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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

JENNIFER MARTINEZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

STERLING COMMONS LIMITED
PARTNERSHIP, a California limited
partnership; KOERICK STERLING
COMMONS G.P.-VICTORVILLE, LLC,
a California limited liability company;
KOELSCH SENIOR COMMUNITIES
LLC, a Washington limited liability
company; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: CIVVS2400252

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

- (1) FAILURE TO PAY ALL MINIMUM
WAGES OWED (LABOR CODE §§ 1194,
1194.2, 1197);**
- (2) FAILURE TO PAY ALL OVERTIME
WAGES OWED (LABOR CODE §§ 204,
510, 558, 1194, 1198);**
- (3) FAILURE TO PROVIDE MEAL PERIODS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) FAILURE TO AUTHORIZE AND PERMIT
REST PERIODS (LABOR CODE §§ 226.7,
516);**
- (5) FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS
(LABOR CODE § 226 *et seq.*);**
- (6) FAILURE TO INDEMNIFY ALL
NECESSARY BUSINESS EXPENDITURES
(LABOR CODE § 2802);**

1 (7) **FAILURE TO PAY ALL WAGES OWED**
2 **UPON TERMINATION (LABOR CODE §§**
3 **201-203);**

4 (8) **UNFAIR COMPETITION (BUS & PROF**
5 **CODE § 17200 *et seq.*); and**

6 (9) **CIVIL PENALTIES UNDER THE**
7 **PRIVATE ATTORNEYS GENERAL ACT**
8 **(LABOR CODE § 2698 *et seq.*)**

9 **DEMAND FOR JURY TRIAL**
10 **UNLIMITED CIVIL CASE**
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1 Plaintiff Jennifer Martinez (“Plaintiff”), on behalf of herself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint (“FAC”)
3 against Sterling Commons Limited Partnership, a California limited partnership, Koerick Sterling
4 Commons G.P.-Victorville, LLC, a California limited liability company, Koelsch Senior
5 Communities LLC, a Washington limited liability company, and DOES 1 to 100, inclusive
6 (collectively “Defendants”), and on information and belief alleges as follows:

7 **JURISDICTION**

8 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
9 Complaint for recovery of unpaid wages and penalties under California Business and Professions
10 Code § 17200 *et. seq.*, Labor Code §§ 201, 202, 203, 204, 218 *et seq.*, 226 *et seq.*, 226.7, 510,
11 512, 516, 558, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, 2802 and Industrial Welfare Commission
12 Wage Order 5 (the “Wage Order 5”), in addition to seeking declaratory relief and restitution.
13 This FAC is brought pursuant to California Code of Civil Procedure § 382. This Court has
14 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
15 controversy exceeds this Court's jurisdictional minimum.

16 **VENUE**

17 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
18 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in
19 the County of San Bernardino. Defendants own, maintain offices, transact business, have
20 agent(s) within the County of San Bernardino, and/or otherwise are found within the County of
21 San Bernardino, and Defendants are within the jurisdiction of this Court for purposes of service
22 of process.

23 **PARTIES**

24 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times
25 herein, Plaintiff was a California resident. During the four years immediately preceding the
26 filing of the lawsuit in this action and within the statute of limitations periods applicable to each
27 cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.
28 Plaintiff was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost

1 money and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 201,
2 202, 203, 204, 218.5, 218.6, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1194, 1194.2, 1197, 1198,
3 2698 *et seq.*, 2802; California Business and Professions Code § 17200 *et seq.* (“Unfair
4 Competition Law” or “UCL”); and Wage Order 5, which sets employment standards for the
5 Public Housekeeping Industry, which includes the industry in which Plaintiff worked for
6 Defendants.

7 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
8 years preceding the filing of the lawsuit and continuing to the present, Defendants did (and
9 continue to do) business as nursing and/or assisted living facilities. Defendants employed
10 Plaintiff and other, similarly-situated non-exempt employees within San Bernardino County and
11 the state of California and, therefore, were (and are) doing business in San Bernardino County
12 and the State of California.

13 5. Plaintiff does not know the true names or capacities, whether individual, partner,
14 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
15 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
16 amend this FAC when such true names and capacities are discovered. Plaintiff is informed, and
17 believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
18 partners, or corporate, were responsible in some manner for the acts and omissions alleged
19 herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 20) to be
20 subject to the unlawful employment practices, wrongs, injuries and damages complained of
21 herein.

22 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
23 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

24 7. At all times herein mentioned, each of said Defendants participated in the doing
25 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
26 Defendants, and each of them, were the agents, servants, and employees of each and every one
27 of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
28 were acting within the course and scope of said agency and employment. Defendants, and each

of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the Classes.

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff, a former non-exempt employee, was employed by Defendants from on or about December 13, 2022 through on or about August 7, 2023. During her employment with Defendants, Plaintiff held the job title of Caregiver in which her duties included, without limitation, changing residents, feeding residents, and transferring residents to/from a wheelchair.

10. During her employment with Defendants, Plaintiff was generally scheduled to work five days a week from 6:00 a.m. to 2:30 p.m. Defendants required Plaintiff to clock in and out by logging in with her fingerprint or employee code to a timekeeping system that kept track and record of her time worked. Plaintiff frequently worked 11-13 hour shifts.

11. During her employment with Defendants, Defendants would keep track of Plaintiff's time worked and would unlawfully shave Plaintiff's work time such that Plaintiff would not be fully paid for all time worked. Specifically, Plaintiff routinely worked overtime but her total number of hours were consistently reduced by Defendants and did not reflect her actual time worked. This time-shaving utilized by Defendants was not even-handed over time and would almost exclusively round and shave in Defendants' favor such that Plaintiff was routinely unpaid for her time worked. Additionally, Plaintiff performed work duties prior to clocking in and after clocking out and received calls from Defendants outside of her working hours regarding work. As a result, Defendants failed to pay Plaintiff all required minimum and overtime wages.

12. Throughout Plaintiff's employment with Defendants, Plaintiff was not provided all legally required meal periods due to Defendants' meal period policies and practices, which

1 fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work and
2 fail to provide second duty-free 30-minute meal periods for shifts of over 10.0 hours in violation
3 of California law. As a result of the work demands imposed by Defendants, Defendants often
4 provided meal periods that were either interrupted, late, or short, or failed to provide a required
5 meal period altogether. Often, Defendants would adjust Plaintiff's time records to reflect that
6 she took her meal period before the fifth hour of work or otherwise compliant meal period.

7 13. Further, Defendants' meal period policies and practices fail to provide Plaintiff
8 and the other non-exempt employees a second meal period for shifts over 10.0 hours. As a result,
9 when Plaintiff worked in excess of 10.0 hours, she was not provided with a second 30-minute
10 meal period in violation of California law.

11 14. Although Plaintiff was not provided with all legally-compliant meal periods to
12 which she was entitled, Defendants failed to compensate Plaintiff with the required meal period
13 premium for each workday in which she experienced a meal period violation as mandated by
14 Labor Code § 226.7.

15 15. Plaintiff was also not authorized and permitted to take all legally required and
16 compliant rest periods due to Defendants' rest period policies and practices. Specifically, due to
17 Defendants' practices of understaffing and the work demands imposed by Defendants,
18 Defendants did not authorize and permit one rest period for every four hours worked, or *major*
19 *fraction thereof*. Indeed, Plaintiff has not been authorized and permitted to take any rest periods
20 during her employment with Defendants.

21 16. On those occasions when Plaintiff was not authorized and permitted to take all
22 legally-compliant rest periods to which she was entitled, Defendants failed to compensate
23 Plaintiff with the required rest period premium for each workday in which she experienced a rest
24 period violation as mandated by Labor Code § 226.7.

25 17. Defendants also failed to reimburse Plaintiff and other non-exempt employees for
26 necessary business expenses incurred during the relevant time period. Specifically, Defendants
27 required Plaintiff to purchase supplies, including without limitation, gloves and wipes to perform
28 her job duties but was not reimbursed for her purchases. Defendants also required Plaintiff to

1 use her personal cellular phone for business purposes. Accordingly, despite Plaintiff and the
2 other non-exempt employees being required to purchase their own supplies and use their
3 personal cellular phones, Defendants did not reimburse Plaintiff or other non-exempt employees
4 for all necessary expenditures or losses incurred by the employee in direct consequence of the
5 discharge of their duties, or of their obedience to the directions of the employer in violation of
6 California law.

7 18. As a result of Defendants' failure to pay all minimum wages, overtime wages, as
8 well as meal period premium wages and rest period premium wages, Defendants maintained
9 inaccurate payroll records and issued inaccurate wage statements to Plaintiff.

10 19. As a further result of Defendants' failure to pay all overtime and/or minimum
11 wages owed, and failure to pay all meal and rest period premium wages, Defendants failed to
12 provide pay Plaintiff all wages owed upon her separation of employment with Defendants.

13 **CLASS ACTION ALLEGATIONS**

14 20. **Class Definitions:** Plaintiff brings this action on behalf of herself and the
15 following Classes pursuant to § 382 of the Code of Civil Procedure:

16 a. The Minimum Wage Class: consists of all of Defendants' current and former non-
17 exempt employees in California who were subject to Defendants' timekeeping
18 policies/practices, during the four years preceding the filing of the lawsuit through
19 the present.

20 b. The Overtime Class: consists of all of Defendants' current and former non-
21 exempt employees in California who worked more than eight hours per day
22 and/or forty hours per week and subject to Defendants' timekeeping
23 policies/practices, during the four years immediately preceding the filing of this
24 lawsuit through the present date.

25 c. The Meal Period Class consists of all of Defendants' current and former non-
26 exempt employees who worked at least one shift in excess of 5.0 hours, during
27 the four years immediately preceding the filing of the lawsuit through the present.
28

1 d. The Rest Period Class consists of all of Defendants' current and former non-
2 exempt employees in California who worked at least one shift in excess of 3.5
3 hours during the four years immediately preceding the filing of the lawsuit
4 through the present.

5 e. The Wage Statement Class consists of all members of the: (i) Minimum Wage
6 Class; (ii) Overtime Class; (iii) Meal Period Class; and/or (iv) Rest Period Class
7 during the one year immediately preceding the filing of the lawsuit through the
8 present.

9 f. The Waiting Time Penalty Class consists of all members of the: (i) Overtime
10 Class; (ii) Minimum Wage Class; (iii) Meal Period Class; and/or (iv) Rest Period
11 Class who separated their employment with Defendants during the three years
12 immediately preceding the filing of the lawsuit through the present.

13 g. The Reimbursement Class consists of all of Defendants' current and former non-
14 exempt employees who worked in California and purchased supplies to carry out
15 their duties and/or used their personal cellular phone in connection with the
16 discharge of their work duties, during the four years immediately preceding the
17 filing of the lawsuit through the present;

18 h. The UCL Class consists of members of (i) Overtime Class; (ii) Minimum Wage
19 Class; (iii) Meal Period Class, (iv) Rest Period; (v) Wage Statement Class; (vi)
20 Waiting Time Penalty Class; and/or (vii) Reimbursement Class during the four
21 years immediately preceding the filing of the lawsuit through the present.

22 21. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court,
23 to amend or modify the description of the various classes with greater specificity or further
24 division into subclasses or limitation to particular issues.

25 22. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joinder of all members would be unfeasible and not practicable. The membership of the Classes
27 is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes
28 number greater than fifty (50) individuals. The identity of such membership is readily

ascertainable via inspection of Defendants' employment records.

23. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

- i. Whether Defendants properly paid all minimum wages and/or overtime wages at the regular rate to members of the Minimum Wage Class and Overtime Class pursuant to Labor Code §§ 204, 221, 510, 558, 1192, 1194, 1194.2, 1197, 1197.1, 1198, and 1774;
- ii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iii. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- iv. Whether Defendants properly reimbursed the members of the Reimbursement Class for all necessary business expenses incurred;
- v. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- vi. Whether Defendants paid all wages owed to its terminated/separated employees at the time of said termination/separation pursuant to Labor Code §§ 201-203; and
- vii. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendants owe the classes restitution.

24. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform minimum wage, overtime wage and prevailing wage payment, and meal and rest period

1 policies/practices. As such, the common questions predominate over individual questions
2 concerning each individual class member's showing as to their eligibility for recovery or as to
3 the amount of their damages.

4 **25. Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
5 Plaintiff was employed by Defendants as a non-exempt employee in California during the
6 statute(s) of limitations period applicable to each cause of action pled in the lawsuit. As alleged
7 herein, Plaintiff, like the members of the Classes, was not provided all legally required minimum
8 wages, overtime wages, and prevailing wages, was not provided with all required meal periods,
9 was not authorized and permitted to take all required rest periods, did not receive meal and rest
10 period premium wages when he was not provided compliant meal periods or not authorized or
11 permitted to take compliant rest periods, was not reimbursed for necessary business
12 expenditures, was not provided accurate, itemized wage statements, and was not provided with
13 all wages due upon termination.

14 **26. Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
15 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
16 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
17 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
18 and-hour class actions in state and federal courts in the past and are committed to vigorously
19 prosecuting this action on behalf of the members of the Classes.

20 **27. Superiority:** The California Labor Code is broadly remedial in nature and serves
21 an important public interest in establishing minimum working conditions and standards in
22 California. These laws and labor standards protect the average working employee from
23 exploitation by employers who have the responsibility to follow the laws and who may seek to
24 take advantage of superior economic and bargaining power in setting onerous terms and
25 conditions of employment. The nature of this action and the format of laws available to Plaintiff
26 and members of the Classes make the class action format a particularly efficient and appropriate
27 procedure to redress the violations alleged herein. If each employee were required to file an
28 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they

1 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
2 their vastly superior financial and legal resources. Moreover, requiring each member of the
3 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
4 employees who would be disinclined to file an action against their former and/or current
5 employer for real and justifiable fear of retaliation and permanent damages to their careers at
6 subsequent employment. Further, the prosecution of separate actions by the individual class
7 members, even if possible, would create a substantial risk of inconsistent or varying verdicts or
8 adjudications with respect to the individual class members against Defendants herein; and which
9 would establish potentially incompatible standards of conduct for Defendants; and/or legal
10 determinations with respect to individual class members which would, as a practical matter, be
11 dispositive of the interest of the other class members not parties to adjudications or which would
12 substantially impair or impede the ability of the class members to protect their interests. Further,
13 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
14 individual prosecution considering all of the concomitant costs and expenses attending thereto.
15 As such, the Classes identified in Paragraph 20 are maintainable as a Class under § 382 of the
16 Code of Civil Procedure.

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO PAY ALL MINIMUM WAGES OWED**

19 **(AGAINST ALL DEFENDANTS)**

20 28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 29. This cause of action is brought pursuant to Labor Code §§ 204, 558, 1194, 1197
22 and 1198 which provide that all non-exempt employees are entitled to all minimum wages for
23 all hours worked, and provide a private right of action for the failure to pay all minimum wage
24 compensation for all work performed.

25 30. At all times relevant herein, Defendants were required to properly compensate
26 Plaintiff and the members of the Minimum Wage Class for all hours worked pursuant to
27 California Labor Code §§ 1194, 1197 and 1198, and the Wage Order 5. The Wage Order 5,
28 Section 4 requires an employer to pay to every employee on the established payday for the period

involved not less than the applicable minimum wage for all hours worked in the payroll period. Defendants caused Plaintiff and the members of the Minimum Wage Class to work hours in a workweek but did not properly compensate Plaintiff and the members of the Minimum Wage Class at least minimum wages for such hours.

31. At all times relevant herein, Defendants lacked good faith and had no reasonable grounds for believing that their practices in failing to pay all minimum wages owed at the applicable rate was not a violation of any provision of the Labor Code relating to minimum wage, or an order of the Industrial Welfare Commission. Defendants, therefore, in addition to owing minimum wages to Plaintiff and the members of the Minimum Wage Class, also owe liquidated damages in an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to Labor Code § 1194.2.

32. The foregoing practices and policies are unlawful and create entitlement to recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages owing, including interest thereon, as well as statutory penalties, liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 558, 1194, 1194.2, 1197, 1197.1 and 1198, the Wage Order 5, California Code of Civil Procedure § 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES OWED

(AGAINST ALL DEFENDANTS)

33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

34. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198 which provide that all non-exempt employees are entitled to all overtime wages for all overtime worked (hours in excess of 8 in one day and/or 40 in one week), and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

35. At all times relevant herein, Defendants were required to properly compensate Plaintiff and the members of the Overtime Class for all overtime hours worked pursuant to

1 California Labor Code §§ 510 and 1194, and the Wage Order 5. Labor Code § 510 and the Wage
2 Order 5, Section 3 require an employer to pay an employee “one and one-half (1½) times the
3 regular rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours per
4 workweek. Labor Code § 510 and the Wage Order 5, Section 3 also require an employer to pay
5 an employee double the employee’s regular rate for work in excess of 12 hours each workday
6 and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants
7 caused Plaintiff and the members of the Overtime Class to work in excess of 8 hours in a workday
8 and/or 40 hours in a workweek but did not properly compensate Plaintiff and the members of
9 the Overtime Class at one and one-half their regular rate of pay for such hours.

10 36. The foregoing practices and policies are unlawful and create entitlement to
11 recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid
12 amount of overtime premium owing, including interest thereon, as well as statutory penalties,
13 civil penalties, and attorneys’ fees and costs of suit, pursuant to Labor Code §§ 204, 210, 216,
14 218.5, 218.6, 510, 558, 1194 and 1198, the Wage Order 5, California Code of Civil Procedure §
15 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

16 **THIRD CAUSE OF ACTION**

17 **FAILURE TO PROVIDE MEAL PERIODS**

18 **(AGAINST ALL DEFENDANTS)**

19 37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 failed in their affirmative obligation to provide all of their non-exempt employees in California,
22 including Plaintiff and members of the Meal Period Class, with all legally compliant meal
23 periods in accordance with the mandates of the California Labor Code and the Wage Order 5, §
24 11. Despite Defendants’ violations, Defendants did not pay an additional hour of pay to Plaintiff
25 and members of the Meal Period Class at their respective regular rates of pay, in accordance with
26 California Labor Code §§ 204, 210, 226.7, and 512.

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1 39. As a result, Defendants are responsible for paying premium compensation for
2 meal period violations pursuant to Labor Code §§ 226.7, 512, and 558, and the Wage Order 5,
3 including interest thereon, statutory penalties, civil penalties, and costs of suit.

4 **FOURTH CAUSE OF ACTION**

5 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

6 **(AGAINST ALL DEFENDANTS)**

7 40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

8 41. The Wage Order 5, § 12 and California Labor Code §§ 226.7, 516 and 558
9 establish the right of employees to be authorized and permitted to take a paid rest period of at
10 least ten (10) minutes net rest time for each four (4) hour period worked, or *major fraction*
11 *thereof*.

12 42. As alleged herein, Defendants failed to authorize and permit Plaintiff and
13 members of the Rest Period Class to take all required rest periods.

14 43. The foregoing violations create an entitlement to recovery by Plaintiff and
15 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
16 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
17 to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

18 **FIFTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

20 **(AGAINST ALL DEFENDANTS)**

21 44. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
24 and members of the Wage Statement Class with complete and accurate wage statements with
25 respect to their rates of pay, hours worked at each rate of pay, total gross wages earned, and total
26 net wages earned in violation of Labor Code § 226 *et seq.*

27 46. Defendants' failures in furnishing Plaintiff and members of the Wage Statement
28 Class with complete and accurate itemized wage statements resulted in actual injury, as said

1 failures led to, among other things, the non-payment of all earned overtime and/or minimum
2 wages as well as meal and rest period premium wages, and deprived them of the information
3 necessary to identify the discrepancies in Defendants' reported data.

4 47. Defendants' failures create an entitlement to recovery by Plaintiff and members
5 of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
6 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
7 costs of suit according to California Labor Code § 226 *et seq.*

8 **SIXTH CAUSE OF ACTION**

9 **FAILURE TO INDEMNIFY ALL NECESSARY BUSINESS EXPENDITURES**

10 **(AGAINST ALL DEFENDANTS)**

11 48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

12 49. This cause of action is brought pursuant to Labor Code § 2802, which requires an
13 employer to "indemnify his or her employees for all necessary expenditures or losses incurred
14 by the employee in direct consequence of the discharge of his or her duties, or of his or her
15 obedience to the directions of the employer."

16 50. As alleged herein, and due to their unlawful reimbursement policies and/or
17 practices, Defendants failed to indemnify Plaintiff and the members of the Reimbursement Class
18 all of their necessary business expenses, including, among other things, expenses related to their
19 purchase of supplies and use of their personal cellular phones.

20 51. As a proximate result of Defendants' failure to indemnify Plaintiff and the
21 members of the Reimbursement Class for their necessary business expenses incurred, Plaintiff
22 and members of the Reimbursement Class are entitled to damages, attorneys' fees and costs of
23 suit, and interest thereon, in sums to be shown according to proof at trial, pursuant to Labor Code
24 § 2802.

25 **SEVENTH CAUSE OF ACTION**

26 **FAILURE TO PAY ALL WAGES OWED UPON TERMINATION**

27 **(AGAINST ALL DEFENDANTS)**

28 52. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

1 53. This cause of action is brought pursuant to Labor Code §§ 201-203 which require
2 an employer to pay all wages immediately at the time of termination of employment in the event
3 the employer discharges the employee or the employee provides at least 72 hours of notice of
4 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
5 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
6 employee's last date of employment.

7 54. Defendants failed to timely pay Plaintiff all of her final wages at the time of
8 termination, which include, among other things, underpaid minimum and overtime wages and
9 meal period and rest period premium wages. Further, Plaintiff is informed and believes, and
10 based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to
11 fail to pay members of the Waiting Time Penalty Class all earned wages at the end of
12 employment in a timely manner pursuant to the requirements of Labor Code §§ 201-
13 203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code §
14 203.

15 55. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
16 Time Penalty Class their earned wages upon separation from employment results in a continued
17 payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff
18 and members of the Waiting Time Penalty Class are entitled to compensation pursuant to Labor
19 Code § 203, plus reasonable attorneys' fees and costs of suit.

20 **EIGHTH CAUSE OF ACTION**

21 **UNFAIR COMPETITION**

22 **(AGAINST ALL DEFENDANTS)**

23 56. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24 57. Defendants have engaged and continue to engage in unfair and/or unlawful
25 business practices in California in violation of California Business and Professions Code § 17200
26 *et seq.*, by failing to pay all overtime and/or minimum wages owed, failing to provide all required
27 meal periods and failing to authorize and permit all required rest periods, failing to pay meal and
28 rest period premium wage payments, and failing to reimburse all necessary business

1 expenditures.

2 58. Defendants' utilization of these unfair and/or unlawful business practices
3 deprived Plaintiff and continues to deprive members of the Classes of compensation to which
4 they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair
5 advantage over Defendants' competitors who have been and/or are currently employing workers
6 and attempting to do so in honest compliance with applicable wage and hour laws.

7 59. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct
8 alleged herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full
9 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
10 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203
11 and 17208.

12 60. The acts complained of herein occurred within the last four years immediately
13 preceding the filing of the Complaint in this action.

14 61. Plaintiff was compelled to retain the services of counsel to file this court action
15 to protect her interests and those of the Classes, to obtain restitution and injunctive relief on
16 behalf of Defendants' current non-exempt employees, and to enforce important rights affecting
17 the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
18 which he is entitled to recover under Code of Civil Procedure § 1021.5.

19 **NINTH CAUSE OF ACTION**

20 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

21 **(AGAINST ALL DEFENDANTS)**

22 62. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 63. Defendants have committed several Labor Code violations against Plaintiff and
24 other Aggrieved Employees. Plaintiff, an "Aggrieved Employee" within the meaning of Labor
25 Code § 2698 et seq., acting on behalf of himself and other Aggrieved Employees, brings this
26 representative action against Defendants to recover the civil penalties due to Plaintiff, the other
27 aggrieved employees, and the State of California according to proof pursuant to Labor Code §
28 2699 (a) and (f) including, but not limited to: (1) \$250.00 for each initial violation and \$1,000.00

for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (2) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked;
- b. Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Plaintiff and other aggrieved employees all overtime compensation earned;
- c. Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and other aggrieved employees;
- d. Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees;
- e. Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements;
- f. Defendants violated Labor Code §2802, by failing to reimburse Plaintiff and other aggrieved employees for all necessary business expenditures incurred in the discharge of their duties;
- g. Defendants violated Labor Code § 204 by failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month; and
- h. Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees.

64. On July 18, 2024, Plaintiff notified Defendants via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’

violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified in Paragraph 63 (a)-(h). Attached hereto as **Exhibit 1** is a true and correct copy of the July 18, 2024, correspondence. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Labor Code Private Attorneys General Act with respect to these violations.

PRAYER

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198.
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 558, 1194, 1197, 1197.1 and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory wage statement penalties pursuant to Labor Code § 226 *et seq.*;

1 9. Upon the Sixth Cause of Action, for compensatory and special damages
2 according to proof pursuant to Labor Code § 2802;

3 10. Upon the Seventh Cause of Action, for waiting time penalties pursuant to Labor
4 § 203;

5 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
6 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts
7 or practices declared by this Court to be in violation of Business and Professions Code § 17200
8 *et seq.*;

9 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other
10 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
11 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
12 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
13 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
14 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for
15 each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3)
16 \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor
17 Code § 558 per employee per pay period; (4) no less than \$5,000.00 and up to \$25,000.00 for
18 each violation pursuant to Labor Code § 226.8(b) and (c); and/or (5) \$100.00 for each initial
19 violation and \$200.00 for each subsequent violation per employee per pay period for those
20 violations of the Labor Code for which no civil penalty is specifically provided, based on the
21 Labor Code violations cited in Paragraph 63 (a)-(h) above.

22 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor
23 Code § 218.6 and Civil Code §§ 3287 and 3289;

24 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code
25 § 218.5 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

26 15. For such other and further relief the Court may deem just and proper.

27 //

28 //

1
2 Dated: September 23, 2024

Respectfully submitted,
LIDMAN LAW, APC

3
4 By: Tiara Gose-Hardy
5 Scott M. Lidman
6 Milan Moore
7 Tiara Gose-Hardy
Attorneys for Plaintiff
JENNIFER MARTINEZ

8
9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

11
12 Dated: September 23, 2024

Respectfully submitted,
LIDMAN LAW, APC

13
14 By: Tiara Gose-Hardy
15 Scott M. Lidman
16 Milan Moore
17 Tiara Gose-Hardy
Attorneys for Plaintiff
JENNIFER MARTINEZ

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

July 18, 2024

VIA LWDA WEBSITE

Labor and Workforce Development Agency

Attn: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Sterling Commons Limited Partnership, a California limited partnership

c/o Becky Degeorge, Agent for Service of Process

2710 Gateway Oaks Drive

Sacramento, CA 95833

Koerick Sterling Commons G.P.-Victorville, LLC, a California limited liability company

c/o Becky Degeorge, Agent for Service of Process

2710 Gateway Oaks Drive

Sacramento, CA 95833

Koelsch Senior Communities LLC, a Washington limited liability company

c/o Becky Degeorge, Agent for Service of Process

2710 Gateway Oaks Drive

Sacramento, CA 95833

Re: *Jennifer Martinez v. Sterling Commons Limited Partnership, a California limited partnership; Koerick Sterling Commons G.P.-Victorville, LLC, a California limited liability company; and Koelsch Senior Communities LLC, a Washington limited liability company*

To Whom It May Concern:

Please be advised that this law firm represents Jennifer Martinez in claims arising from her employment with Sterling Commons Limited Partnership, a California limited partnership; Koerick Sterling Commons G.P.-Victorville, LLC, a California limited liability company; and Koelsch Senior Communities LLC, a Washington limited liability company (hereafter collectively referred to as “Defendants”). Ms. Martinez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendants’ numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

For purposes of this letter, an “aggrieved employee” should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement, and/or other date approved by the Court.

Ms. Martinez, a former non-exempt employee, was employed by Defendants from December 13, 2022 through August 7, 2023. During her employment with Defendants, Ms. Martinez held the job title of Caregiver in which her duties included, without limitation, changing residents, feeding residents, and transferring residents to/from a wheelchair.

During her employment with Defendants, Ms. Martinez was generally scheduled to work five days a week from 6:00 a.m. to 2:30 p.m. Defendants required Ms. Martinez to clock in and out by logging in with her fingerprint or employee code to a timekeeping system that kept track and record of her time worked. Ms. Martinez frequently worked 11-13 hour shifts.

During her employment with Defendants, Defendants would keep track of Ms. Martinez’s and other hourly, non-exempt employees’ time worked and would unlawfully shave their work time such that they would not be fully paid for all time worked. Specifically, Ms. Martinez and other hourly, non-exempt employees routinely worked overtime but their total number of hours were consistently reduced by Defendants and did not reflect her actual time worked. This time-shaving utilized by Defendants was not even-handed over time and would almost exclusively round and shave in Defendants’ favor such that Ms. Martinez and other hourly, non-exempt employees were routinely unpaid for their time worked. Additionally, Ms. Martinez and other hourly, non-exempt employees performed work duties prior to clocking in and after clocking out and received calls from Defendants outside of their working hours regarding work. As a result, Defendants failed to pay Ms. Martinez and other hourly, non-exempt employees all required minimum and overtime wages.

Throughout Ms. Martinez’s employment with Defendants, Ms. Martinez and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendants’ meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work and fail to provide second duty-free 30-minute meal periods for shifts of over 10.0 hours in violation of California law. As a result of the work demands imposed by Defendants, Defendants often provided meal periods that were either interrupted, late, or short, or failed to provide a required meal period altogether. Often, Defendants would adjust Ms. Martinez’s and other hourly, non-exempt employees’ time records to reflect that they took their meal period before the fifth hour of work or otherwise complaint meal period. Further, Defendants’ meal period policies and practices fail to provide Ms. Martinez and the other non-exempt employees a second meal period for shifts over 10.0 hours. As a result, when Ms. Martinez worked in excess of 10.0 hours, she and other hourly, non-exempt employees were not provided with a second 30-minute meal period in violation of California law.

Although Ms. Martinez and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendants failed to compensate them with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Ms. Martinez and other hourly, non-exempt employees were also not authorized and permitted to take all legally required and compliant rest periods due to Defendants' rest period policies and practices. Specifically, due to Defendants' practices of understaffing and the work demands imposed by Defendants, Defendants did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*. Indeed, Ms. Martinez and other hourly, non-exempt employees have not been authorized and permitted to take any rest periods during her employment with Defendants.

On those occasions when Ms. Martinez and other hourly, non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendants failed to compensate them with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Defendants also failed to reimburse Ms. Martinez and other hourly, non-exempt employees for necessary business expenses incurred during the relevant time period. Specifically, Defendants required Ms. Martinez and other hourly, non-exempt employees to purchase supplies, including without limitation, gloves and wipes to perform their job duties but was not reimbursed for their purchases. Defendants also required Ms. Martinez and other hourly, non-exempt employees to use their personal cellular phone for business purposes. Accordingly, despite Ms. Martinez and the other hourly, non-exempt employees being required to purchase their own supplies and use their personal cellular phones, Defendants did not reimburse Ms. Martinez or other hourly, non-exempt employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law.

As a result of Defendants' failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Martinez and other hourly, non-exempt employees.

As a further result of Defendants' failure to pay all overtime and/or minimum wages owed, and failure to pay all meal and rest period premium wages, Defendants failed to provide pay Ms. Martinez and other hourly, non-exempt employees all wages owed upon their separation of employment with Defendants.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Minimum Wage Violations

Defendants were required to pay Ms. Martinez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 5, § 4. Ms. Martinez and other aggrieved employees were not paid for all hours worked due to Defendants' timekeeping and compensation practices.

Overtime Violations

Defendants were required to pay Ms. Martinez and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 5, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked." As explained above, Ms. Martinez worked overtime hours but was not properly compensated due to Defendants' policy and practice of rounding and/or shaving its non-exempt employees' time.

Meal Period Violations

As alleged above, Defendants failed to provide Ms. Martinez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 5, § 11. Specifically, due to the work demands imposed by Defendants, Ms. Martinez and other Aggrieved Employees were often unable to take a duty-free 30-minute meal period before the end of the fifth hour of work. As a result, their meal periods were often late, short, interrupted, missed, or otherwise unlawful. In addition, they were not provided a second meal period when they worked shifts in excess 10.0 hours. As a result, Ms. Martinez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Ms. Martinez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendants failed to compensate Ms. Martinez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendants also failed to authorize and permit Ms. Martinez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 5, § 12. As alleged above, Defendants' rest period policies/practices fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, as a result of the work demands imposed by Defendants, Defendants did not authorize and permit any rest periods. As a result, Ms. Martinez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Failure to Reimburse Necessary Expenditures

As described above, Defendants required Ms. Martinez to purchase supplies, including without limitation wipes and gloves, to carry out work duties. Further, Defendants required Ms. Martinez to use her personal cellular phone to discharge her duties. Accordingly, despite the non-exempt employees being required to purchase supplies and use their personal cellular phone, Defendant did not reimburse Ms. Martinez or other non-exempt employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law. Defendants' policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 16, and Labor Code §§ 2802 and 2804 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or obedience to the directions of the employer.") Ms. Martinez and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendants failed to timely pay Ms. Martinez and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Martinez and other Aggrieved Employees was willful and, consequently, entitles Ms. Martinez and other similarly Aggrieved Employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendants failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Martinez and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal and rest period premiums, in violation of Labor Code § 226 *et seq.* Defendants' failure to furnish Ms. Martinez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendants' reported data.

As an "aggrieved employee," Ms. Martinez will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Martinez's own investigation, and on information and belief, Defendants committed the following Labor Code violations:

- a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Martinez and other aggrieved employees the statutory minimum wage for all hours worked;
- b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Martinez and other aggrieved employees all overtime compensation earned;
- c) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Martinez and other aggrieved employees;
- d) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Ms. Martinez and other aggrieved employees;
- e) Defendants violated Labor Code § 226 by failing to furnish Ms. Martinez and other aggrieved employees with accurate and compliant itemized wage statements;
- f) Defendants violated Labor Code § 2802, by failing to reimburse Ms. Martinez and other aggrieved employees for all necessary business expenditures incurred in the discharge of their duties;
- g) Defendants violated Labor Code § 204 by failing to pay Ms. Martinez and other aggrieved employees all earned wages at least twice during each calendar month; and

- h) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Martienz and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC



Scott M. Lidman

PROOF OF SERVICE

Jennifer Martinez v. Sterling Commons Limited Partnership, et al.
San Bernardino County Superior Court—Victorville District Case No. CIVVS2400252

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is [X] 2155 Campus Drive, Suite 150, El Segundo, California 90245.

On September 23, 2024, I served the foregoing document(s) described as:

1. FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) in this action as follows:

Alexander Miles Medina (SBN 222015) alex@medinamckelvey.com Douglas R. Leach (SBN 325955) doug@medinamckelvey.com MEDINA MCKELVEY LLP 925 Highland Pointe Dr, Ste 300, Roseville, CA 95678-5426 Tel.: 916-960-2211 www.medinamckelvey.com <i>Additional recipients:</i> andrew@medinamckelvey.com; erin@medinamckelvey.com	Attorney for Defendants, STERLING COMMONS LIMITED PARTNERSHIP; KOERICK STERLING COMMONS G.P.-VICTORVILLE, LLC; KOELSCH SENIOR COMMUNITIES LLC
--	---

[X] **(BY ELECTRONIC SERVICE)** Based on a court order/rule (CCP 1010.66; CRC 2.251) or an agreement of the parties to accept service by e-mail or other electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses above or on the attached service list on the dates and at the times stated thereon. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. The electronic notification address of the person making the service is majanel@lidmanlaw.com.

[X] **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 23, 2024, at El Segundo, California.



Marlyn Ajanel