

James R. Hawkins, Esq. SBN 192925
Isandra Fernandez, Esq. SBN 220482
Anthony L. Draper SBN 344391
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
TEL: (949) 387-7200
FAX: (949) 387-6676

Attorneys for Plaintiff, Stella Lee Banas,
on behalf of herself and all others similarly situated

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

Stella Lee Banas, on behalf of herself and all
others similarly situated

Plaintiffs,

vs.

SUTTER HEALTH, doing business as
SUTTER DAVIS HOSPITAL, a California
corporation; SUTTER VALLEY HOSPITALS,
a California corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.

Assigned For All Purposes To:

Judge:

Dept:

CLASS ACTION COMPLAINT

- 1) **Failure to Pay Lawful Wages**
- 2) **Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof**
- 3) **Failure to Provide Lawful Rest Periods or Compensation in Lieu Thereof**
- 4) **Failure to Reimburse Employee Expenses**
- 5) **Failure to Timely Pay Wages During Employment**
- 6) **Failure to Timely Pay Wages at Termination of Employment**
- 7) **Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions**
- 8) **Violations of the Unfair Competition Law**

JURY TRIAL DEMANDED

Plaintiffs allege as follows Plaintiff STELLA LEE BANAS, on behalf of herself and all
others similarly situated assert claims against SUTTER HEALTH, doing business as SUTTER

DAVIS HOSPITAL, and SUTTER VALLEY HOSPITALS and DOES 1 through 50, inclusive as follows:

I.

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, brought against Defendant SUTTER HEALTH, and any subsidiaries and affiliated companies (hereinafter “SUTTER HEALTH”), and SUTTER VALLEY HOSPITALS (hereinafter “SUTTER VALLEY”) (collectively “SUTTER” or “Defendants”) on behalf of Plaintiff STELLA LEE BANAS (hereinafter “Plaintiff”) and all employees not classified as “Exempt” or primarily employed in executive, professional, or administrative capacities, employed by, or formerly employed by Defendants in California (hereinafter referred to as “Non-Exempt Employees” and/or “Class Members”).

2. Through this action, Plaintiff is alleging that Defendants have engaged in a systematic pattern of wage and hour violations under the California Labor Code and Industrial Welfare Commission (“IWC”) Wage Orders.

3. Plaintiff is informed and believes, and thereon alleges, that Defendants have increased their profits by violating state wage and hour laws by, among other things:

- a. Failing to pay all wages owed, including minimum wage and overtime;
- b. Failing to provide lawful meal periods or compensation in lieu thereof;
- c. Failing to provide lawful rest periods or compensation in lieu thereof;
- d. Failing to reimburse for business expenses;
- e. Failure to timely pay wages during employment; and
- f. Willfully failing to provide accurate semi-monthly itemized wage statements.

4. Plaintiff, on behalf of herself and Non-Exempt Employees, bring this action pursuant to Labor Code §§ ~~201~~-204, 210, 221, 223, 224, 226, 226.3, ~~226.7~~, ~~226.8~~, ~~246~~, 510, 512, 516, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, ~~2775~~, 2800, 2802, 2699, and applicable Industrial Welfare Commission (“IWC”) Wage Orders seeking unpaid

1 lawful wages, unpaid rest and meal period compensation, expense reimbursements, penalties and
2 other equitable relief, and reasonable attorneys' fees and costs.

3 **II.**

4 **VENUE**

5 5. This Court has jurisdiction over this action pursuant to the California Constitution
6 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except
7 those given by statute to other courts. The statutes under which this action is brought do not give
8 jurisdiction to any other court.

9 6. This Court has jurisdiction over Defendants because, upon information and belief,
10 each Defendant either has sufficient minimum contacts in California, or otherwise intentionally
11 avails itself of the California market so as to render the exercise of jurisdiction over it by the
12 California Courts consistent with traditional notions of fair play and substantial justice.

13 7. Venue is proper in this Court because upon information and belief, one or more of
14 the Defendants, reside, transact business, or have offices in this County and/or the acts or omissions
15 alleged herein took place in this County. The unlawful acts alleged herein have a direct effect on
16 Plaintiff and all other Non-Exempt Employees within the State of California. Defendants employ
17 numerous Class Members and Aggrieved employees in the State of California.

18 8. Based on information and belief, Defendants have conducted business within the
19 State of California during the purported liability period and continue to conduct business
20 throughout the State of California. The unlawful acts alleged herein have had a direct effect on
21 Plaintiff, and the similarly situated Non-Exempt Employees within California.

22 9. The California Superior Court also has jurisdiction in this matter because on
23 information and belief, there are no federal questions at issue, as the issues herein are based solely
24 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
25 California Code of Civil Procedure, and the California Civil Code.

26 **III.**

27 **PARTIES**

28 10. Plaintiff, and at all times mentioned in this complaint is, a resident of California.

11. On information and belief, SUTTER HEALTH and SUTTER VALLEY provide health care services within the County of Sutter and throughout California.

12. The true names and capacities of Defendants, whether individual, corporate, associate or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure section 474.

13. Plaintiff is informed and believes, and based thereon allege, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

IV.

FACTUAL BACKGROUND

14. Plaintiff was employed by Defendants as a registered nurse in the Intensive Care Unit (“ICU”) Department since 2009. Plaintiff has occupied said non-exempt, hourly position until the present.

15. As a registered nurse, Plaintiff's job duties included, but were not limited to, providing nursing care for patients; developing, implementing, and coordinating a plan of care for patients; and fostering and maintaining collaborative relationships between patients, their family/support group, physicians, and other healthcare providers through timely and effective communications.

16. During the relevant time periods, Plaintiff and similarly situated employees have been working three days a week and minimum 12-hour shifts for SUTTER.

17. During the relevant time periods, Defendants implemented policies and practices that resulted in Plaintiff and Non-Exempt Employees working “off-the-clock” and without compensation. There are various examples as follows:

a. Interrupted Meals and Breaks

1 Due to time constraints and the needs of patients and/or clients, Plaintiff and
2 Non-Exempt Employees would often work through their meal breaks.
3 However, Plaintiff and Non-Exempt Employees were not compensated for the
4 work performed “off-the-clock.” On average, Plaintiffs and Non-Exempt
5 Employees were interrupted from their meal breaks at least once a week.

6 **b. Waiting Time to Clock In**

7 SUTTER provided a single electronic timeclock for each department.
8 Therefore, Plaintiff and Non-Exempt Employees would often wait for their
9 turns to clock in to start their shifts or return from their meal breaks. However,
10 SUTTER did not provide compensation for these waiting times.

11 **c. Intimidation and Difficulty of Obtaining Authorization for Overtime**

12 Plaintiff and Non-Exempt Employees are required to obtain authorization from
13 SUTTER before they can work overtime by filing a form. This procedure
14 creates burdensome, intimidation and difficulty for Plaintiff and Non-Exempt
15 Employees to perform their regular work duties. During emergency situations
16 and/ or to satisfy requests from doctors, Plaintiff and Non-Exempt Employees
17 would often work off-the-clock for about 5 minutes each shift.

18 **d. Working Off-the-Clock After Shifts**

19 Plaintiff and Non-Exempt Employees were required to work off-the-work
20 even after their shifts ended. For instance, after clocking out, Plaintiff would
21 often be asked or questioned by doctors about patients’ conditions. On
22 average, this occurred about twice a month, and each instance lasted about 5
23 minutes.

24 **e. Working Off-the-Clock During Weekends**

25 Plaintiff and Non-Exempt Employees were required by SUTTER to work off-
26 the-clock, which consists of communication with administration for 1 hour
27 before starting their shifts.

1 18. Further, during the COVID-19 pandemic, in or about March 2020 through 2023,
2 Plaintiff and Non-Exempt Employees Defendants implemented various policies and procedures
3 related to COVID-19 which resulted in Plaintiff and Non-Exempt Employees working “off-the-
4 clock” and without compensation as follows:

5 **a. COVID-19 Screening**

6 Plaintiff and Non-Exempt Employees were required by SUTTER HEALTH to
7 undergo COVID-19 screenings through an application on their cell phones
8 before they could start their shifts. This procedure consists of answering
9 COVID-symptom questions, which would take approximately 3-5 minutes
10 each time. Therefore, Plaintiff and Non-Exempt Employees were not
11 compensated for the work performed “off-the-clock”.

12 **b. COVID-19 Testing**

13 Plaintiff and Non-Exempt Employees were required by SUTTER HEALTH to
14 undergo a COVID-19 test, which consists of a nasal swab test. Specifically,
15 Plaintiff was tested about 6 times. However, these tests were not completed
16 during working hours. Further, each test would take approximately 1 hour.
17 Therefore, Plaintiff and Non-Exempt Employees were not compensated for
18 the work performed “off-the-clock”.

19 **c. COVID-19 Vaccination**

20 Plaintiff and Non-Exempt Employees were required by SUTTER HEALTH to
21 go through COVID-19 vaccinations. Specifically, Plaintiff received 1
22 vaccination. This procedure would take approximately 2 hours. However, this
23 was not completed during working hours. Therefore, Plaintiff and Non-
24 Exempt Employees were not compensated for the work performed “off-the-
25 clock”.

26 19. As discussed herein, during the liability period, Defendant implemented a
27 timekeeping policy and practice for Non-Exempt Employees which rounded their clock-in and
28 clock-out times in a manner that resulted in a loss of time worked. As a result, Non-Exempt

1 Employees were consistently underpaid and were required to work off the clock and without pay.
2 For instance, Plaintiff would normally clock in about 7 minutes early before her shift. However,
3 SUTTER's management rounded Plaintiff's time record to the nearest quarter-hour and did not
4 provide compensation for the time after she clocked in.

5 20. During the relevant time periods, Plaintiff and Non-Exempt Employees were
6 frequently required to work in excess of 10 hours without a second 30-minute meal break by the
7 end of the tenth hour of their shift.

8 21. During the relevant time periods, Plaintiff, and on information and belief, Non-
9 Exempt Employees were not paid one (1) hour of pay at their regular rate of compensation for
10 each workday that a compliant meal period was not provided, in violation of California labor
11 laws, regulations and IWC Wage Orders.

12 22. During the relevant time periods, Defendants have also failed to indemnify Plaintiff
13 and similarly situated employees for expenses incurred in direct consequence of the discharge of
14 their duty. Plaintiff, Class Members, and Aggrieved Employees were required to use their cell
15 phones, including texting messages among team members, scheduling work meetings and
16 tracking personal COVID-19 status. In addition, Plaintiff and Non Exempt Employees were
17 required to purchase tests for COVID-19, either at home or at urgent care facilities for COVID-
18 related symptoms before they were clear to work. However, Plaintiff and Non-Exempt
19 Employees were not indemnified for these necessary business expenses.

20 23. During the relevant time periods, pursuant to uniform policy and practice,
21 Defendants failed to include non-discretionary compensation including but not limited to on-call
22 payments and shift differential payments in determining Plaintiff and similarly situated Non-
23 Exempt Employees' regular rate of pay for purposes of overtime. Therefore, Defendants paid
24 overtime compensation at a lower rate in violation of California law. For instance, SUTTER
25 implemented policies that required Plaintiff and similarly situated employees to be "on-call."
26 However, on average once a month, Plaintiff has been sent home within the first 2 hours after
27 she reported to work. Yet, Plaintiff has not compensated properly by SUTTER. Further, although
28 the total time that Plaintiff worked and was "on-call" exceeds more than forty (40) hours a week,

1 SUTTER failed to provide proper overtime compensation at the rate of time and one-half (1 1/2)
2 times and proper double-time compensation at twice Plaintiff's correct regular rate of pay.

3 24. Defendants have also failed to maintain accurate itemized records reflecting total
4 hours worked and have failed to provide Non-Exempt Employees with accurate, itemized wage
5 statements reflecting total hours worked and appropriate rates of pay for those hours worked.

6 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 currently employ and during the relevant time periods have employed over one hundred (100)
8 Non-Exempt Employees in California.

9 26. Non-Exempt Employees employed by Defendants, at all times pertinent hereto,
10 have been non-exempt employees within the meaning of the California Labor Code and the
11 implementing rules and regulations of the IWC California Wage Orders.

12 **V.**

13 **CLASS ALLEGATIONS**

14 27. Plaintiff seeks to represent a Class comprised of and defined as: All persons who
15 are or were employed by Defendants in the state of California as hourly non-exempt employees
16 within four (4) years prior to the date this lawsuit is filed ("liability period") until resolution of
17 this lawsuit (collectively referred to as the "Class" and/or Class Members").

18 28. Plaintiff also seeks to represent Subclasses which are composed of persons
19 satisfying the following definitions:

20 a. All Class Members in the state of California who were not accurately and
21 fully paid all lawful wages owed to them;

22 b. All Class Members in the state of California who have not been provided a
23 compliant first 30-minute meal period when they worked over five hours in a work shift by the
24 end of the fifth hour and were not provided lawful compensation in lieu thereof;

25 c. All Class Members in the state of California who have not been provided a
26 compliant second 30-minute meal period when they worked over ten hours in a work shift by the
27 end of the tenth hour and were not provided lawful compensation in lieu thereof;

28 d. All Class Members in the state of California who, within the liability

1 period, have not been authorized and permitted to take a minimum ten (10) minute rest period
2 for every four (4) hours or major fraction thereof worked per day and were not provided
3 compensation in lieu thereof;

4 e. All Class Members in the state of California who, within the liability
5 period, were not timely paid all wages due and owed to them during their employment with
6 Defendant;

7 f. All Class Members in the state of California who, within the liability
8 period, were not timely paid all wages due and owed to them upon the termination of their
9 employment with Defendant; and

10 g. All Class and Registered Nurse Class Members in the state of California
11 who, within the liability period, were not provided with accurate and complete itemized wage
12 statements.

13 37. Plaintiff also seeks to represent a Subclass consisting of all Employees employed
14 by Defendants in California who within the statutory liability period were not indemnified for
15 expenses incurred in direct consequence of the discharge of their duty.

16 38. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or
17 modify the class description with greater specificity or further division into subclasses or
18 limitation to particular issues.

19 39. This action has been brought and may properly be maintained as a class action
20 under the provisions of section 382 of the Code of Civil Procedure because there is a well-
21 defined community of interest in the litigation and the proposed Class is easily ascertainable.

22 **A. Numerosity**

23 40. The potential members of the Class and Registered Nurse Class defined are so
24 numerous that joinder of all the members is impracticable. While the precise number of Class
25 Members has not been determined at this time, Plaintiff is informed and believes that Defendants
26 currently employ, and/or during the relevant time period employed, over 100 Non-Exempt
27 Employees in California who are or have been affected by Defendants' unlawful practices as
28 alleged herein.

1 **B. Commonality**

2 41. There are questions of law and fact common to the Class and Registered Nurse
3 Class predominate over any questions affecting only individual Class and Registered Nurse Class
4 Members. These common questions of law and fact include, without limitation:

5 i. Whether Defendants violated Labor Code sections 510, 1194 and applicable IWC Wage
6 Orders by failing to pay all earned wages including correct overtime compensation to Non-
7 Exempt Employees who worked in excess of eight (8) hours in a work day and/or more than
8 forty (40) hours in a workweek, or according to the relevant Alternative Workweek Schedule;

9 ii. Whether Defendants also violated Labor Codes sections 200, 1194, and 1197 for
10 failing to pay minimum wages to Non-Exempt Employees for time spent under the Defendants'
11 control and working "off the clock" without pay;

12 iii. Whether Defendants violated Labor Code sections 226.7, 512 and applicable IWC
13 Wage Order by failing to provide statutorily compliant 30-minute meal periods to Non-Exempt
14 Employees on days in which they worked in excess of 5 hours and/or 10 hours and failing to
15 compensate said employees one-hour wages in lieu of meal periods;

16 iv. Whether Defendant violated Labor Code section 226.7 and applicable IWC Wage
17 Orders by failing to authorize and permit minimum 10 minute rest periods to Non-Exempt
18 Employees for every four hours or major fraction thereof worked and failing to compensate said
19 employees one hours wages in lieu of rest periods;

20 v. Whether Defendants violated Labor Code section 2802 and applicable IWC Wage
21 Orders for failing to indemnify employees for the expenditures incurred as a direct consequence
22 and/or in the performance of their job duties;

23 vi. Whether Defendants violated section 204 of the Labor Code by failing to pay timely
24 wages during employment;

25 vii. Whether Defendants violated sections 226 of the Labor Code and applicable IWC
26 Wage Orders by failing to, among other violations, maintain accurate records of Non-Exempt
27 Employees' earned wages, work periods, meal periods and deductions;

28 viii. Whether Defendants violated section 17200 et seq. of the Business and Professions

Code through their violation of the above-referenced Labor Code and Civil Code sections and applicable IWC Wage Orders which violation constitutes a violation of fundamental public policy.

C. Typicality

42. The claims of the named Plaintiff are typical of the claims of their respective Classes. Plaintiff and all members of their respective Classes sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of California laws, regulations, and statutes as alleged herein.

D. Adequacy of Representation

43. Plaintiff will fairly and adequately represent and protect the interests of the members of their respective Classes. Counsel who represents Plaintiff is competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

44. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class and Driver Class Members is not practicable, and questions of law and fact common to each Class predominate over any questions affecting only individual members of each Class. Each member of the Classes has been damaged and is entitled to recovery by reason of Defendants' unlawful policy and/or practice herein complained of.

45. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VI.

CAUSES OF ACTION

First Cause of Action

Failure to Pay Lawful Wages Including Minimum and/or Overtime Wages
(Lab. Code §§ 221, 223, 510, 1194, 1197, 1199)
(Against All Defendants)

1 46. Plaintiffs repeat and incorporate herein by reference each and every allegation set
2 forth above, as though fully set forth herein.

3 47. As alleged herein, during the statutory liability period, Defendants' policies,
4 practices and work shift requirements resulted in Plaintiff and Non-Exempt Employees working
5 "off-the-clock" and/or not receiving compensation for all earned wages including minimum
6 wage and overtime in violation of California state wage and hour laws.

7 48. As alleged herein, during the liability period applicable to the Class Members,
8 Defendants' policies, practices and work shift requirements resulted in Plaintiff and similarly
9 situated Non-Exempt Employees not receiving compensation for all earned wages including
10 overtime in violation of California state wage and hour laws.

11 49. As alleged herein, Defendants' policies and/or practices resulted in rounding of the
12 timekeeping of the Plaintiff and similarly situated Non-Exempt Employees to their detriment
13 resulting in an underpayment of wages due, including, but not limited to minimum wage and
14 overtime.

15 50. As alleged herein, Labor Code sections 221 and 223 make it unlawful for an
16 employer to collect or receive from an employee any part of the wage paid to said employee, or
17 to secretly pay a lower wage while purporting to pay the wage designated by statute or by
18 contract, respectively. During the statutory liability period, Defendants' policies and/or practices
19 resulted in Plaintiff and Non-Exempt Employees receiving wages less than the statutory
20 minimums in violation of sections 221 and 223.

21 51. As alleged herein, during the statutory liability period, Defendants' policies and/or
22 practices resulted in Plaintiff and Non-Exempt Employees working in excess of eight (8) hours
23 in a workday and/or forty (40) hours in a workweek without receiving the proper compensation
24 at the rate of time and one-half (1 1/2) of such employee's correct regular rate of pay.

25 52. As also alleged herein, during the statutory liability period, Defendants' policies
26 and/or practices resulted in Plaintiff and Non-Exempt Employees not receiving minimum wages
27 for time spent under Defendants' control and working off-the-clock without pay.

28

53. As also alleged herein, during the liability period applicable to the Class Members, Defendants' policies and/or practices resulted in Plaintiff and similarly situated Non-Exempt Employees not receiving minimum wages for time spent under Defendants' control without pay.

54. WHEREFORE, Plaintiff and the Class she seeks to represent request relief as described herein and below.

Second Cause of Action

Failure to Provide Lawful Meal Periods
Or Compensation in Lieu Thereof
(Lab. Code §§ 226.7, 512, IWC Wage Orders)
(Against All Defendants)

55. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

56. As alleged herein, by their failure to provide Plaintiff and Non Exempt Employees an uninterrupted 30 minute meal period by the end of the fifth hour and/or a second uninterrupted 30 minute meal period by the end of the tenth hour and not providing compensation for such statutorily non-compliant meal periods, Defendants violated the provisions of Labor Code § 512 and applicable IWC Wage Orders.

57. As alleged herein, by their failure to provide Plaintiff and Non-Exempt Employees a second uninterrupted 30-minute meal period by the end of the tenth hour on days in which they worked in excess of 10 hours and not providing compensation for such statutorily non-compliant meal periods, Defendants violated the provisions of Labor Code § 512 and applicable IWC Wage Orders.

58. By failing to record and maintain adequate and accurate time records according to sections 226 and 1174 (d) of the Labor Code, Defendants have injured Plaintiff and Class Members and made it difficult to calculate the unpaid meal period compensation due to Plaintiff and Class Members.

59. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to represent have been deprived of premium wages in amounts to be determined at trial, and are

entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

60. WHEREFORE, Plaintiff and the Class she seeks to represent request relief as described herein and below.

Third Cause of Action

Failure to Provide Rest Periods
Or Compensation in Lieu Thereof
(Lab. Code §§226.7, IWC Wage Orders)
(Against All Defendants)

61. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

62. As alleged herein, by their failure to provide a minimum ten (10) minute rest period for every four hours or major fraction thereof worked per day by Non-Exempt Employees, and failing to provide compensation for such non-provided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and IWC applicable Wage Orders.

63. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

64. WHEREFORE, Plaintiff and the Class she seeks to represent request relief as described herein and below.

Fourth Cause of Action

Failure to Reimburse Employee Expenses
(Lab. Code § 2802)
(Against All Defendants)

65. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

66. As alleged herein, by their policy and/or practice of not providing adequate reimbursement for expenses incurred by Plaintiff and similarly situated Class Members as a

1 direct consequence of their job duties, Defendants willfully violated the provisions of Labor
2 Code § 2802.

3 67. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to
4 represent are entitled to recovery of the full amount of expenses incurred plus interest, attorneys'
5 fees, and costs, under Labor Code § 2802.

6 68. WHEREFORE, Plaintiff and the Class she seeks to represent request relief as
7 described herein and below.

8 **Fifth Cause of Action**
9 Failure to Timely Pay Wages During Employment
10 (Lab. Code § 204)
(Against All Defendants)

11 69. Labor Code section 204 requires that all wages are due and payable weekly or
12 twice in each calendar month. The wages required by Labor Code §§ 226.7, 510, 1194, 1197 and
13 other sections became due and payable to Plaintiff and Class Members in each month that he or
14 she was not paid all lawful wages owed or provided with lawful meal period to which he or she
15 was entitled. Defendants violated Labor Code § 204 by failing to pay said wages when they were
16 due and payable.

17 70. Labor Code § 210(a) provides that “[i]n addition to, and entirely independent and
18 apart from, any other penalty provided in this article, every person who fails to pay the wages of
19 each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and
20 1197.5, shall be subject to a penalty as follow:

21 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each
22 employee.

23 (2) For each subsequent violation, or any willful or intentional violation, two hundred
24 dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully
25 withheld.

26 71. As a result of the unlawful acts of Defendants alleged herein, Plaintiff and the Class
27 she seeks to represent have been deprived of wages in amounts to be determined at trial, and are
28 entitled to recovery of such amounts, plus interest and penalties.

1 72. WHEREFORE, Plaintiff and the Class she seeks to represent request relief as
2 described herein and below.

3
4 **Sixth Cause of Action**

5 Knowing and Intentional Failure to Comply With Itemized Employee
6 Wage Statement Provisions
7 (Lab. Code § 226)
8 (Against All Defendants)

9 73. Plaintiff repeats and incorporates herein by reference each and every allegation set
10 forth above, as though fully set forth herein.

11 74. Section 226(a) of the California Labor Code requires Defendants to furnish
12 itemized wage statements showing (1) gross wages earned, (2) total hours worked by the
13 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
14 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
15 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
16 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
17 employee and only the last four digits of their social security number or an employee
18 identification number other than a social security number, (8) the name and address of the legal
19 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
20 the corresponding number of hours worked at each hourly rate by the employee. IWC Wage
21 Orders require Defendants to maintain time records showing, among others, when the employee
22 begins and ends each work period, meal periods, split shift intervals and total daily hours worked
23 in an itemized wage statement, and must show all deductions and reimbursements from payment
24 of wages, and accurately report total hours worked by Plaintiff and the members of the proposed
25 class. On information and belief, Defendant has failed to record all or some of the items
26 delineated in Industrial Wage Orders and Labor Code §226 and/or failed to furnish wage
27 statements.

28 75. As alleged herein, Plaintiff and Class Members have been injured by Defendants'
actions by rendering them unaware of the full compensation to which they were entitled under
applicable provisions of the California Labor Code and applicable IWC Wage Orders.

1 76. Pursuant Labor Code §226, Plaintiff and Class Members are entitled up to a
2 maximum of \$4,000.00 each for record-keeping violations.

3 77. WHEREFORE, Plaintiff and the Class she seeks to represent request relief as
4 described herein and below.

5
6 **Seventh Cause of Action**
7 Violation of Unfair Competition Law
8 (Bus. & Prof. Code, §§ 17200-17208)
9 (Against All Defendants)

10 78. Plaintiff repeats and incorporates herein by reference each and every allegation set
11 forth above, as though fully set forth herein.

12 79. Business & Professions Code Section 17200 provides:

13 As used in this chapter, unfair competition shall mean and include any
14 **unlawful, unfair** or fraudulent business act or practice and unfair,
15 deceptive, untrue or misleading advertising and any act prohibited by
16 Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the
17 Business and Professions Code.) (Emphasis added.)

18 80. Defendants' violations of the Labor Code and Wage Order provisions set forth
19 above constitute unlawful and/or unfair business acts or practices.

20 81. The actions of Defendants, as alleged within this Complaint, constitute false,
21 fraudulent, unlawful, unfair, fraudulent and deceptive business practices, within the meaning of
22 Business and Professions Code section 17200, *et seq.*

23 82. Plaintiff and Class Members have been personally aggrieved by Defendants'
24 unlawful and unfair business acts and practices alleged herein.

25 83. As a direct and proximate result of the unfair business practices of Defendants and
26 each of them, Plaintiff, individually and on behalf of all employees similarly situated, is entitled
27 to restitution of all wages which have been unlawfully withheld from Plaintiff and Class
28 Members as a result of the business acts and practices described herein

 84. WHEREFORE, Plaintiff and the Class she seeks to represent request relief as
described herein and below.

VII.

PRAYER

1 WHEREFORE, Plaintiff prays for judgment as follows:

- 2 1. That the Court determine that this action may be maintained as a class action;
- 3 2. For compensatory damages in an amount according to proof with interest thereon;
- 4 3. For economic and/or special damages and/or liquidated damages in an amount
- 5 according to proof with interest thereon;
- 6 4. For premium wages pursuant to Labor Code §§ 226.7 and 512;
- 7 5. For premium pay and penalties pursuant to Labor Code §§ 203, 204, 210, 226, 558;
- 8 6. For attorneys' fees, interests and costs of suit under Labor Code §§ 218.5, 226, 1194,
- 9 2802 and Civil Code § 3287;
- 10 7. For such other and further relief as the Court deems just and proper.

11

12 **DEMAND FOR JURY TRIAL**

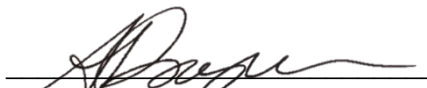
13 Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

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15 **Dated: October 7, 2024**

16 **JAMES HAWKINS, APLC**

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19 James R. Hawkins

20 Isandra Y. Fernandez

21 Anthony L. Draper

22 Attorneys for Plaintiff

23 Stella Lee Banas

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