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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

DESTINY VASSAR, on behalf of herself and all others similarly situated, and the general public, *Plaintiff*, v. GENESIS HEALTHCARE MANAGEMENT, LLC, a California limited liability company; ASPIRE COUNSELING SERVICES, LLC, a California limited liability company; GENESIS MEDICAL MANAGEMENT, LLC, a California business entity of unknown form; and DOES 1 through 50, inclusive, *Defendants*.	Case No.: BCV-24-102892 Amended As a Matter of Right Pursuant to Labor Code Section 2699.3(a)(2)(C) **FIRST AMEDNED REPRESENTATIVE ACTION COMPLAINT** 1. Civil Penalties (Lab. Code § 2698, *et seq.*)

Plaintiff DESTINY VASSAR ("Plaintiff"), on behalf of herself, all others aggrieved employees, the State of California, and the general public, complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this representative action against GENESIS HEALTHCARE MANAGEMENT, LLC, a California limited liability company; ASPIRE COUNSELING SERVICES, LLC, a California limited liability company; GENESIS MEDICAL MANAGEMENT, LLC, a California business entity of unknown form; and DOES 1 through 50, inclusive, (collectively referred to as "Defendants") for alleged violations of the California Labor Code and California Business and Professions Code. As set forth below, Plaintiff alleges that Defendants have:

a. failed to provide her and all other Aggrieved Employees lawful meal periods;

b. failed to provide lawful rest periods;

c. failed to properly pay premium wages for missed meal and rest periods;

d. failed to pay all wages owed, including minimum and overtime wages, for all time worked;

e. failed to provide accurate wage statements;

f. failed to reimburse for necessary business expenditures;

g. failed to timely pay all final wages owed following separation of employment.

Based on these alleged Labor Code violations, Plaintiff now brings this representative action for civil penalties on behalf of herself, all Aggrieved Employees, the State of California, and the general public.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction to hear this case because the civil penalties sought by Plaintiff from Defendants' conduct exceeds the minimal jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of Kern pursuant to Code of Civil Procedure sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in Kern County because Defendants have at all times alleged herein, conducted business in Kern County, and throughout California. As such, venue is proper in any county in California.

PARTIES

5. Plaintiff DESTINY VASSAR is, and was at all relevant times mentioned herein, an individual residing in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges that GENESIS HEALTHCARE MANAGEMENT, LLC is, and was at all relevant times mentioned herein, a California limited liability company doing business in the State of California.

7. Plaintiff is informed and believes, and thereupon alleges that ASPIRE COUNSELING SERVICES, LLC is, and was at all relevant times mentioned herein, a California limited liability company doing business in the State of California.

8. Plaintiff is informed and believes, and thereupon alleges that GENESIS MEDICAL MANAGEMENT, LLC is, and was at all relevant times mentioned herein, a California business entity of unknown form, doing business in the State of California.

9. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, owners, principals or co-participants of some or all of the other defendants, and in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent, and ratification by such other

defendants.

11. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and conspired with one another, and aided and abetted one another to accomplish the occurrences, acts and omissions alleged herein.

GENERAL ALLEGATIONS

12. Plaintiff worked for Defendants as a non-exempt employee during the relevant and statutory periods. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees")

13. Defendants had a common policy and practice of systemically failing to pay Plaintiff and Aggrieved Employees proper wages and overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful time-rounding policy and practice which rounded down and reduced the actual working hours recorded by Plaintiff and Aggrieved Employees, and upon which their pay was based, and generally did so to the detriment of the Plaintiff and Aggrieved Employees, and these unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiff and Aggrieved Employees only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results, over time, to the detriment of the Plaintiff and Aggrieved Employees by systematically undercompensating them.

14. Next, Plaintiff and Aggrieved Employees were also consistently required to perform work, off-the-clock, for which they were not paid wages, including prior to clocking in, after clocking out, as well as weekends. Specifically, Plaintiff and Aggrieved Employees were systemically required to communicate with Defendants and Defendants' clients via phone call, while off-the-clock, to discuss work-related tasks and activities. Moreover, Plaintiff and Aggrieved Employees were systemically required to perform work-related tasks during unpaid meal periods, for which no wages

were paid. Further, Plaintiff and Aggrieved Employees were systemically required to perform work, while off-the-clock after their scheduled shift, to complete their excessive workload. The forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

15. This uncompensated time caused Plaintiff and Aggrieved Employees to work in excess of eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff and Aggrieved Employees to minimum and overtime wages, which they were systemically denied.

16. Defendants had a common policy and practice of systemically denying Plaintiff and Aggrieved Employees the opportunity to take meal periods in compliance with the California Law. Specifically, due to understaffing and excessive workloads, Plaintiff and Aggrieved Employees were systemically denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work. Moreover, Defendants routinely interrupted Plaintiff and Aggrieved Employees' meal periods and required Plaintiff and Aggrieved Employees to work during said meal periods, which were systemically denied. Further, Plaintiff and Aggrieved Employees were not relieved of all work duties during their unpaid meal periods. Additionally, Plaintiff and Aggrieved Employees were not provided with a second meal period when they worked shifts of ten (10) or more hours.

17. Plaintiff and Aggrieved Employees were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) no formal written meal policy that encouraged employees to take their meal periods, or that advised Aggrieved Employees of their meal period rights; and (3) Defendants' practice of requiring putative Aggrieved Employees to continue working through their meal periods due to understaffing and the excessive workload.

18. Defendants had a common policy and practice of systemically denying Plaintiff and Aggrieved Employees the opportunity to take rest periods in compliance with the California Law. Plaintiff and Aggrieved Employees were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) Defendants' lack of a written rest period policy that encouraged employees to

take their rest periods, or that properly advised Plaintiff and Aggrieved Employees of their rest period rights; and (3) Defendants' policy and practice of requiring putative Aggrieved Employees to continue working through their rest breaks due to the excessive workload.

19. Furthermore, Defendants failed to pay Plaintiff and Aggrieved Employees premium pay wages at their appropriate regular rates of pay for each meal and rest period denied.

20. Plaintiff and Aggrieved Employees were not provided with accurate wage statements as mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned" were not accurately reflected in that: all hours worked, including overtime, were not included. Defendants failed to comply with Labor Code section 226(a)(8) as the wage statements issues to Plaintiff and Aggrieved Employees failed to state "the name and address of the legal entity that is the employer." Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee" were not accurately reflected in that: all hours worked, including overtime, were not included.

21. Additionally, Defendants failed to provide Plaintiff and Aggrieved Employees with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters; Plaintiff's and Aggrieved Employees' wage statements were only provided in electronic format in violation of Labor Code § 226.

22. Finally, Plaintiff and Aggrieved Employees were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff and Aggrieved Employees were required to use their personal cell phones for work-related communications with Defendants. Plaintiff and Aggrieved Employees were also required to drive their personal vehicles to various locations for work-related tasks and events, including but not limited to when Plaintiff and Aggrieved Employees would pick up supplies for Defendants' facility and/or

travel to attend Defendants' outreach events. Plaintiff and Aggrieved Employees paid the costs they incurred on their cell phone bills and gas mileage, and they were not reimbursed for these necessary work-related expenses.

FIRST CAUSE OF ACTION

CIVIL PENALTIES

(Lab. Code §§ 2698 *et seq.*)

(Plaintiff Against All Defendants)

23. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if fully alleged herein.

24. At all relevant times, Plaintiff and **Aggrieved Employees** have been non-exempt employees of Defendant entitled to the full meal period protections of both the Labor Code and the applicable Industrial Welfare Commission Wage Order.

25. Labor Code section 512 and Section 11 of the applicable Industrial Welfare Commission Wage Order impose an affirmative obligation on employers to provide non-exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

26. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare Commission Wage Order ("Wage Order") both prohibit employers from requiring employees to work during required meal periods and require employers to pay non-exempt employees an hour of premium wages on each workday that the employee is not provided with the required meal period.

27. Compensation for missed meal periods constitutes wages within the meaning of Labor Code section 200.

28. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the applicable Wage Order.

29. Section 11 of the applicable Wage Order states:

> No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete

> the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

30. At all relevant times, Plaintiff was not subject to a valid on-duty meal period agreement. Plaintiff is informed and believes that, at all relevant times, **Aggrieved Employees** were not subject to valid on-duty meal period agreements with Defendants.

31. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiff and Aggrieved Employees with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5) hour work period, as required by Labor Code section 512 and the applicable Wage Order. Specifically, due to understaffing and excessive workloads, Plaintiff and **Aggrieved Employees** were systemically denied the opportunity to take timely meal periods prior to the completion of their fifth hour of work. Moreover, Defendants routinely interrupted Plaintiff and **Aggrieved Employees**' meal periods and required Plaintiff and **Aggrieved Employees** to work during said meal periods. Further, Plaintiff and **Aggrieved Employees** were not relieved of all work duties during their unpaid meal periods. Additionally, Plaintiff and **Aggrieved Employees** were not provided with a second meal period when they worked shifts of ten (10) or more hours.

32. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of failing to pay premium wages to **Aggrieved Employees** when they worked five (5) hours without clocking out for any meal period.

33. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiff and the **Aggrieved Employees** with a second meal period when they worked shifts of ten (10) or more hours and failed to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

34. Moreover, Defendants written policies fail to inform Meal period Aggrieved

Employees of their meal period rights under the Labor Code and applicable Wage Orders.

35. At all relevant times, Defendants failed to pay Plaintiff and **Aggrieved Employees** additional premium wages, and/or were not paid premium wages at the employees' regular rates of pay when required meal periods were not provided.

36. Section 12 of the applicable Wage Order imposes an affirmative obligation on employers to permit and authorize employees to take required rest periods at a rate of no less than ten (10) minutes of net rest time for each four (4) hour work period, or major fraction thereof, that must be in the middle of each work period insofar as practicable.

37. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit employers from requiring employees to work during required rest periods and require employers to pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each workday that the employee is not provided with the required rest period(s).

38. Compensation for missed rest periods constitutes wages within the meaning of Labor Code section 200.

39. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the Wage Order.

40. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing members of the **Aggrieved Employees** with net rest period of at least ten (10) uninterrupted minutes for each four (4) hour work period, or major fraction thereof, as required by the applicable Wage Order.

41. Plaintiff and **Aggrieved Employees** were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2) Defendants' lack of a written rest period policy that encouraged employees to take their rest periods, or that properly advised Plaintiff and **Aggrieved Employees** of their rest period rights; and (3) Defendants' policy and practice of requiring putative Aggrieved Employees to continue working through their rest breaks due to the excessive workload.

42. At all relevant times, Defendants failed to pay Plaintiff and the **Aggrieved Employees**

additional premium wages when required rest periods were not provided.

43. Section 2 of the applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

44. Section 4 of the applicable Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

45. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum or overtime wage required under the applicable Wage Order.

46. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition to the underlying unpaid minimum wages and interest thereon.

47. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

48. Labor Code section 1197.1 provides that it is unlawful for any employer or any other person acting either individually or as an officer, agent or employee of another person, to pay an employee, or cause an employee to be paid, less than the applicable minimum wage.

49. Labor Code section 1198 makes it unlawful for employers to employ employees under conditions that violate the applicable Wage Order.

50. Labor Code section 204 requires employers to pay non-exempt employees their earned wages for the normal work period at least twice during each calendar month on days the employer designates in advance and to pay non-exempt employees their earned wages for labor performed in excess of the normal work period by no later than the next regular payday.

51. Labor Code section 223 makes it unlawful for employers to pay their employees lower wages than required by contract or statute while purporting to pay them legal wages.

52. Labor Code section 510 and Section 3 of the applicable Wage Order require employees

to pay non-exempt employees overtime wages of no less than one and one-half (1.5) times their respective regular rates of pay for all hours worked in excess of eight (8) hours in one workday, all hours worked in excess of forty (40) hours in one workweek, and/or for the first eight (8) hours worked on the seventh consecutive day of one workweek.

53. Labor Code section 510 and Section 3 of the applicable Wage Order also require employers to pay non-exempt employees overtime wages of no less than two (2) times their respective regular rates of pay for all hours worked in excess of twelve (12) hours in one workday and for all hours worked in excess of eight (8) hours on a seventh consecutive workday during the workweek.

54. Plaintiff is informed and believes that, at all relevant times, Defendants have applied centrally devised policies and practices to her and **the Aggrieved Employees** with respect to working conditions and compensation arrangements.

55. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Aggrieved Employees** for all time worked, including but not limited to, overtime hours at statutory and/or agreed rates.

56. Plaintiff and **Aggrieved Employees** were not paid proper wages and overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful time-rounding policy and practice which rounded down and reduced the actual working hours recorded by Plaintiff and **Aggrieved Employees**, and upon which their pay was based, and generally did so to the detriment of the Plaintiff and **Aggrieved Employees**, and these unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiff and **Aggrieved Employees** only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results, over time, to the detriment of the Plaintiff and **Aggrieved Employees** by systematically undercompensating them.

57. Plaintiff and **Aggrieved Employees** were consistently required to perform work, off-the-clock for which they were not paid wages, including prior to clocking in, after clocking out, and on weekends. Specifically, Plaintiff and **Aggrieved Employees** were systemically required to communicate with Defendants and Defendants' clients via phone call, while off-the-clock, to discuss

work-related tasks and activities. Moreover, Plaintiff and **Aggrieved Employees** were systemically required to perform work-related tasks during unpaid meal periods, for which no wages were paid. Further, Plaintiff and **Aggrieved Employees** were systemically required to perform work, while off-the-clock after their scheduled shift, to complete their excessive workload. The forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

58. This uncompensated time caused Plaintiff and **Aggrieved Employees** to work in excess of eight (8), ten (10), and twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff and **Aggrieved Employees** to minimum and overtime wages, which they were systemically denied.

59. Labor Code section 226(a) states:

> An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, 'copy' includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

60. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize the

"detachable part of the check" provision and the "accurate itemized statement in writing" provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee retains the right to elect to receive a written paper stub or record and that those who are provided with electronic wage statements retain the ability to easily access the information and convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

61. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have failed to provide Plaintiff and **Aggrieved Employees** with written wage statements as described above. Defendants failed to comply with Labor Code section 226(a)(8) as the wage statements issues to Plaintiff and **Aggrieved Employees** failed to state "the name and address of the legal entity that is the employer."

62. Additionally, the wage statements issued to Aggrieved Employees failed to account for the unpaid minimum wages, overtime, and premium pay wages described above.

63. Plaintiff is informed and believes that Defendants' failure to provide Plaintiff and **Aggrieved Employees** with accurate written wage statements was intentional in that Defendants have the ability to provide them with accurate wage statements but have intentionally provided them with written wage statements that Defendants have known do not comply with Labor Code section 226(a).

64. Plaintiff and **Aggrieved Employees** have suffered injuries, in that Defendants have violated their legal rights to receive accurate wage statements and have misled them about their actual rates of pay and wages earned. In addition, inaccurate information on their wage statements has prevented immediate challenges to Defendants' unlawful pay practices, has required discovery and mathematical computations to determine the amount of wages owed, has caused difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the submission of inaccurate information about wages and deductions to federal and state government agencies.

65. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of herself and **Aggrieved Employees**, seeks the greater of actual damages or $50.00 for the initial pay period in which a violation of Labor Code section 226(a) occurred, and $100.00 for each subsequent pay period in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of $4000.00 per employee, as well as awards of reasonable attorneys' fees and costs.

66. At all relevant times, Plaintiff and **Aggrieved Employees** have been entitled, upon the end of their employment with Defendants, to timely payment of all wages earned and unpaid before termination or resignation.

67. At all relevant times, pursuant to Labor Code section 201, employees who have been discharged have been entitled to payment of all final wages immediately upon termination.

68. At all relevant times, pursuant to Labor Code section 202, employees who have resigned after giving at least seventy-two (72) hours' notice of resignation have been entitled to payment of all final wages at the time of resignation.

69. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have failed to timely pay **Aggrieved Employees** all their final wages in accordance with the Labor Code.

70. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have maintained a policy or practice of paying **Aggrieved Employees** their final wages without regard to the requirements of Labor Code sections 201 or 202 by failing to timely pay them all final wages.

71. Plaintiff is informed and believes, and thereupon alleges that Defendants' failure to timely pay all final wages to her and **Aggrieved Employees** has been willful in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201 and/or 202 but have intentionally adopted policies or practices that are incompatible with those requirements.

72. Labor Code section 2802(a) states:

> An employer shall indemnify his or her employee 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 her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

73. At all relevant times during the applicable limitations period, Plaintiff and the Aggrieved Employees incurred necessary business-related expenses and costs, including but not limited to, the use of personal cell phones for work-related activities.

74. Plaintiff is informed and believes and thereupon alleges that the reimbursement paid by Defendants was insufficient to indemnify Plaintiff and Aggrieved Employees for all necessary

expenses incurred in the discharge of their duties.

75. At all relevant times during the applicable limitations period, Defendants required Plaintiff and the Aggrieved Employees to pay for expenses and/or losses caused by Defendants' want of ordinary care. Defendants failed to indemnify Plaintiff and Aggrieved Employees for all such expenditures.

76. Plaintiff and **Aggrieved Employees** were required to use their personal cell phones for work-related communications with Defendants. Plaintiff and **Aggrieved Employees** were also required to drive their personal vehicles to various locations for work-related tasks and events, including but not limited to when Plaintiff and **Aggrieved Employees** would pick up supplies for Defendants' facility and/or travel to attend Defendants' outreach events. Plaintiff and **Aggrieved Employees** paid the costs they incurred on their cell phone bills and gas mileage, and they were not reimbursed for these necessary work-related expenses.

77. During the applicable limitations period, Defendants have violated Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.

78. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of **Error! Reference source not found.** and other current and former employees, to bring a representative civil action to recover civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

79. Plaintiff, a former employee against whom Defendants committed one or more of the alleged Labor Code violations during the applicable limitations period, is an aggrieved employee within the meaning of Labor Code § 2699(c). Plaintiff was employed by Defendants as a non-exempt hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees")

80. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §

2699.3. Notice was provided to the California Labor & Workforce Development Agency ("LWDA") and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an intent to investigate.

81. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil penalties for Defendants' violations of Labor Code §§ §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, and 2802:

i. For violations of Labor Code §§ 201, 202, 203, 226. 226.3, 226.7, 1174, 1194, 1198 and 2802, one hundred dollars ($100) for each employee per pay period for each initial violation and two hundred dollars ($200) for each employee per pay period for each subsequent violation (penalties set by Labor Code § 2699(f)(2));

ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);

iii. For violations of Labor Code § 204, one hundred dollars ($100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars ($200) for each employee, plus 25% of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars ($200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 210);

iv. For violations of Labor Code § 223, one hundred dollars ($100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars ($200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars ($200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 225.5);

v. For violations of Labor Code § 226(a), if this action is deemed to be an initial citation, two hundred and fifty dollars ($250) for each employee for each violation. Alternatively, if an initial citation or its equivalent occurred before the filing of this action, one thousand dollars ($1,000) for each employee for each violation (penalties set by Labor Code § 226.3);

vi. For violation of Labor Code §§ 510 and 512, fifty dollars ($50) for each employee for each initial pay period for which the employee was underpaid, and one hundred dollars ($100) for each employee for each subsequent pay period for which the employee was underpaid (penalties set by Labor Code § 558);

vii. For violations of Labor Code § 1197, one hundred dollars ($100) for each aggrieved employee for each initial violation of Labor Code § 1197 that was intentional and two hundred and fifty dollars ($250) for each aggrieved employee per pay period for each subsequent violation of Labor Code § 1197, regardless of whether the initial violation was intentional (penalties set by Labor Code § 1197.1);

viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable attorneys' fees and costs in connection with Plaintiff's claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself, all other aggrieved employees, the State of California, and the general public, prays for relief and judgment against Defendants as follows:

a. Pre-judgment interest;

b. Civil Penalties;

c. Costs of suit;

d. Reasonable attorneys' fees; and

e. Such other relief as the Court deems just and proper.

Dated: November 22, 2024

D.LAW, INC.

/s/ *David Keledjian*

Emil Davtyan
David Yeremian
David Keledjian
David Arakelyan
Attorneys for Plaintiff
DESTINY VASSAR

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 450 N Brand Blvd., Suite 840, Glendale, CA 91203.

On November 22, 2024, I served the foregoing: **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT** on Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Vanessa Chavez
Erin Gilbert
Anna Burnbaum
VC Admin
10000 Stockdale Highway, Suite 200
Bakersfield, CA 93311
Phone: 661-395-1000
Fax: 661-326-0418
Email: VChavez@KleinLaw.com
Email: egilbert@KleinLaw.com
Email: aburnbaum@KleinLaw.com
Email: vc_admin@KleinLaw.com

Genesis Medical Management, LLC
14600 E Ramona Blvd.
Baldwin Park, CA 91706

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

[ ] **(BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

[X] **(COURTESY COPY BY ELECTRONIC TRANSMISSION)** by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

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

Executed on November 22, 2024, at Glendale, California.

Jordan Floyd