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County of Alameda

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

JOBETH GERVACIO, MONISHA
GURUNG, and ERIKA BELL, individually,
and on behalf of other members of the general
public similarly situated,

Plaintiffs,

v.

ELEGANCE LIVING EMPLOYER
BERKELEY, LLC, a Delaware limited
liability company; ELEGANCE LIVING
EMPLOYER, LLC, a Delaware limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No. **24CV096365**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) Failure to Pay Minimum Wage for All Hours Worked (Lab. Code §§ 1182.12, 1194, 1194.2, 1197 and 1197.1)**
- (2) Failure to Pay Overtime Compensation (Lab. Code §§ 1194 and 1198)**
- (3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)**
- (4) Failure to Provide Rest Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)**
- (5) Failure to Indemnify Necessary Business Expenses (Lab. Code §§ 2802)**
- (6) Waiting Time Penalties (Lab. Code §§ 201-203)**
- (7) Failure to Provide Accurate Wage Statements (Lab. Code § 226)**
- (8) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*)**
- (9) Private Attorneys General Act (Lab. Code § 2698, *et seq.*)**

JURY TRIAL DEMANDED

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PRAYER FOR RELIEF 23

1 Jobeth Gervacio, Monisha Gurung, and Erika Bell, (collectively, “Plaintiffs”) individually,
2 and on behalf of other members of the general public similarly situated, bring this action against
3 Elegance Living Employer Berkeley, LLC, Elegance Living Employer, LLC, and Does 1 through
4 10, inclusive, and allege as follows:

5 **INTRODUCTION & PRELIMINARY STATEMENT**

6 1. Plaintiffs bring this action against Defendants Elegance Living Employer Berkeley,
7 LLC, Elegance Living Employer, LLC, and Does 1 through 10 (collectively, “Defendants”) for
8 California Labor Code violations and unfair business practices stemming from Defendants’ failure
9 to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods,
10 failure to authorize and permit rest periods, failure to maintain accurate records of hours worked
11 and meal periods, failure to timely pay all wages to terminated employees, failure to indemnify
12 necessary business expenses and failure to furnish accurate wage statements.

13 2. Plaintiffs bring the First through Eighth Causes of Action individually and as a class
14 action on behalf of herself and certain current and former employees of Defendants (hereinafter
15 collectively referred to as the “Class” or “Class Members” and defined more fully below). The
16 Class consists of Plaintiffs and all other persons who have been employed by any Defendants in
17 California as an hourly-paid, non-exempt employee during the statute of limitations period
18 applicable to the claims pleaded here.

19 3. Plaintiffs bring the Ninth Cause of Action as a representative action under the
20 Private Attorneys General Act (“PAGA”) to recover civil penalties that are owed to Plaintiffs, the
21 State of California, and past and present employees of Defendants employed at any time within the
22 applicable statutory period (“Aggrieved Employees”).

23 4. Defendants own/owned and operate/operated an industry, business, and
24 establishment within the State of California, including Alameda. As such, and based upon all the
25 facts and circumstances incident to Defendants’ business in California, Defendants are subject to
26 the California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”),
27 and the California Business & Professions Code.

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1 5. Despite these requirements, throughout the statutory period Defendants maintained
2 a systematic, company-wide policy and practice of:

3 a. Failing to pay employees for all hours worked, including all minimum
4 wages, and overtime wages in compliance with the California Labor Code and IWC Wage Orders;

5 b. Failing to provide employees with timely and duty-free meal periods in
6 compliance with the California Labor Code and IWC Wage Orders, failing to maintain accurate
7 records of all meal periods taken or missed, and failing to pay an additional hour's pay for each
8 workday a meal period violation occurred;

9 c. Failing to authorize and permit employees to take timely and duty-free rest
10 periods in compliance with the California Labor Code and IWC Wage Orders, and failing to pay
11 an additional hour's pay for each workday a rest period violation occurred;

12 d. Willfully failing to pay employees all minimum wages, meal period
13 premium wages, and rest period premium wages due within the time period specified by California
14 law when employment terminates;

15 e. Failing to maintain accurate records of the hours that employees worked;
16 and

17 f. Failing to provide employees with accurate, itemized wage statements
18 containing all the information required by the California Labor Code and IWC Wage Orders.

19 6. On information and belief, Defendants, and each of them were on actual and
20 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
21 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
22 willful and deliberate.

23 7. At all relevant times, Defendants were and are legally responsible for all of the
24 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
25 foregoing paragraphs as the employer of Plaintiffs and the Class. Further, Defendants are
26 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
27 "respondeat superior."

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THE PARTIES

A. Plaintiff

8. Plaintiff Jobeth Gervacio (“Ms. Gervacio”) is an individual residing in the County of Alameda, California and worked as a non-exempt Human Resources (“HR”) manager and director of business administration beginning on June 1, 2023.

9. Plaintiff Monisha Gurung (“Ms. Gurung”) is an individual residing in the County of Alameda, California and worked as a non-exempt medication technician beginning on May 17, 2023.

10. Plaintiff Erika Bell (“Ms. Bell”) is an individual residing in the County of Alameda, California and worked as a non-exempt medication technician beginning on October 1, 2023.

11. Plaintiffs reserve the right to seek leave to amend this complaint to add new plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

B. Defendants

12. Plaintiffs are informed and believe, and based upon that information and belief alleges, that Defendant Elegance Living Employer Berkeley, LLC (“Elegance Berkeley”) is:

a. A California corporation with its principal place of business in the County of Alameda, California.

b. A business entity conducting business in numerous counties throughout the State of California, including in Alameda County;

c. The current or former employer of Plaintiffs and of the putative Class. Defendants suffered and permitted Plaintiffs and the Class to work, and/or controlled their wages, hours, or working conditions; and

d. At all times mentioned herein, Defendants, and each of them, are and were doing business as Elegance Living Employer Berkeley, LLC.

13. Plaintiffs are informed and believe, and based upon that information and belief alleges, that Defendant Elegance Living Employer, LLC (“Elegance”) is:

1 a. A California corporation with its principal place of business in the County
2 of Alameda, California.

3 b. A business entity conducting business in numerous counties throughout the
4 State of California, including in Alameda County;

5 c. The current or former employer of Plaintiffs and of the putative Class.
6 Defendants suffered and permitted Plaintiffs and the Class to work, and/or controlled their wages,
7 hours, or working conditions; and

8 d. At all times mentioned herein, Defendants, and each of them, are and were
9 doing business as Elegance Living Employer, LLC.

10 14. Plaintiffs are unaware of the true names and capacities of the defendants sued as
11 Does 1 through 10, inclusive, and therefore sues these defendants by fictitious names. Plaintiffs
12 will amend this complaint to allege their true names and capacities when the same have been
13 ascertained. Plaintiffs are informed and believe that each of the fictitiously named defendants is
14 responsible in some manner for the occurrences herein alleged and that Plaintiffs' damages were
15 proximately caused by said defendants' conduct.

16 15. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
17 each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or
18 injured a significant number of the Plaintiffs and the Class in the State of California. Plaintiffs are
19 informed and believe and thereon alleges that at all relevant times each Defendant, directly or
20 indirectly, or through agents or other persons, employed Plaintiffs and the other employees
21 described in the class definitions below, and exercised control over their wages, hours, and
22 working conditions. Plaintiffs are informed and believe and thereon alleges that, at all relevant
23 times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling
24 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
25 interest of some or all of the other Defendants, and was engaged with some or all of the other
26 Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
27 other Defendants so as to be liable for their conduct with respect to the matters alleged below.
28 Plaintiffs are informed and believe and thereon alleges that each Defendant acted pursuant to and

1 within the scope of the relationships alleged above, that each Defendant knew or should have
2 known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the
3 conduct of all other Defendants.

4 **VENUE AND JURISDICTION**

5 16. The wrongful conduct alleged against the Defendants occurred in the County of
6 Alameda, California. At all times relevant hereto, the conduct at issue was part of a continuous and
7 ongoing pattern of behavior.

8 17. This Court is the proper forum to adjudicate this action because the wrongful acts
9 that are the subject of this action occurred here, the Defendant now resides in its jurisdictional
10 area, and injury to person occurred in its jurisdictional area.

11 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

12 18. During the statutory period, Defendants classified Plaintiffs as non-exempt from
13 California's overtime requirements, and paid Plaintiffs an hourly wage.

14 19. Throughout the statutory period, Defendants failed to pay Plaintiffs for all hours
15 worked (including minimum wages), failed to provide Plaintiffs with uninterrupted meal periods,
16 failed to authorize and permit Plaintiffs to take uninterrupted rest periods, failed to timely pay all
17 final wages to Plaintiffs when Defendants terminated Plaintiffs' employment, and failed to furnish
18 accurate wage statements to Plaintiffs. As discussed below, Plaintiffs' experience working for
19 Defendants was typical and illustrative.

20 20. Throughout the statutory period, Defendants maintained a policy and practice of not
21 paying Plaintiffs and the Class for all hours worked. Defendants failed to incorporate all
22 remuneration when calculating the correct rate of pay and meal and rest break premium rate of
23 pay, leading to underpayment to Plaintiffs and the Class.

24 21. In maintaining a practice of not paying all wages owed, Defendants failed to
25 maintain accurate records of the hours Plaintiffs and the Class worked.

26 22. Throughout the statutory period, Defendants wrongfully failed to provide Plaintiffs
27 and the Class with legally compliant meal periods. Defendants sometimes, but not always, required
28 Plaintiffs and the Class to work in excess of five consecutive hours a day without providing timely

1 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or
2 without compensating Plaintiffs and the Class for meal periods that were not provided by the end
3 of the fifth hour of work or tenth hour of work. Defendants also did not adequately inform
4 Plaintiffs and the Class of their right to take a meal period by the end of the fifth hour of work, or,
5 for shifts greater than 10 hours, by the end of the tenth hour of work. Accordingly, Defendants'
6 policy and practice was to not provide meal periods to Plaintiffs and the Class in compliance with
7 California law.

8 23. Throughout the statutory period, Defendants have wrongfully failed to authorize
9 and permit Plaintiffs and the Class to take timely and duty-free rest periods. Defendants always
10 required Plaintiffs and the Class to work in excess of four consecutive hours a day without
11 Defendants authorizing and permitting them to take a 10-minute, continuous and uninterrupted,
12 rest period for every four hours of work (or major fraction of four hours), or without compensating
13 Plaintiffs and the Class for rest periods that were not authorized or permitted. Defendants also did
14 not adequately inform Plaintiffs and the Class of their right to take a rest period. Moreover,
15 Defendants did not have adequate policies or practices permitting or authorizing rest periods for
16 Plaintiffs and the Class, nor did Defendants have adequate policies or practices regarding the
17 timing of rest periods. Defendants also did not have adequate policies or practices to verify
18 whether Plaintiffs and the Class were taking their required rest periods.

19 24. Further, Defendants did not maintain accurate records of employee work periods,
20 and therefore Defendants cannot demonstrate that Plaintiffs and the Class took rest periods during
21 the middle of each work period. Accordingly, Defendants' policy and practice was to not authorize
22 and permit Plaintiffs and the Class to take rest periods in compliance with California law.

23 25. Throughout the statutory period, Defendants willfully failed and refused to timely
24 pay Plaintiffs and the Class during and at the conclusion of their employment all wages for all
25 minimum wages, meal period premium wages, and rest period premium wages.

26 26. Throughout the statutory period, Defendants failed to furnish Plaintiffs and the
27 Class with accurate, itemized wage statements showing all applicable hourly rates, and all gross
28 and net wages earned (including correct hours worked, correct wages earned for hours worked,

1 correct wages for meal periods that were not provided in accordance with California law, and
2 correct wages for rest periods that were not authorized and permitted to take in accordance with
3 California law). As a result of these violations of California Labor Code § 226(a), the Plaintiffs
4 and the Class suffered injury because, among other things:

5 a. the violations led them to believe that they were not entitled to be paid
6 minimum wages, overtime wages, meal period premium wages, and rest period premium wages to
7 which they were entitled, even though they were entitled;

8 b. the violations led them to believe that they had been paid the minimum,
9 meal period premium, and rest period premium wages, even though they had not been;

10 c. the violations led them to believe they were not entitled to be paid
11 minimum, meal period premium, and rest period premium wages at the correct California rate even
12 though they were;

13 d. the violations led them to believe they had been paid minimum, overtime,
14 meal period premium, and rest period premium wages at the correct California rate even though
15 they had not been;

16 e. the violations hindered them from determining the amounts of minimum,
17 meal period premium, and rest period premium owed to them;

18 f. in connection with their employment before and during this action, and in
19 connection with prosecuting this action, the violations caused them to have to perform
20 mathematical computations to determine the amounts of wages owed to them, computations they
21 would not have to make if the wage statements contained the required accurate information;

22 g. by understating the wages truly due them, the violations caused them to lose
23 entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and
24 other governmental benefits; and

25 h. the wage statements inaccurately understated the wages, hours, and wage
26 rates to which Plaintiffs and the Class were entitled, and Plaintiffs and the Class were paid less
27 than the wages and wage rates to which they were entitled, thus, Plaintiffs and the Class are owed
28 the amounts provided for in Labor Code section 226, subdivision (e), including actual damages.

CLASS ACTION ALLEGATIONS

27. Plaintiffs bring certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seek class certification under California Code of Civil Procedure section 382.

28. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law. The proposed Class consists of and is defined as:

All persons who worked for any of the Defendants in California as an hourly non-exempt employees at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent.

29. At all material times, Plaintiffs were members of the Class.

30. Plaintiffs undertakes this concerted activity to improve the wages and working conditions of all Class Members.

31. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

a. Numerosity: The members of the Class (and each subclass, if any) are so that joinder of all members would be unfeasible and impractical. The membership of the entire Class are unknown to Plaintiffs at this time, however, the Class is estimated to be greater than 100 individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.

b. Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiffs' claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

c. Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs have no conflicts with or interests antagonistic to any Class Member. Plaintiffs' attorneys, the proposed class counsel, are

1 versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have
2 incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees
3 that have been, are, and will be necessarily expended for the prosecution of this action for the
4 substantial benefit of each class member.

5 d. Superiority: A Class Action is superior to other available methods for the
6 fair and efficient adjudication of the controversy, including consideration of:

- 7 1. The interests of the members of the Class in individually controlling
8 the prosecution or defense of separate actions;
- 9 2. The extent and nature of any litigation concerning the controversy
10 already commenced by or against members of the Class;
- 11 3. The desirability or undesirability of concentrating the litigation of
12 the claims in the particular forum; and
- 13 4. The difficulties likely to be encountered in the management of a
14 class action.

15 e. Public Policy Considerations: The public policy of the State of California is
16 to resolve the California Labor Code claims of many employees through a class action. Indeed,
17 current employees are often afraid to assert their rights out of fear of direct or indirect retaliation.
18 Former employees are also fearful of bringing actions because they believe their former employers
19 might damage their future endeavors through negative references and/or other means. Class actions
20 provide the class members who are not named in the complaint with a type of anonymity that
21 allows for the vindication of their rights at the same time as their privacy is protected.

22 32. There are common questions of law and fact as to the Class (and each subclass, if
23 any) that predominate over questions affecting only individual members, including without
24 limitation, whether, as alleged herein, Defendants have:

25 a. Failed to pay Class Members for all hours worked, including minimum
26 wages, and overtime wages;

27 b. Failed to provide meal periods and pay meal period premium wages to Class
28 Members;

- 1 c. Failed to authorize and permit rest periods and pay rest period premium
2 wages to Class Members;
- 3 d. Failed to promptly pay all wages due to Class Members upon their discharge
4 or resignation;
- 5 e. Failed to maintain accurate records of all hours Class Members worked, and
6 all meal periods Class Members took or missed;
- 7 f. Failed to reimburse Class Members for all necessary business expenses; and
- 8 g. Violated California Business & Professions Code §§ 17200 et. seq. as a
9 result of their illegal conduct as described above.

10 33. This Court should permit this action to be maintained as a class action pursuant to
11 California Code of Civil Procedure section 382 because:

- 12 a. Questions of law and fact common to the Class predominate over any
13 question affecting only individual members;
- 14 b. A class action is superior to any other available method for the fair and
15 efficient adjudication of the claims of the members of the Class;
- 16 c. The members of the Class are so numerous that it is impractical to bring all
17 members of the class before the Court;
- 18 d. Plaintiffs, and the other members of the Class, will not be able to obtain
19 effective and economic legal redress unless the action is maintained as a class action;
- 20 e. There is a community of interest in obtaining appropriate legal and equitable
21 relief for the statutory violations, and in obtaining adequate compensation for the damages and
22 injuries for which Defendants are responsible in an amount sufficient to adequately compensate the
23 members of the Class for the injuries sustained;
- 24 f. Without class certification, the prosecution of separate actions by individual
25 members of the class would create a risk of:
- 26 1. Inconsistent or varying adjudications with respect to individual
27 members of the Class which would establish incompatible standards
28 of conduct for Defendants; and/or

2. Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

g. Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

34. Plaintiffs contemplate the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiffs would contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

first CAUSE OF ACTION

Failure to Pay Minimum Wage for All Hours Worked

(Lab. Code §§ 1182.12, 1194, 1194.2, 1197 and 1197.1)

(Against All Defendants)

35. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth fully herein.

36. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

37. At all relevant times herein mentioned, Defendants knowingly failed to pay to Plaintiffs and the Class compensation for all hours they worked. By their failure to pay compensation for each hour worked as alleged above, Defendants willfully violated the provisions

1 of Section 1194 of the California Labor Code, and any additional applicable Wage Orders, which
2 require such compensation to non-exempt employees.

3 38. Accordingly, Plaintiffs and the Class are entitled to recover minimum wages for all
4 non-overtime hours worked for Defendants.

5 39. By and through the conduct described above, Plaintiffs and the Class have been
6 deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

7 40. By virtue of the Defendants' unlawful failure to pay additional compensation to
8 Plaintiffs and the Class for their non-overtime hours worked without pay, Plaintiffs and the Class
9 suffered, and will continue to suffer, damages in amounts which are presently unknown to
10 Plaintiffs and the Class, but which exceed the jurisdictional minimum of this Court, and which will
11 be ascertained according to proof at trial.

12 41. By failing to keep adequate time records required by Labor Code § 1174(d),
13 Defendants have made it difficult to calculate the full extent of minimum wage compensation due
14 Plaintiffs and the Class.

15 42. Pursuant to Labor Code section 1194.2, Plaintiffs and the Class are entitled to
16 recover liquidated damages (double damages) for Defendants' failure to pay minimum wages.

17 43. Labor Code section 204 requires employers to provide employees with all wages
18 due and payable twice a month. Throughout the statute of limitations period applicable to this
19 cause of action, Plaintiffs and the Class were entitled to be paid twice a month at rates required by
20 law, including minimum wages. However, during all such times, Defendants systematically failed
21 and refused to pay Plaintiffs and the Class all such wages due and failed to pay those wages twice
22 a month.

23 44. Plaintiffs and the Class are also entitled to seek recovery of all unpaid minimum
24 wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code
25 sections 218.5, 218.6, and 1194, subdivision (a).

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1 **second CAUSE OF ACTION**

2 **Failure to Provide Overtime Compensation (Lab. Code §§ 510, 1194, 1198)**

3 (Against All Defendants)

4 45. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
5 fully herein.

6 46. California Labor Code section 510 provides that employees in California shall not
7 be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless
8 they receive additional compensation beyond their regular wages in amounts specified by law.

9 47. California Labor Code sections 1194 and 1198 provide that employees in California
10 shall not be employed more than eight hours in any workday unless they receive additional
11 compensation beyond their regular wages in amounts specified by law. Additionally, California
12 Labor Code section 1198 states that the employment of an employee for longer hours than those
13 fixed by the Industrial Welfare Commission is unlawful.

14 48. At all times relevant hereto, Plaintiffs and the Class have worked more than eight
15 hours in a workday, as employees of Defendants.

16 49. At all times relevant hereto, Defendants failed to pay Plaintiffs and the Class
17 overtime compensation for the hours they have worked in excess of the maximum hours
18 permissible by law as required by California Labor Code sections 510 and 1198. Plaintiffs and the
19 Class are regularly required to work overtime hours.

20 50. By virtue of Defendants' unlawful failure to pay additional premium rate
21 compensation to the Plaintiffs and the Class for their overtime hours worked, Plaintiffs and the
22 Class have suffered, and will continue to suffer, damages in amounts which are presently unknown
23 to them but which exceed the jurisdictional minimum of this Court and which will be ascertained
24 according to proof at trial.

25 51. By failing to keep adequate time records required by Labor Code section 1174,
26 subdivision (d), Defendants have made it difficult to calculate the full extent of overtime
27 compensation due to Plaintiffs and the Class.
28

52. Plaintiffs and the Class also request recovery of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 1194, subdivision (a), as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other statutes.

53. California Labor Code section 204 requires employers to provide employees with all wages due and payable twice a month. The Wage Orders also provide that every employer shall pay to each employee, on the established payday for the period involved, overtime wages for all overtime hours worked in the payroll period. Defendants failed to provide Plaintiffs and the Class with all compensation due, in violation of California Labor Code section 204.

THIRD CAUSE OF ACTION

Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)

(Against All Defendants)

54. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth fully herein.

55. At all relevant times, Defendants were aware of and were under a duty to comply with Labor Code sections 226.7 and 512 and applicable sections of IWC Wage Orders.

56. Labor Code section 512 prohibits an employer from employing an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, or for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.

57. Section 11 of Wage Order No. 4 provides, and at all times relevant hereto provided, in relevant part that:

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

1 shall be considered an “on duty” meal period and counted as time
2 worked. An “on duty” meal period shall be permitted only when the
3 nature of the work prevents an employee from being relieved of all
4 duty and when by written agreement between the parties an on-the-
5 job paid meal period is agreed to. The written agreement shall state
6 that the employee may, in writing, revoke the agreement at any time.
7 If an employer fails to provide an employee a meal period in
8 accordance with the applicable provisions of this Order, the
9 employer shall pay the employee one (1) hour of pay at the
10 employee’s regular rate of compensation for each work day that the
11 meal period is not provided.

12 58. Labor Code section 226.7 prohibits any employer from requiring any employee to
13 work during any meal or rest period mandated by an applicable IWC wage order, and provides that
14 an employer that fails to provide an employee with a required rest break or meal period shall pay
15 that employee one additional hour of pay at the employee’s regular rate of compensation for each
16 work day that the employer does not provide a compliant meal or rest period.

17 59. Defendants knowingly failed to provide Plaintiffs and the Class with meal periods
18 as required by law. Defendants also failed to provide Plaintiffs and the Class with any payment of
19 meal premiums. Plaintiffs and the Class are entitled to be paid one hour of premium wages rate for
20 each workday he or she was not provided with all required meal break(s), plus interest thereon.

21 60. Plaintiffs and the Class have therefore been damaged and are entitled to payment of
22 the meal period premiums as provided by law.

23 **FOURTH CAUSE OF ACTION**

24 **Failure to Provide Rest Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders)**

25 (Against All Defendants)

26 61. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
27 fully herein.

28 //

1 62. Section 12 of Wage Order No. 4 provides, and at all times relevant hereto provided,
2 in relevant part that:

3 Every employer shall authorize and permit all employees to take rest
4 periods, which insofar as practicable shall be in the middle of each
5 work period. The authorized rest period time shall be based on the
6 total hours worked daily at the rate of ten (10) minutes net rest time
7 per four (4) hours or major fraction thereof. However, a rest period
8 need not be authorized for employees whose total daily work time
9 is less than three and one-half (3 ½) hours. Authorized rest period
10 time shall be counted, as hours worked, for which there shall be no
11 deduction from wages. If an employer fails to provide an employee
12 a rest period in accordance with the applicable provisions of this
13 Order, the employer shall pay the employee one (1) hour of pay at
14 the employee's regular rate of compensation for each work day that
15 the rest period is not provided.

16 63. Labor Code section 226.7 prohibits any employer from requiring any employee to
17 work during any meal or rest period mandated by an applicable IWC wage order, and provides that
18 an employer that fails to provide an employee with a required rest break or meal period shall pay
19 that employee one additional hour of pay at the employee's regular rate of compensation for each
20 work day that the employer does not provide a compliant meal or rest period.

21 64. Defendants knowingly failed to provide Plaintiffs and the Class with rest periods as
22 required by law, and knowingly failed to authorize and permit Plaintiffs and the Class to take rest
23 periods as required by law. Defendants also failed to provide Plaintiffs and the Class with any
24 payment of rest premiums. Plaintiffs and the Class are entitled to be paid one hour of premium
25 wages rate for each workday he or she was not provided with all required rest break(s), plus
26 interest thereon.

27 65. Plaintiffs and the Class have therefore been damaged and are entitled to payment of
28 the meal and rest period premiums as provided by law.

1 **FIFTH CAUSE OF ACTION**

2 **Failure to Indemnify Necessary Business Expenses (Lab. Code § 2802)**

3 (Against All Defendants)

4 66. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
5 fully herein.

6 67. Defendants violated Labor Code section 2802 and the IWC Wage Orders, by failing
7 to pay and indemnify the Plaintiffs and the Class for their necessary expenditures and losses
8 incurred in direct consequence of the discharge of their duties or of their obedience to directions of
9 Defendants.

10 68. As a result, Plaintiffs and the Class were damaged at least in the amounts of the
11 expenses they paid, or which were deducted by Defendants from their wages.

12 69. Plaintiffs and the Class they represent are entitled to attorney's fees, expenses, and
13 costs of suit pursuant to Labor Code section 2802, subdivision (c) and interest pursuant to Labor
14 Code section 2802, subdivision (b).

15 **SIXTH CAUSE OF ACTION**

16 **Waiting Time Penalties (Lab. Code §§ 201-203)**

17 (Against All Defendants)

18 70. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
19 fully herein.

20 71. Labor Code sections 201 and 202 require an employer to pay its employees all
21 wages due immediately upon discharge or within 72 hours of resignation. This requirement
22 applies to unpaid overtime wages. Labor Code section 203 provides that if an employer willfully
23 fails to pay such wages, the employer must continue to pay the subject employee's wages until the
24 back wages are paid in full or an action is commenced, up to a maximum of thirty days of wages.

25 72. Defendants willfully failed to pay Plaintiffs and the Class their earned and unpaid
26 wages for 30 days from the time such wages should have been paid under the Labor Code.

1 73. As a result of Defendants' willful failure to pay owed wages upon separation from
2 employment, Plaintiffs and the Class have been harmed and Defendants are liable for statutory
3 waiting time penalties pursuant to Labor Code section 203.

4 **SEVENTH CAUSE OF ACTION**

5 **Failure to Provide Accurate Wage Statements (Lab. Code § 226)**

6 (Against All Defendants)

7 74. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
8 fully herein.

9 75. Labor Code section 226, subdivision (a) requires employers to provide employees,
10 semi-monthly or at the time of each payment of wages, with a statement that accurately reflects
11 certain itemized information including total number of hours worked.

12 76. Defendants knowingly and intentionally failed to furnish Plaintiffs and the Class
13 with timely and accurate wage statements that accurately reflected the total number of hours
14 worked and wages earned, as required by Labor Code section 226.

15 77. As a result of Defendants' failure to provide accurate itemized wage statements,
16 Plaintiffs and the Class suffered actual damages and harm by being unable to determine the
17 amount of overtime worked each pay period in a timely manner, which prevented them from
18 asserting their rights under California law.

19 78. Calculation of the true wage entitlement for Plaintiffs and the Class is difficult and
20 time consuming. As a result of this unlawful burden, Plaintiffs and the Class were also injured as a
21 result of having to bring this action to attempt to obtain correct wage information following
22 Defendants' refusal to comply with many of the mandates of the Labor Code and related laws and
23 regulations.

24 79. Plaintiffs and the Class are entitled to recover from Defendants their actual damages
25 caused by Defendants' failure to comply with Labor Code section 226, subdivision (a).

26 80. Plaintiffs and the Class are also entitled to injunctive relief, as well as an award of
27 attorney's fees and costs to ensure compliance with this section, pursuant to Labor Code section
28 226, subdivision (h).

1 **EIGHTH CAUSE OF ACTION**

2 **Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*)**

3 (Against All Defendants)

4 81. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
5 fully herein.

6 82. Business and Professions Code section 17200, *et seq.* (“UCL”) prohibits any
7 “unlawful, unfair, or fraudulent business act or practice.” Defendants have engaged in unlawful
8 activity as follows:

- 9 a. Violations of Labor Code sections 510, 1194, 1198 for failure to pay
10 minimum wages, including overtime wages;
11 b. Violations of Labor Code sections 226.7 and 512 for failure to provide meal
12 periods and rest breaks;
13 c. Violations of Labor Code section 226 for failure to provide accurate wage
14 statements;
15 d. Violation of Labor Code section 2802 for failure to indemnify necessary
16 business expenses;
17 e. Violations of Labor Code sections 201-203 for failure to pay accrued wages
18 upon separation of employment;

19 83. By and through their unfair, unlawful and/or fraudulent business practices described
20 herein, the Defendants, have obtained valuable property, money and services from Plaintiffs, and
21 all persons similarly situated, and have deprived Plaintiffs, and all persons similarly situated, of
22 valuable rights and benefits guaranteed by law, all to their detriment.

23 84. Plaintiffs and the Class Members suffered monetary injury as a direct result of
24 Defendants’ wrongful conduct.

25 85. Plaintiffs, individually, and on behalf of members of the putative Class, are entitled
26 to, and does, seek such relief as may be necessary to disgorge money and/or property which the
27 Defendants have wrongfully acquired, or of which Plaintiffs and the Class have been deprived, by
28 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiffs and

1 the Class are not obligated to establish individual knowledge of the wrongful practices of
2 Defendants in order to recover restitution.

3 86. Plaintiffs, individually, and on behalf of members of the putative class, are further
4 entitled to and does seek a declaration that the above described business practices are unfair,
5 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,
6 from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices
7 in the future.

8 87. Plaintiffs, individually, and on behalf of members of the putative class, have no
9 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members
10 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business practices.
11 As a result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiffs,
12 individually, and on behalf of members of the putative Class, have suffered and will continue to
13 suffer irreparable harm unless the Defendants, and each of them, are restrained from continuing to
14 engage in said unfair, unlawful and/or fraudulent business practices.

15 88. Plaintiffs also allege that if Defendants are not enjoined from the conduct set forth
16 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
17 withholdings.

18 89. Pursuant to California Business & Professions Code section 17200, *et seq.*,
19 Plaintiffs and putative Class Members are entitled to restitution of the wages withheld and retained
20 by Defendants during a period that commences four years prior to the filing of this complaint; a
21 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and Class
22 Members; an award of attorneys' fees pursuant to Code of Civil Procedure section 1021.5 and
23 other applicable laws; and an award of costs.

24 **NINTH CAUSE OF ACTION**

25 **Private Attorneys General Act (Lab. Code § 2698, *et seq.*)**

26 (Against All Defendants)

27 90. Plaintiffs incorporate all preceding paragraphs of this Complaint as though set forth
28 fully herein.

1 91. At all times herein mentioned, Defendants were subject to the Labor Code of the
2 State of California and the applicable Industrial Welfare Commission Orders.

3 92. Labor Code section 2699, subdivision (a) specifically provides for a private right of
4 action to recover penalties for violations of the Labor Code: “Notwithstanding any other provision
5 of law, any provision of this code that provides for a civil penalty to be assessed and collected by
6 the Labor and Workforce Development Agency or any of its departments, divisions, commissions,
7 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered
8 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
9 current or former employees pursuant to the procedures specified in Section 2699.3.”

10 93. Plaintiffs have exhausted their administrative remedies pursuant to California Labor
11 Code section 2699.3. On October 18, 2024, Plaintiffs gave written notice by online filing to the
12 Labor and Workforce Development Agency and by certified mail to Defendants of the specific
13 provisions of the Labor Code that Defendants have violated against Plaintiffs and current and
14 former aggrieved employees, including the facts and theories to support the violations. (Attached
15 as **Exhibit A**). Plaintiffs’ PAGA case number is LWDA-CM-1057061-24.

16 94. At the time of this filing, the Labor and Workforce Development Agency has not
17 indicated that it intends to investigate Defendants’ Labor Code violations discussed in the notice.
18 If it does so, Plaintiffs will amend their complaint. Otherwise, Plaintiffs may commence a civil
19 action to recover penalties under Labor Code section 2699 pursuant to section 2699.3 for the
20 violations of the Labor Code described in this Complaint. These penalties include, but are not
21 limited to, penalties under California Labor Code sections 210, 226.3, 558, 1197.1, and 2699,
22 subdivision (f)(2).

23 95. In addition, Plaintiffs seek penalties for Defendants’ violation of California Labor
24 Code section 1174, subdivision (d). Pursuant to California Labor Code section 1174.5, any person,
25 including any entity, employing labor who willfully fails to maintain accurate and complete
26 records required by California Labor Code section 1174 is subject to a penalty under section
27 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records
28

1 showing when the employee begins and ends each work period. Meal periods, and total hours
2 worked daily shall also be recorded.

3 96. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
4 keep total hours worked in the payroll period and applicable rates of pay.

5 97. During the time period of employment for Plaintiffs and the Aggrieved Employees,
6 Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to
7 maintain accurate records showing meal periods, and accurate records showing when employees
8 begin and end each work period. Defendants' failure to provide and maintain records required by
9 the Labor Code IWC Wage Orders deprived Plaintiffs and the Aggrieved Employees the ability to
10 know, understand and question the accuracy and frequency of meal periods, and the accuracy of
11 their hours worked stated in Defendants' records. Therefore, Plaintiffs and the Aggrieved
12 Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an
13 unjustified economic enrichment to Defendants. As a direct result, Plaintiffs and the Aggrieved
14 Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment
15 of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel
16 Defendants to fully perform its obligation under state law, all to their respective damage in
17 amounts according to proof at trial. Because of Defendants' knowing failure to comply with the
18 Labor Code and applicable IWC Wage Orders, Plaintiffs and the Aggrieved Employees have also
19 suffered an injury in that they were prevented from knowing, understanding, and disputing the
20 wage payments paid to them.

21 98. Based on the conduct described in this Complaint, Plaintiffs are entitled to an award
22 of civil penalties on behalf of themselves, the State of California, and similarly Aggrieved
23 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to
24 be shown according to proof at trial. These penalties are in addition to all other remedies permitted
25 by law.

26 99. In addition, Plaintiffs seeks an award of reasonable attorney's fees and costs
27 pursuant to California Labor Code section 2699, subdivision (g)(1), which states, "Any employee
28 who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."

1 **PRAYER FOR RELIEF**

2 Plaintiffs, individually, and on behalf of all others similarly situated only with respect to
3 the class claims, pray for relief and judgment against Defendants, jointly and severally, as follows:

4 **Class Certification**

- 5 1. That this action be certified as a class action under Code of Civil Procedure section
6 382;
7 2. That Plaintiffs be appointed as the representatives of the Class; and
8 3. That counsel for Plaintiffs be appointed as Class Counsel.

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

- 10 4. That the Court declare, adjudge and decree that Defendants violated Labor Code
11 sections 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
12 minimum wages due;
13 5. For general unpaid wages as may be appropriate;
14 6. For pre-judgment interest on any unpaid compensation commencing from the date
15 such amounts were due;
16 7. For liquidated damages;
17 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to Labor
18 Code section 1194, subdivision (a); and,
19 9. For such other and further relief as the Court may deem equitable and appropriate.

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

- 21 10. That the Court declare, adjudge and decree that Defendants violated California Labor
22 Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to
23 pay all overtime wages due;
24 11. For general unpaid wages at overtime wage rates as may be appropriate;
25 12. For pre-judgment interest on any unpaid overtime compensation commencing
26 from the date such amounts were due;
27 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
28 California Labor Code section 1194, subdivision (a); and,

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

As to the Third Cause of Action

15. That the Court declare, adjudge and decree that Defendants violated Labor Code sections 226.7 and 512, and the IWC Wage Orders;

16. For unpaid meal period premium wages as may be appropriate;

17. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

18. For reasonable attorneys' fees under California Code of Civil Procedure section 1021.5, and for costs of suit incurred herein; and

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

As to the Fourth Cause of Action

20. That the Court declare, adjudge and decree that Defendants violated Labor Code sections 226.7 and 512, and the IWC Wage Orders;

21. For unpaid rest period premium wages as may be appropriate;

22. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

23. For reasonable attorneys' fees under California Code of Civil Procedure section 1021.5, and for costs of suit incurred herein; and

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

As to the Fifth Cause of Action

25. That the Court declare, adjudge and decree that Defendants violated Labor Code section 2802 the IWC Wage Orders;

26. For general unpaid wages and reimbursement of business expenses as may be appropriate;

27. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

28. For reasonable attorneys' fees and for costs of suit incurred herein; and

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

As to the Sixth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;
31. For statutory wage penalties pursuant to California Labor Code section 203 for former employees who have left Defendants' employ;
32. For pre-judgment interest on any unpaid wages from the date such amounts were due;
33. For reasonable attorneys' fees and for costs of suit incurred herein; and
34. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of Labor Code section 226, subdivision (a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;
36. For penalties and actual damages pursuant to California Labor Code section 226, subdivision (e);
37. For injunctive relief to ensure compliance with this section, pursuant to Labor Code section 226, subdivision (h);
38. For reasonable attorneys' fees and for costs of suit incurred herein; and
39. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

40. That the Court declare, adjudge and decree that Defendants violated Business & Professions Code section 17200, *et seq.* by failing to pay wages for all hours worked (including minimum wages), failing to provide meal periods, failing to maintain accurate records of meal periods, failing to authorize and permit rest periods, and failing to maintain accurate records of all hours worked and meal periods, and failing to furnish accurate wage statements;

- 1 41. For restitution of unpaid wages to Plaintiffs and all Class Members and prejudgment
2 interest from the day such amounts were due and payable;
- 3 42. For the appointment of a receiver to receive, manage and distribute any and all funds
4 disgorged from Defendants and determined to have been wrongfully acquired by
5 Defendants as a result of violations of California Business & Professions Code section
6 17200 *et seq.*;
- 7 43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to Code of
8 Civil Procedure section 1021.5;
- 9 44. For injunctive relief to ensure compliance with this section, pursuant to Business &
10 Professions Code section 17200, *et seq.*; and,
- 11 45. For such other and further relief as the Court may deem equitable and appropriate.

12 As to the Ninth Cause of Action

- 13 46. That the Court declare, adjudge and decree that Defendants violated the Labor Code
14 by failing to pay minimum wages, failing to provide meal periods, failing to authorize
15 and permit rest periods, failing to maintain accurate records of hours worked and meal
16 periods, failing to timely pay all wages to terminated employees, and failing to furnish
17 accurate wage statements;
- 18 47. For all civil penalties pursuant to California Labor Code section 2699, *et seq.*, and all
19 other applicable Labor Code provisions;
- 20 48. For reasonable attorneys' fees and costs of suit incurred herein pursuant to Labor Code
21 section 2699;
- 22 49. For such other and further relief as the Court may deem equitable and appropriate

23 As to All Causes of Action

- 24 50. For any additional relief that the Court deems just and proper.

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Dated: October 18, 2024

MILLS SADAT DOWLAT LLP

By: 

Arash Sadat

Attorneys for Plaintiffs
and the Putative Class

EXHIBIT A

October 18, 2024

**VIA ELECTRONIC SUBMISSION;
VIA CERTIFIED MAIL TO EMPLOYER**

California Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Elegance Living Employer Berkeley, LLC
1416 Clarkview Drive
Baltimore, MD 21209

Re: Notice of Claim Under Private Attorneys General Act (“PAGA”)

Dear LWDA:

My firm represents Jobeth Gervacio (“Plaintiff”) and all other aggrieved employees who intend to file an action against Elegance Living Employer Berkeley, LLC (“Defendant” or “Elegance Berkeley”) in connection with Defendant’s violations of the California Labor Code. This letter shall serve as notice, and a request, pursuant to Labor Code section 2699.3, *et seq.* (“PAGA”), that the Labor and Workforce Development Agency (“LWDA”) investigate the violations by Defendant described herein against Plaintiff and other current and/or former employees. If LWDA does not intend to investigate the violations described herein, we respectfully request that the agency specifically notify our office of the same at your earliest possible opportunity.

Statement of Specific Provisions of the Labor Code Violated

Plaintiffs intend to prosecute a civil action against Defendant for violations of Labor Code section 226, subdivision (a) [failure to provide accurate wage statements], 246, subdivision (i) [failure to give notice of sick time accrual], 226.7 [meal and rest breaks: failure to provide premium pay for meal and rest break violations, requiring employees to work during meal or rest break], 510 [overtime pay], 512 [failure to provide meal breaks], 1194 [failure to pay overtime and/or minimum wage], 1198 [failure to pay overtime].

Facts and Theories in Support of Violations

Defendant provides assisted living for seniors and is registered to do business in the State of California. Defendant employed Plaintiff beginning on or about June 1, 2023. Plaintiff worked as HR manager and director of business administration.

//

Defendant willfully ignored California meal and rest break laws and instituted a policy where Plaintiff was not allowed rest breaks and frequently missed meal breaks, or had meal breaks interrupted. Plaintiff was issued inaccurate wage statements, which failed to list premium pay. Plaintiff is informed and believes, and on that basis alleges, that Defendant failed to notify other employees of their premium pay for each payroll period.

Failure to Provide Accurate Wage Statements

Pursuant to Labor Code section 226 (“Section 226”), subdivision (a), an employer is required to provide itemized wage statements. Plaintiff was issued inaccurate wage statements, which failed to list premium pay and all hours worked. Plaintiff is informed and believes, and on that basis alleges, that Defendant failed to notify other employees of their premium pay for each payroll period and their accurate total of hours worked.

Unlawful Failure to Provide Uninterrupted Off-Duty Meal and Rest Periods

Plaintiff and similarly situated employees regularly worked in excess of five hours per day without being provided at least one half-hour meal period in which they were relieved of all duties. (Lab. Code §§ 226.7, 512; *see also* Industrial Welfare Commission Order No. 4-2001.) Plaintiff and similarly situated employees also regularly worked in excess of four hours without being provided at least a ten-minute rest period in which they were relieved of all their duties. (Lab. Code §§ 226.7, 512; *see also* Industrial Welfare Commission Order No. 4-2001.)

Throughout Plaintiff’s employment, she was not able to take uninterrupted off-duty meal and rest periods in accordance with Labor Code. Defendant did not maintain a policy that ensured Plaintiff received requisite meal and rest periods. Furthermore, Defendant caused Plaintiff to miss meal and rest periods and failed to pay her the premium compensation mandated by Labor Code section 226.7, subdivisions (b)-(c). As a result of these Labor Code violations, Defendant is liable for civil penalties. (Lab. Code § 2698, *et seq.*)

Conclusion

As described above, Defendant has violated numerous wage and hour provisions of the Labor Code. As a result, Defendant is liable to Plaintiff and other current and former employees for civil penalties, attorney’s fees, and costs, pursuant to Labor Code section 226, subdivision (a) [failure to provide accurate wage statements], 246, subdivision (i) [failure to give notice of sick time accrual], 226.7 [meal and rest breaks: failure to provide premium pay for meal and rest break violations, requiring employees to work during meal or rest break], 510 [overtime pay], 512 [failure to provide meal breaks], 1194 [failure to pay overtime and/or minimum wage], 1198 [failure to pay overtime].

This letter shall serve as Plaintiff’s notice pursuant to Labor Code section 2699.3 and we ask that LWDA conduct an investigation concerning the violations described herein. Alternatively, if LWDA does not intend to investigate these violations, we ask that it issue a



notification letter to our office confirming the same so that we may proceed with our civil action asserting the PAGA claims described herein.

Please feel free to contact me if you have any questions or if you would like to discuss this matter further. Nothing in this letter is intended to be, or should be construed as, an admission against the interests of Plaintiff or other current or former employees of Defendant and shall not be construed as a waiver of their rights, remedies, claims, or defenses, all of which are expressly reserved.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arash Sadat", with a long horizontal flourish extending to the right.

Arash Sadat