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Superior Court of California,
County of Alameda

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Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

ESMERALDA VELAZQUEZ-GARCIA,) CASE NO.: **25CV139877**

Plaintiff,) **COMPLAINT FOR DAMAGES FOR:**

vs.

OAKLAND HEALTHCARE &
WELLNESS CENTER, LLC; and DOES 1
to 25, inclusive,

Defendants.

- 1) **FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) **FAILURE TO PAY MINIMUM WAGES;**
- 3) **FAILURE TO PAY OVERTIME;**
- 4) **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 7) **FAILURE TO PROVIDE REST BREAKS;**
- 8) **FAILURE TO PROVIDE MEAL BREAKS;**
- 9) **FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 10) **PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 11) **FAILURE TO PROVIDE PERSONNEL RECORDS;**
- 12) **FAILURE TO PROVIDE PAY RECORDS;**
- 13) **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

JURY TRIAL DEMANDED

COMES NOW Plaintiff, ESMERALDA VELAZQUEZ-GARCIA (hereinafter
“Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Alameda in this judicial district because Defendants OAKLAND HEALTHCARE & WELLNESS CENTER, LLC; and DOES 1 to 25, inclusive (hereinafter collectively “OAKLAND” or “Defendant(s)”) do business in the County of Alameda, and because Defendant’s obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Oakland is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$35,000.

2. Plaintiff is a female resident of the County of Oakland, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant OAKLAND HEALTHCARE & WELLNESS CENTER, LLC. is a California limited liability company, doing business in the County of Alameda, State of California, and which employed Plaintiff.

4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and under the authority of their agency, employment, or representative capacity, with the consent of his/her codefendants.

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7. It is Plaintiff's position that due to personally suffering the below violations, Plaintiff can equivocally bring the following labor code violations on behalf of all other employees, including ALL hourly, non-exempt employees who worked for OAKLAND HEALTHCARE anywhere in the state of California (at all different facility locations) during the relevant PAGA period.

9. OAKLAND HEALTHCARE violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including the statutory minimum wage for all hours worked and for “off the clock” work. Plaintiff would work 20-30 minutes before clocking in in order to get food purchases organized and management was aware of this. Moreover, Plaintiff would punch out for her shift and then stay an additional 30 minutes due to work obligations. Such “off-the-clock” work happened at least 3 times per week. Moreover, OAKLAND HEALTHCARE failed to provide its employees with proper and accurate reporting time pay.

10. Due to the above “off the clock” violations and as a matter of company policy, OAKLAND HEALTHCARE also violated Labor Code §510 because it failed to pay Plaintiff and aggrieved employees overtime compensation, even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their employment. Plaintiff’s and Aggrieved employees’ actual work hours, especially those “off the clock” hours, entitled them to overtime compensation, however, OAKLAND HEALTHCARE did not compensate

1 Plaintiff and its hourly, non-exempt employees with the correct amount of overtime due to the
2 “off the clock” work described above. Furthermore, OAKLAND HEALTHCARE failed to
3 include bonuses/incentive payments/shift differentials in calculating employees’ regular rate of
4 pay for use in deciphering the correct overtime rate of pay. Additionally, the incentive/shift
5 differential pay and bonus payments were also not factored into employees’ regular rate for
6 purposes of receiving meal and rest break premiums per the Ferra v. Loews case.

7 11. OAKLAND HEALTHCARE also violated Labor Code § 226.7 and the appropriate
8 Industrial Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and other
9 similarly situated aggrieved employees with 10-minute rest periods for every four hours of work,
10 or majority portion thereof, throughout their employment. OAKLAND HEALTHCARE did not
11 completely relieve Plaintiff and others of all duty during said rest periods. OAKLAND
12 HEALTHCARE did not pay to Plaintiff and others one additional hour of pay at Plaintiff’s
13 regular rate of compensation for each workday that one or more statutory rest periods was not
14 provided. It was not part of the company policy for employees such as Plaintiff to take any rest
15 breaks per regular shift. In fact, Plaintiff had not taken a single actual rest break during her entire
16 employment at OAKLAND HEALTHCARE. As such, the concept of rest breaks was not
17 properly implemented as a matter of company policy. As such, the culture as well as the policies
18 and procedures of OAKLAND HEALTHCARE did not lend itself to the employees consistently
19 receiving statutory rest breaks wherein they were relieved of all work duties. The environment
20 at OAKLAND HEALTHCARE was not conducive to receiving statutory rest breaks under
21 California law and timely, statutory rest breaks were not authorized or enforced.

22 12. OAKLAND HEALTHCARE violated Labor Code §§ 512 and 226.7 and the appropriate
23 Industrial Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and other
24 hourly, non-exempt employees the requisite 30-minute, uninterrupted meal periods for every
25 five (5) hours of work throughout their employment. OAKLAND HEALTHCARE did not
26 completely relieve Plaintiff and aggrieved employees of all duty during said meal
27 periods. OAKLAND HEALTHCARE did not pay to Plaintiff and its hourly, non-exempt
28 employees one additional hour of pay at their regular rate of compensation for each workday that
one or more statutory meal periods was not provided. The hourly, non-exempt employees,

1 including Plaintiff, did not receive meal breaks at all during her shifts even though she worked
2 five hours or more AND DID NOT SIGN ANY TYPE OF A WAIVER. Plaintiff is adamant that
3 she did not sign any type of a waiver and that a particular document that was presented to her
4 regarding meal breaks was actually signed on her behalf by “Corey”, after Plaintiff had advised
5 that she would NOT sign the document. Plaintiff and others were not able to get meal breaks due
6 to the workload, being understaffed, and due to being in a fast-paced medical services
7 environment. Like the rest breaks, receiving a consistent thirty-minute uninterrupted and timely
8 meal break was not part of the company culture and was not enforced by OAKLAND
9 HEALTHCARE. Consequently, it was the normal practice and custom of OAKLAND
10 HEALTHCARE not to authorize, permit, and enforce timely statutory meal periods. Moreover,
11 Plaintiff and others also did not receive their second meal periods for shifts greater than 10
12 hours.

13 13. Under California law, employees must make an affirmative decision every day
14 regarding whether to waive their meal periods. August 13, 2003 DLSE Opinion Letter (“The
15 decision to forego a meal period may not, therefore, be based on a specific requirement of the
16 employer or on a policy or practice which could reasonably be perceived to be a condition of
17 employment. Therefore, blanket “waivers” of meal periods ...whether written or oral, will not
18 be considered valid.”). As such, any blanket first or second meal period waivers will not be valid
19 and Plaintiff states that she did not sign any type of a meal break waiver. If OAKLAND
20 HEALTHCARE had Plaintiff and aggrieved employees sign an on-duty meal period agreement
21 wherein Plaintiff and other employees agreed to work through their meal periods, it would be
22 invalid and unenforceable because the nature of Plaintiff’s job does not and did not prevent her
23 from taking a meal period and the company could have hired “breakers” to relieve her of her job
24 duties so that she can actually take a timely, uninterrupted meal period. Moreover, any such “on
25 duty” meal period agreement did not allow for employees to revoke such an agreement even if
26 it was signed. As such, Plaintiff and aggrieved employees did not always receive statutory,
27 timely meal periods during their employment. To the extent that OAKLAND HEALTHCARE
28 argues that employees receive meal break premium pay for missed/late/short meal periods, that
argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for the

1 violations themselves, irrespective of whether an employee received the premium payment for a
2 missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court
3 stated, “section 226.7 does not give employers a lawful choice between
4 providing *either* meal and rest breaks *or* an additional hour of pay.” See *Kirby v. Immoos Fire*
5 *Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of
6 pay does not excuse the violation; the employer has still committed a violation even if the remedy
7 for the violation has been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL
8 1110302 at *4). As such, the work environment and culture at OAKLAND HEALTHCARE was
9 not conducive to receiving consistent, timely, statutory meal breaks under California law.
10 Moreover, any meal or rest break premiums paid were not compensated at the weighted average
11 regular rate, inclusive of bonuses and/or incentive payments/shift differentials as well as
overtime compensation.

12 14. Furthermore, Plaintiff believes that she was actually deducted money, in violation of
13 Labor Code Section 221, related to not being able to take her meal periods.

14 15. Furthermore, during the relevant time period, and due to the above labor code
15 violations, OAKLAND HEALTHCARE failed to pay Plaintiff and other similarly situated
16 aggrieved employees all wages due to them within any time period specified by California Labor
17 Code section 204. Since Plaintiff was not compensated for her “off the clock” work and since
18 Plaintiff did not receive proper and complete meal and/or rest break premiums, Plaintiff would
19 still be owed wages pursuant to Labor Code Section 204. OAKLAND HEALTHCARE was also
20 in violation of California Labor Code section 226(a) by failing to include pertinent information
21 on the wage statements, including but not limited to, the correct hourly rate, all hours worked,
22 overtime hours worked, correct overtime pay, gross wages earned, net wages earned, premium
23 pay for missed meal and rest breaks, all deductions, the correct start and end of the pay period,
24 all employee identifying information, the correct and complete name and address of the legal
25 employer, and reimbursement for business expenses, among others. As such, OAKLAND
26 HEALTHCARE did not provide Plaintiff and other similarly situated aggrieved employees with
27 complete, accurate itemized wage statements.

28 16. During the relevant time period, OAKLAND HEALTHCARE also failed to keep

1 accurate and complete payroll records showing the actual hours worked per day and the wages
2 paid to Plaintiff and others pursuant to California Labor Code sections 1174(d).

3 17. OAKLAND HEALTHCARE also violated Labor Code § 203 because it willfully failed
4 to pay Plaintiff and other aggrieved employees earned and due wages upon separation of
5 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
6 These earned but unpaid wages include compensation for all hours worked, including minimum
7 wages, overtime compensation, and premium pay for missed meal and rest breaks.

8 18. During the relevant time period, Plaintiff and other aggrieved employees incurred
9 necessary, business-related expenses and costs that were not reimbursed by OAKLAND
10 HEALTHCARE. These costs include, but are not limited to, personal cell phones for work
11 purposes and uniforms, including scrubs, in order to effectuate job duties. In terms of the
12 personal cell phone use, Plaintiff was on a group chat session with employees and management
13 regarding work related issues while on the job. In addition, Plaintiff would have to take photos
14 on her personal cell phone and send them to management to point out issues at the workplace.
15 Moreover, Plaintiff purchased items for business purposes for which she was not reimbursed,
16 including milk, bread, paper, and pens. Accordingly, OAKLAND HEALTHCARE was in
17 violation of California Labor Code sections 2800 and 2802.

18 19. Furthermore, OAKLAND HEALTHCARE did not provide proper and correct/accurate
19 sick pay (inclusive of the correct regular rate) that was also delineated on employee pay stubs
20 and also failed to provide proper sick leave in violation of Labor Code sections 233 and 246.
21 Moreover, there was not enough proper suitable seating and rest facilities under IWC Wage
22 Order 5-2001.

23 20. Furthermore, Plaintiff believes OAKLAND HEALTHCARE has also violated Labor
24 Code Section 558 and has engaged in business practices which violate Business and Professions
25 Code Section 17200.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

3 **(California Industrial Welfare Commission Order 5-2001, California Code of**
4 **Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

5 **(Plaintiff against all named defendants and all DOE defendants)**

6 21. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs
7 1 through 20, inclusive, of this Complaint as though fully set forth herein.

8 22. At all times relevant herein, Defendants were required to compensate its employees for
9 all hours worked upon reporting for work at the appointed time stated by the employer pursuant
10 to Industrial Welfare Commission Order 5-2001, California Code of Regulations, Title 8, Section
11 11050.

12 23. For the three (3) years preceding filing of this action, Defendants failed to compensate
13 Plaintiff for all hours worked.

14 24. Under the aforementioned wage order and regulations, Plaintiff is to recover
15 compensation for all hours worked but not paid by Defendants for the three (3) years preceding
16 the filing of this Complaint.

17 25. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
18 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
19 this Court.

20 26. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
21 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
22 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
23 reasonable attorney's fees and costs of suit.

24 27. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
25 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
26 amount known to Plaintiff once she has obtained all of her payroll records from
27 Defendants.

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1 34. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
2 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
3 trial.

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME**

6 **(California Industrial Welfare Commission Order 5-2001, California Code of**
7 **Regulations Title 8 Section 11050; California Labor Code Section 510)**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9 35. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 34, inclusive, of this Complaint as though fully set forth herein.

11 36. Pursuant to Industrial Welfare Commission Order No. 5-2001, Cal. Code of
12 Regs., Title 8, Section 11050, for the period of Plaintiff's employment, Defendants were
13 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
14 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
15 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
16 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
17 week.

18 37. Plaintiff was a non-exempt employee entitled to the protections of the California
19 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations, Title 8,
20 Section 11050.

21 38. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a
22 single workday or forty (40) hours in a single workweek on numerous occasions.

23 39. Plaintiff was entitled to the above overtime premiums.

24 40. Defendants did not pay Plaintiff premium wages of at least one and one-half times
25 Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay
26 Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past
27 twelve (12) in a day.

28 41. Defendants did not pay Plaintiff premium wages of at least one and one-half times
Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

1 42. Plaintiff worked at least one pay period in which he was not properly paid overtime
2 within the three (3) years prior to the initiation of this lawsuit.

3 43. Defendants know or should know the actual dates of overtime worked, the amount of
4 overtime worked, and the amount of unpaid overtime due.

5 44. As a proximate result of Defendants' violations, Plaintiff has been damaged in an amount
6 according to proof at time of trial, but in an amount in excess of the jurisdiction of this
7 Court.

8 45. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
9 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the
10 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
11 reasonable attorney's fees and costs of suit.

12 46. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
14 trial.

15 **FOURTH CAUSE OF ACTION**

16 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

17 **(California Labor Code Section 226)**

18 **(Plaintiff against all named defendants and all DOE defendants)**

19 47. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 46, inclusive, of this Complaint as though fully set forth herein.

21 48. Pursuant to California Labor Code Section 226, every employer must furnish each
22 employee an itemized statement of wages and deductions at the time of payment of wages.

23 49. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
24 accurately reflected all information required by Labor Code Section 226, including but not
25 limited to, gross wages earned, including overtime, minimum wages, and premium pay for
26 missed meal and rest breaks, net wages earned, total hours worked by the employee, and all
27 deductions. Therefore, Defendants failed to maintain and provide accurate itemized wage
28 statements to Plaintiff in accordance with California Labor Code Section 226(a).

50. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the

greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and reasonable attorney's fees.

51. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained damages, including loss of earnings, in an amount to be established at trial. As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs and attorney's fees pursuant to statute.

52. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

FIFTH CAUSE OF ACTION

FAILURE TO PAY WAGES OWED EVERY PAY PERIOD

(California Labor Code Section 204)

(Plaintiff against all named defendants and all DOE defendants)

53. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 52, inclusive, of this Complaint as though fully set forth herein.

54. California Labor Code Section 204 establishes the fundamental right of all employees in the State of California to be paid wages in a timely fashion for their work.

55. At all times relevant during the liability period, Defendants failed to pay Plaintiff the full amount of all owed wages when due as required by California Labor Code Section 204.

56. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the liability period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked, including overtime hours, the minimum wage, and premium pay for missed meal and rest breaks.

57. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount, subject to proof, to the extent she was not paid all wages each pay period. The precise amount of unpaid wages is not presently known to Plaintiff but can be determined directly

1 from Defendants' records or indirectly based on information from Defendants' records.

2 58. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
3 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
4 trial.

5 **SIXTH CAUSE OF ACTION**

6 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

7 **(California Labor Code Sections 201, 203)**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.

11 60. Pursuant to California Labor Code Section 201(a), an employer who discharges an
12 employee must immediately pay for all compensation due and owing.

13 61. Pursuant to California Labor Code Section 202, when an employee resigns, the
14 employer must pay all compensation due and owing within 72 hours of resignation, or on the
15 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

16 62. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
17 without abatement or reduction, any wages of an employee whose employment ends, the wages
18 of the employee shall continue as a penalty from the due date at the same rate until paid or until
19 an action is commenced; however, the wages shall not continue for more than 30 days for
20 failure to pay an employee owed wages.

21 63. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
22 continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

23 64. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
24 along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.
25 Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately preceding
26 the filing of this lawsuit.

27 65. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
28 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

1 66. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
2 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
3 trial.

4 **SEVENTH CAUSE OF ACTION**

5 **FAILURE TO GIVE REST BREAKS**

6 **(Plaintiff against all named defendants and all DOE defendants)**

7 67. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 66, inclusive, of this Complaint as though fully set forth herein.

9 68. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 10 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which provides
11 that every employer shall authorize and permit all employees to take rest periods,
12 which insofar as practicable shall be in the middle of each work period. The
13 authorized rest period time shall be based on the total hours worked daily at the rate
14 of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
- 15 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which provides
16 that if an employer fails to provide an employee a rest period in accordance with the
17 applicable provisions of this order, the employer shall pay the employee one (1) hour
18 of pay at employee's regular rate of compensation for each workday that the rest
19 period is not provided;
- 20 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which penalizes
21 the employer \$50.00 for each initial violation, per employee, of any provision of the
22 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- 23 d. California Labor Code section 226.7, which states that (a) no employer shall require
24 any employee to work during any rest period mandated by an applicable order of the
25 Industrial Welfare Commission, and (b) if an employer fails to provide an employee
26 a rest period in accordance with an applicable order of the Industrial Welfare
27 Commission, the employer shall pay the employee one (1) additional hour of pay at
28 employee's regular rate of compensation for each work day that the rest period is not
provided.

1 69. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute
2 rest break after every four (4) hours of work or major fraction thereof, as required by California
3 law.

4 70. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
5 regulations, and wage orders alleged in this cause of action along with any allowable interest,
6 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for the
7 foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

8 71. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees
9 as well as interest under Labor Code section 218.6.

10 72. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
11 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
12 trial.

13 **EIGHTH CAUSE OF ACTION**

14 **FAILURE TO GIVE MEAL BREAKS**

15 **(Plaintiff against all named defendants and all DOE defendants)**

16 73. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 72, inclusive, of this Complaint as though fully set forth herein.

18 74. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 19 a. California Labor Code section 512(a), which requires that employees be given a 30-
20 minute uninterrupted meal break after five (5) hours of work, and a second
21 uninterrupted meal break after ten (10) hours of work;
- 22 b. California Labor Code section 226.7, which states that (a) no employer shall require
23 any employee to work during any meal period mandated by an applicable order of
24 the Industrial Welfare Commission, and (b) if any employer fails to provide an
25 employee a meal period in accordance with an applicable order of the Industrial
26 Welfare Commission, the employer shall pay the employee one (1) additional hour
27 of pay at the employee's regular rate of compensation for each workday that the meal
28 period is not provided;
- c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified

1 under Title 8 of the California Code of Regulations Section 11050, which states that
2 if an employer fails to provide an employee a meal period in accordance with the
3 applicable provisions of the Wage Order, the employer shall pay the employee one
4 (1) hour of pay at the employee's regular rate of compensation for each workday that
5 the meal period is not provided;

- 6 d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as
7 codified under Title 8 of the California Code of Regulations Section 11050, which
8 requires an employer to maintain records documenting its employees' meal periods;
- 9 e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as
10 codified under California Code of Regulations Section 11050, which penalizes the
11 employer \$50.00 for each initial violation, per employee, of any provision of the
12 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- 13 f. California Labor Code section 1171 and 1173, which have given the California Labor
14 Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5) as
15 enforceable law.

16 75. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
17 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
18 to take a second relieved meal break after ten (10) hours of work, as required by California law.
19 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
20 5, as codified under California Code of Regulations Sections 11050 et. seq. requires that
21 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that
22 the meal period be at least 30 minutes in length, wherein employee is relieved of all work duty.
23 California Labor Code section 226.7 provides that employers may not require their employees
24 to work through their meal periods. California Labor Code section 226.7 and California Code of
25 Regulations section 11050 requires that if the employer fails to provide the employee with an
26 uninterrupted meal period, the employer must pay the employee one (1) hour of pay for each
27 work day that the meal period is not given.

28 76. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
regulations, and wage orders alleged in this cause of action along with any allowable interest,

1 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
2 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

3 77. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
4 fees as well as interest under Labor Code section 218.6.

5 78. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
6 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
7 trial.

8 **NINTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

10 **(Plaintiff against All Named Defendants and all DOE defendants)**

11 79. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 78, inclusive, of this Complaint as though fully set forth herein.

13 80. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
14 employee for all necessary expenditures or losses incurred by the employee in direct
15 consequence of the discharge of his or her duties."

16 81. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
17 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
18 of completing her job duties, which were not reimbursed by Defendant. These expenses
19 include, but are not limited to, personal cell phones for work purposes and uniforms, including
20 scrubs, in order to effectuate job duties. In terms of the personal cell phone use, Plaintiff was
21 on a group chat session with employees and management regarding work related issues while
22 on the job. In addition, Plaintiff would have to take photos on her personal cell phone and send
23 them to management to point out issues at the workplace. Moreover, Plaintiff purchased items
24 for business purposes for which she was not reimbursed, including milk, bread, paper, and
pens.

25 82. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
26 and attorney's fees and costs, under Labor Code section 2802.

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28 ///

PRIVATE ATTORNEYS GENERAL ACT

(Plaintiff against OAKLAND HEALTHCARE and all DOE defendants)

88. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged violator and had one or more of the alleged violations committed against her, and therefore is properly suited to represent the interests of other current and former employees, including all current and former hourly, non-exempt employees who worked for OAKLAND

1 HEALTHCARE in the State of California during the applicable PAGA Period.

2 89. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties under
3 California Labor Code sections 2698 and 2699 because of Defendants' violations of numerous
4 provisions of the California Labor Code as alleged in this Complaint.

5 90. Plaintiff therefore has exhausted all administrative remedies required of her under
6 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
7 cause of action and pursue penalties in a representative action for Defendants' violations of
8 the Labor Code.

9 91. California Labor Code section 2699 et seq. imposes penalties upon culpable Defendants
10 for violating the Labor Code.

11 92. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
12 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
13 seeking individual penalties/victim specific relief or underpaid wages for herself or other
14 employees under this specific PAGA cause of action. Plaintiff has separate causes of action in
15 this Complaint for individual wages but is not seeking wages through the PAGA action.

16 93. Specifically, Plaintiff seeks penalties under California Labor Code
17 section 2699, for the following:

18 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 221, 226,
19 226.3, 226.7, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800,
20 2802, and any other Labor Codes/Industrial Welfare Commission Order (No. 5) violated based
21 on the facts alleged in this Complaint.

22 94. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
23 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved employees
24 as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional
25 limits of this Court.

26 **ELEVENTH CAUSE OF ACTION**

27 **FAILURE TO PROVIDE PERSONNEL RECORDS**

28 **(Plaintiff against all named Defendants and all DOE Defendants)**

95. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 94, inclusive, of this Complaint as though fully set forth herein.

2 96. Labor Code section 1198.5 dictates “every current and former employee, or his
3 or her representative, has the right to inspect and receive a copy of the personnel records that
4 the employer maintains relating to the employee’s performance or to any grievance concerning
5 the employee.”

6 97. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, “the employer shall
7 make the contents of those personnel records available for inspection to the current or former
8 employee, or his or her representative, at reasonable intervals and at reasonable times...” On
9 information and belief, Defendants intentionally failed to provide Plaintiff with personnel
10 records when requested by Plaintiff via letters on September 5, 2024, as required by law. Plaintiff
11 requested her personnel records in accordance with California Labor Code section 1198.5(k) on
12 September 5, 2024, via U.S. certified mail, return receipt requested.

13 98. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her records
14 within 30 days. As a direct result of Defendants’ violations alleged herein, Plaintiff has suffered
15 and continues to suffer substantial losses related to Defendants’ failure to provide personnel
16 records.

17 99. Plaintiff seeks all available remedies for Defendants’ violations including, but not
18 limited penalties, and costs to the extent permitted by law and according to proof at trial.
19 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
20 amount of \$750.00, along with costs and attorney’s fees.

21 **TWELFTH CAUSE OF ACTION**

22 **FAILURE TO PROVIDE PAY RECORDS**

23 **(Plaintiff against all named Defendants and all DOE Defendants)**

24 100. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 99, inclusive, of this Complaint as though fully set forth herein.

26 101. Labor Code section 226 sub-section (b) dictates “an employer...shall afford
27 current and former employees the right to inspect or copy records pertaining to their
28 employment, upon reasonable request to the employer...”

102. Moreover, pursuant to sub-section (c) of Labor Code section 226, “an

1 employer who receives a written or oral request to inspect or copy records pursuant to
2 subdivision (b) pertaining to a current or former employee shall comply with the request as
3 soon as practicable, but no later than 21 calendar days from the date of the request.” On
4 information and belief, Defendants intentionally failed to provide Plaintiff with pay records
5 when requested by Plaintiff via certified letter, return receipt requested, on September 5, 2024,
6 and as required by law. Plaintiff requested her pay records in accordance with California
7 Labor Code section 226 on September 5, 2024, via certified mail. Defendants failed to provide
8 Plaintiff with an opportunity to inspect or copy her pay records within 21 days.

9 103. As a direct result of Defendants’ violations alleged herein, Plaintiff has
10 suffered and continues to suffer substantial losses related to Defendants’ failure to provide pay
11 records.

12 104. Pursuant to Labor Code section 226, Plaintiff prays for judgment against
13 Defendants in the amount of \$750.00, along with costs and attorney’s fees. Plaintiff seeks all
14 available remedies for Defendants’ violations including, but not limited penalties, and costs to
15 the extent permitted by law and according to proof at trial.

16 **THIRTEENTH CAUSE OF ACTION**

17 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

18 **(California Business and Professions Code Section 17200)**

19 **(Plaintiff against All Named Defendants and all DOE defendants)**

20 105. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 104, inclusive, of this Complaint as though fully set forth herein.

22 106. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
23 constitutes unfair and unlawful business practices under California Business and Professions
24 Code Section 17200, et seq.

25 107. Defendant’s violations of the California labor laws and the Labor Code
26 constitutes a business practice because it was done repeatedly over a significant period of time
27 in a systematic manner that was detrimental to Plaintiff and other employees.

28 108. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
reasonable attorneys’ fees and costs of said suit as specifically provided in California Code of

1 Civil Procedure Section 1021.5 and California Business and Professions Code section 17200 et
2 seq.

3 109. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
4 multiple damages as specifically provided in California Business and Professions Code section
5 17200 et seq.

6 110. For the four years preceding the filing of this action, Plaintiff requests
7 restitution of all monies and profits to be disgorged from Defendants in an amount according to
8 proof at time of trial, but in excess of the jurisdiction of this Court.

9 **PRAYER FOR RELIEF**

- 10 1. For compensatory damages including lost past and future wages, overtime,
11 commissions, and all other sums of money, including employment benefits, together
12 with interest on said amounts, and any other economic injury to Plaintiff, according to
13 proof;
- 14 2. For special and consequential damages to the extent allowed by law;
- 15 3. For restitution and disgorgement for all unfair business practices by corporate Defendants
16 against Plaintiff in an amount according to proof;
- 17 4. For an order enjoining corporate Defendants from further unfair and unlawful business
18 practices in violation of Business and Professions Code section 17200, et seq.;
- 19 5. For damages and penalties against Defendants under Labor Code section
20 226 for Plaintiff in an amount subject to proof at trial;
- 21 6. For damages and penalties pursuant to Labor Code section 203 against Defendants in
22 an amount subject to proof at trial;
- 23 7. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
24 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
- 25 8. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half
26 (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
- 27 9. For maximum civil penalties available under the Labor Code and applicable Wage Order
28 against Defendant as described more particularly in the Complaint and Representative
PAGA claim/action;

- 1 10. For all remedies available to Plaintiff under the applicable Wage Order and the Labor
2 Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated
3 damages, damages, penalties, and waiting time penalties according to proof to the extent
4 permitted by law;
5 11. For the imposition of civil penalties and/or statutory penalties;
6 12. Reasonable attorney's fees where available by law, including but not limited to,
7 pursuant to the California Labor Code, including section 2698, and/or other
8 applicable laws; and
9 13. Costs and expenses of suit incurred herein;
10 14. For all interest as allowed by law;and
11 15. For such other and further relief as the Court deems just and proper.

12 DATED: August 27, 2025

MESSRELIAN LAW INC.

14 By Maralle Messrelian
15 Harout Messrelian, Esq.
16 Maralle Messrelian, Esq., Of Counsel
Attorneys for Plaintiff Esmeralda Velazquez-
Garcia

18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

21 DATED: August 27, 2025

MESSRELIAN LAW INC.

23 By Maralle Messrelian
24 Harout Messrelian, Esq.
25 Maralle Messrelian, Esq., Of Counsel
26 Attorneys for Plaintiff Esmeralda Velazquez-
27 Garcia
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