of Business & Professions Code
16 § 17204, have suffered injury, and therefore have standing to bring this cause of action for
17 injunctive relief, restitution, and other appropriate equitable relief.

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

27 130. Wage-and-hour laws express fundamental public policies. Paying employees their
28 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental

1 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
2 vigorously to enforce minimum labor standards, to ensure that employees are not required or
3 permitted to work under substandard and unlawful conditions, and to protect law-abiding
4 employers and their employees from competitors who lower costs to herself by failing to comply
5 with minimum labor standards.

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

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

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

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

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

27 136. Unless restrained by this Court Defendants will continue to engage in such
28 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court

1 should make such orders or judgments, including the appointment of a receiver, as may be
2 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
3 deceptive practice prohibited by the Business & Professions Code, including but not limited to
4 the disgorgement of such profits as may be necessary to restore Employees to the money
5 Defendants have unlawfully failed to pay.

6 **RELIEF REQUESTED**

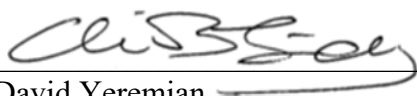
7 WHEREFORE, Plaintiff prays for the following relief:

- 8 1. For an order certifying this action as a class action;
- 9 2. For compensatory damages in the amount of the unpaid minimum wages for work
10 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
11 the filing of this action, as may be proven;
- 12 3. For liquidated damages in the amount equal to the unpaid minimum wage and
13 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 14 4. For compensatory damages in the amount of all unpaid wages, including overtime
15 and double-time pay, as may be proven;
- 16 5. For compensatory damages in the amount of the hourly wage made by Employees
17 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
18 years prior to the filing of this action, as may be proven;
- 19 6. For compensatory damages in the amount of the hourly wage made by Employees
20 for each day requisite rest breaks were not provided or were deficiently provided where no
21 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
22 be proven;
- 23 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
- 24 8. For restitution and/or damages and penalties for Defendants' failure to pay all
25 wages due twice monthly under Labor Code § 204, as may be proven;
- 26 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
27 for all class members in violation of Labor Code § 221, as may be proven;
- 28

10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
13. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;
14. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
15. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
16. For other wages and penalties under the Labor Code as may be proven;
17. For all general, special, and incidental damages as may be proven;
18. For an award of pre-judgment and post-judgment interest;
19. For an award providing for the payment of the costs of this suit;
20. For an award of attorneys' fees; and
21. For such other and further relief as this Court may deem proper and just.

DATED: May 29, 2024

D.LAW, INC.

By 
David Yeremian
Alvin B. Lindsay
Jean Hopkins Power
Attorneys for Plaintiff Jessica L. Castech
and the putative Class

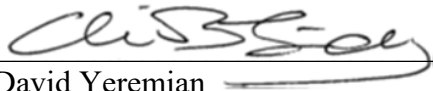
DEMAND FOR JURY TRIAL

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

DATED: May 29, 2024

D.LAW, INC.

By



David Yeremian
Alvin B. Lindsay
Jean Hopkins Power
Attorneys for Plaintiff Jessica L. Castech
and the putative class