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BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

JESSICA LOPEZ, on behalf of the State of
California, as a private attorney general,

Plaintiff,

vs.

ETHOS-CALIFORNIA VETERINARY
GROUP, INC., a California corporation;
ETHOS VETERINARY HEALTH LLC, a
Delaware limited liability company; and
DOES 1 through 50, Inclusive,

Defendants.

Case No. _____

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 201.3, 202, 203, 204, 210,
218.5, 218.6, 221, 226, 226.2, 226.3,
226.7, 510, 512, 558, 1174(d), 1174.5,
1194, 1197, 1197.1, 1197.14, 1198,
1198.5, 1199, 2802, 2804, and the
applicable Wage Order(s).

1 Plaintiff Jessica Lopez (“PLAINTIFF”), on behalf of the people of the State of California
2 and as an “aggrieved employee” acting as a private attorney general under the Labor Code
3 Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on information
4 and belief, except for her own acts and knowledge which are based on personal knowledge, the
5 following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this action against Defendants Ethos-California Veterinary
8 Group, Inc. and Ethos Veterinary Health LLC (referred to as “DEFENDANTS”) seeking only
9 to recover PAGA civil penalties for herself, and on behalf of all current and former aggrieved
10 employees that worked for DEFENDANTS. PLAINTIFF does **not seek to recover anything**
11 **other than penalties as permitted by California Labor Code § 2699.** To the extent that
12 statutory violations are mentioned for wage violations, PLAINTIFF does not seek underlying
13 general and/or special damages for those violations, but simply the civil penalties permitted by
14 California Labor Code § 2699.

15 2. California has enacted the PAGA to permit an individual to bring an action on
16 behalf of herself and on behalf of others for PAGA penalties *only*, which is the precise and sole
17 nature of this action.

18 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
19 DEFENDANTS’ violations under PAGA and solely for the relief as permitted by PAGA – that
20 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
21 complaint should be construed as attempting to obtain any relief that would not be available in
22 a PAGA-only action.

23 **THE PARTIES**

24 4. Defendant ETHOS-CALIFORNIA VETERINARY GROUP, INC. dba VISTA
25 VETERINARY SPECIALISTS (“Defendant Ethos-California Veterinary Group, Inc.”) is a
26 California corporation that at all relevant times mentioned herein conducted and continues to
27 conduct substantial and regular business in the state of California.
28

1 5. Defendant ETHOS VETERINARY HEALTH LLC (“Defendant Ethos
2 Veterinary Health LLC”) is a Delaware limited liability company that at all relevant times
3 mentioned herein conducted and continues to conduct substantial and regular business in the
4 state of California.

5 6. Defendant Ethos-California Veterinary Group, Inc. and Defendant Ethos
6 Veterinary Health LLC were the joint employers of PLAINTIFF as evidenced by the contracts
7 signed and by the company PLAINTIFF performed work for respectively and are therefore
8 jointly responsible as employers for the conduct alleged herein and collectively referred to
9 herein as “DEFENDANTS”.

10 7. DEFENDANTS own, operate and/or manage a twenty-four hour emergency
11 and critical care and specialty veterinary hospital in the state of California, including in
12 Sacramento County where PLAINTIFF worked.

13 8. PLAINTIFF was employed by DEFENDANTS in California from September of
14 2020 to March of 2022 and at all times was classified by DEFENDANTS as a non-exempt
15 employee, paid in part an hourly wage, non-discretionary bonuses, and entitled to the legally
16 required meal and rest periods and payment of minimum and overtime wages due for all time
17 worked.

18 9. PLAINTIFF, and such persons that may be added from time to time who satisfy
19 the requirements and exhaust the administrative procedures under the Private Attorney General
20 Act, brings this Representative Action on behalf of the State of California with respect to herself
21 and all individuals who are or previously were employed by Ethos-California Veterinary Group,
22 Inc. and/or Ethos Veterinary Health LLC in California and classified as non-exempt employees
23 (“AGGRIEVED EMPLOYEES”) during the time period of May 24, 2021 until a date as
24 determined by the Court (the "PAGA PERIOD").

25 10. PLAINTIFF, on behalf of herself and all AGGRIEVED EMPLOYEES
26 presently or formerly employed by DEFENDANTS during the PAGA PERIOD, brings this
27 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for
28

1 DEFENDANTS' violation of California Labor Code §§ 201, 201.3, 202, 203, 204, 210,
2 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197,
3 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and the applicable Wage Order(s). Based
4 upon the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved
5 employees within the meaning of Labor Code § 2699, *et seq.*

6 11. The true names and capacities, whether individual, corporate, subsidiary,
7 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are
8 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
9 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
10 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when
11 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
12 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through
13 50, inclusive, are responsible in some manner for one or more of the events and happenings
14 that proximately caused the injuries and damages hereinafter alleged.

15 12. The agents, servants and/or employees of the Defendants and each of them
16 acting on behalf of the Defendants acted within the course and scope of his, her or its
17 authority as the agent, servant and/or employee of the Defendants, and personally
18 participated in the conduct alleged herein on behalf of the Defendants with respect to the
19 conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to
20 the other Defendants and all Defendants are jointly and severally liable to PLAINTIFF and
21 all the AGGRIEVED EMPLOYEES, for the loss sustained as a proximate result of the
22 conduct of the Defendants' agents, servants and/or employees.

23 13. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
24 PLAINTIFF's employer, within the meaning of California Labor Code § 558, who violated
25 or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any
26 provision regulating hours and days of work in any order of the Industrial Welfare
27 Commission and, as such, is subject to civil penalties for each underpaid employee, as set
28 forth in Labor Code § 558, at all relevant times.

14. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of PLAINTIFF's employer either individually or as an officer, agent, or employee of another person, within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage less than the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid employee.

THE CONDUCT

15. In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company policy, practice and procedure, intentionally and knowingly failed to provide legally compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the AGGRIEVED EMPLOYEES for missed meal and rest periods, failed to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all time worked, failed to compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF and the AGGRIEVED EMPLOYEES overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and the AGGRIEVED EMPLOYEES meal rest premiums at the regular rate, failed to reimburse PLAINTIFF and the AGGRIEVED EMPLOYEES for business expenses, and failed to issue to PLAINTIFF and the AGGRIEVED EMPLOYEES with accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS' policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law.

A. Meal Period Violations

16. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time-to-time during the PAGA PERIOD, DEFENDANTS required PLAINTIFF and the

1 AGGRIEVED EMPLOYEES to work without paying them for all the time they were under
2 DEFENDANTS' control. Specifically, as a result of PLAINTIFF's demanding work
3 requirements and DEFENDANTS' understaffing, DEFENDANTS required PLAINTIFF to
4 work during what was supposed to be PLAINTIFF's off-duty meal break. Indeed, there
5 were many days where PLAINTIFF did not even receive a partial lunch. As a result, the
6 PLAINTIFF and the AGGRIEVED EMPLOYEES forfeited minimum wage and overtime
7 wages by regularly working without their time being accurately recorded and without
8 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' policy
9 and practice not to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all time
10 worked is evidenced by DEFENDANTS' business records.

11 17. From time-to-time during the PAGA PERIOD, as a result of their rigorous
12 work requirements and DEFENDANTS' inadequate staffing practices, PLAINTIFF and the
13 AGGRIEVED EMPLOYEES were from time to time unable to take thirty (30) minute
14 off-duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF
15 and the AGGRIEVED EMPLOYEES were required from time to time to perform work as
16 ordered by DEFENDANTS for more than five (5) hours during some shifts without
17 receiving a meal break. Further, DEFENDANTS from time to time failed to provide
18 PLAINTIFF and the AGGRIEVED EMPLOYEES with a second off-duty meal period for
19 some workdays in which these employees were required by DEFENDANTS to work ten
20 (10) hours of work from time to time. The nature of the work performed by PLAINTIFF
21 and the AGGRIEVED EMPLOYEES does not qualify for limited and narrowly construed
22 "on-duty" meal period exception. When they were provided with meal periods, PLAINTIFF
23 and the AGGRIEVED EMPLOYEES were, from time to time, required to remain on duty
24 and on call. Further, PLAINTIFF and the AGGRIEVED EMPLOYEES were from time to
25 time required to carry cordless communication devices in order to receive and respond to
26 work-related communications during their meal periods. DEFENDANTS also engaged in
27 the practice of rounding the meal period times to avoid paying penalties to PLAINTIFF and
28 the AGGRIEVED EMPLOYEES. PLAINTIFF and the AGGRIEVED EMPLOYEES

1 therefore forfeited meal breaks without additional compensation and in accordance with
2 DEFENDANTS' strict corporate policy and practice.

3 B. Rest Period Violations

4 18. From time-to-time during the PAGA PERIOD, PLAINTIFF and the
5 AGGRIEVED EMPLOYEES were also required from time to time to work in excess of four
6 (4) hours without being provided ten (10) minute rest periods as a result of their rigorous
7 work requirements and DEFENDANTS' inadequate staffing. Further, for the same reasons
8 these employees were denied their first rest periods of at least ten (10) minutes for some
9 shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest
10 period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8)
11 hours from time to time, and a first, second and third rest period of at least ten (10) minutes
12 for some shifts worked of ten (10) hours or more from time to time. When they were
13 provided with rest breaks, PLAINTIFF and the AGGRIEVED EMPLOYEES were, from
14 time to time, required to remain on duty and/or on call. Further, PLAINTIFF and the
15 AGGRIEVED EMPLOYEES were from time to time required to carry cordless
16 communication devices in order to receive and respond to work-related communications
17 during their meal periods. PLAINTIFF and the AGGRIEVED EMPLOYEES were also not
18 provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules
19 and DEFENDANTS' inadequate staffing, PLAINTIFF and the AGGRIEVED EMPLOYEES
20 were from time to time denied their proper rest periods by DEFENDANTS and
21 DEFENDANTS' managers.

22 C. Unreimbursed Business Expenses

23 19. DEFENDANTS as a matter of corporate policy, practice, and procedure,
24 intentionally and knowingly failed to reimburse and indemnify the PLAINTIFF and the
25 AGGRIEVED EMPLOYEES for required business expenses incurred by the PLAINTIFF
26 and the AGGRIEVED EMPLOYEES in direct consequence of discharging their duties on
27 behalf of DEFENDANTS. Under California Labor Code Section 2802, employers are
28 required to indemnify employees for all expenses incurred in the course and scope of their

1 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his
2 or her employee for all necessary expenditures or losses incurred by the employee in direct
3 consequence of the discharge of his or her duties, or of his or her obedience to the directions
4 of the employer, even though unlawful, unless the employee, at the time of obeying the
5 directions, believed them to be unlawful."

6 20. In the course of their employment, DEFENDANTS required PLAINTIFF and
7 the AGGRIEVED EMPLOYEES to use their personal cell phones and personal vehicles as a
8 result of and in furtherance of their job duties as employees for DEFENDANTS. But for the
9 use of their own personal cell phones and personal vehicles, PLAINTIFF and the
10 AGGRIEVED EMPLOYEES could not complete their essential job duties. However,
11 DEFENDANTS unlawfully failed to reimburse PLAINTIFF and the AGGRIEVED
12 EMPLOYEES for their use of their personal cell phones and personal vehicles. As a result,
13 in the course of their employment with DEFENDANTS, the PLAINTIFF and the other
14 AGGRIEVED EMPLOYEES incurred unreimbursed business expenses, but were not
15 limited to, costs related to the use of their personal cell phones and personal vehicles, all on
16 behalf of and for the benefit of DEFENDANTS.

17 D. Wage Statement Violations

18 21. California Labor Code Section 226 requires an employer to furnish its
19 employees an accurate itemized statement in writing showing (1) gross wages earned, (2)
20 total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate,
21 (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the
22 employee is paid, (7) the name of the employee and only the last four digits of the
23 employee's social security number or an employee identification number other than a social
24 security number, (8) the name and address of the legal entity that is the employer and, (9) all
25 applicable hourly rates in effect during the pay period and the corresponding number of
26 hours worked at each hourly rate by the employee.

27 22. From time to time during the PAGA PERIOD, when PLAINTIFF and the
28 AGGRIEVED EMPLOYEES missed meal and rest breaks, or were paid inaccurate missed

1 meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also
2 failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES with complete and
3 accurate wage statements which failed to show, among other things, the total hours worked
4 and all applicable hourly rates in effect during the pay period and the corresponding amount
5 of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal
6 and rest periods.

7 23. In addition to the foregoing, DEFENDANTS, from time to time, failed to
8 provide PLAINTIFF and the AGGRIEVED EMPLOYEES with wage statements that
9 comply with Cal. Lab. Code § 226.

10 24. As a result, DEFENDANTS issued PLAINTIFF and the AGGRIEVED
11 EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further,
12 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an
13 unintentional payroll error due to clerical or inadvertent mistake.

14 E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations

15 25. During the PAGA PERIOD, from time-to-time DEFENDANTS failed and
16 continue to fail to accurately pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all
17 hours worked.

18 26. During the PAGA PERIOD, from time-to-time DEFENDANTS required
19 PLAINTIFF and the AGGRIEVED EMPLOYEES to perform pre-shift or post-shift work,
20 including but not limited to, answering telephone calls and responding to emails all while
21 off-the-clock. This resulted in PLAINTIFF and the AGGRIEVED EMPLOYEES to have to
22 work while off-the-clock. Additionally, DEFENDANTS, as a matter of established company
23 policy and procedure, administered a uniform practice of rounding the actual time worked
24 and recorded by PLAINTIFF and AGGRIEVED EMPLOYEES, always to the benefit of
25 DEFENDANTS, so that during the course of their employment, PLAINTIFF and the other
26 AGGRIEVED EMPLOYEES were paid less than they would have been paid had they been
27 paid for actual recorded time rather than "rounded" time.

1 27. DEFENDANTS directed and directly benefited from the uncompensated
2 off-the-clock work performed by PLAINTIFF and the AGGRIEVED EMPLOYEES.

3 28. DEFENDANTS controlled the work schedules, duties, protocols, applications,
4 assignments, and employment conditions of PLAINTIFF and the AGGRIEVED
5 EMPLOYEES.

6 29. DEFENDANTS were able to track the amount of time PLAINTIFF and the
7 AGGRIEVED EMPLOYEES spent working; however, DEFENDANTS failed to document,
8 track, or pay PLAINTIFF and the AGGRIEVED EMPLOYEES all wages earned and owed
9 for all the work they performed.

10 30. PLAINTIFF and the AGGRIEVED EMPLOYEES were non-exempt
11 employees, subject to the requirements of the California Labor Code.

12 31. DEFENDANTS' policies and practices deprived PLAINTIFF and the
13 AGGRIEVED EMPLOYEES of all minimum, regular, overtime, and double time wages
14 owed for the off-the-clock work activities. Because PLAINTIFF and the AGGRIEVED
15 EMPLOYEES typically worked over 40 hours in a workweek, and more than eight (8) hours
16 per day, DEFENDANTS' policies and practices also deprived them of overtime pay.

17 32. DEFENDANTS knew or should have known that PLAINTIFF and the
18 AGGRIEVED EMPLOYEES off-the-clock work was compensable under the law.

19 33. As a result, PLAINTIFF and the AGGRIEVED EMPLOYEES forfeited wages
20 due them for all hours worked at DEFENDANTS' direction, control and benefit for the time
21 spent working while off-the-clock. DEFENDANTS' policy and practice to not pay
22 PLAINTIFF and the AGGRIEVED EMPLOYEES wages for all hours worked in
23 accordance with applicable law is evidenced by DEFENDANTS' business records.

24 F. Regular Rate Violation - Overtime, Double Time, Meal and Rest Period Premiums,
25 and Sick Pay

26 34. DEFENDANTS underpaid sick pay wages to PLAINTIFF and the
27 AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay in
28 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt

1 employees earn non-discretionary remuneration. Rather than pay sick pay at the regular rate
2 of pay, DEFENDANTS underpaid sick pay to PLAINTIFF and the AGGRIEVED
3 EMPLOYEES at their base rates of pay.

4 35. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
5 employees be calculated by dividing the employee's total wages, not including overtime
6 premium pay, by the employee's total hours worked in the full pay periods of the prior 90
7 days of employment.

8 36. DEFENDANTS violated Cal. Lab. Code Section 246 by failing to pay sick pay
9 at the regular rate of pay. PLAINTIFF and the AGGRIEVED EMPLOYEES routinely
10 earned non-discretionary incentive wages which increased their regular rate of pay.
11 However, when sick pay was paid, it was paid at the base rate of pay for PLAINTIFF and
12 the AGGRIEVED EMPLOYEES, as opposed to the correct, higher regular rate of pay, as
13 required under Cal. Lab. Code Section 246.

14 37. As a pattern and practice, DEFENDANTS regularly failed to pay PLAINTIFF
15 and the AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time
16 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and
17 believes and based thereon alleges that such failure to pay sick pay at regular rate was
18 willful, such that PLAINTIFF and AGGRIEVED EMPLOYEES whose employment has
19 separated are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

20 38. From time-to-time during the PAGA PERIOD, DEFENDANTS failed and
21 continue to fail to accurately calculate and pay PLAINTIFF and the AGGRIEVED
22 EMPLOYEES for their overtime and double time hours worked, meal and rest period
23 premiums, and sick pay. As a result, PLAINTIFF and the AGGRIEVED EMPLOYEES
24 forfeited wages due them for working overtime without compensation at the correct
25 overtime and double time rates, meal and rest period premiums, and sick pay rates.
26 DEFENDANTS' policy and practice to not pay the AGGRIEVED EMPLOYEES the correct
27 rate for all overtime and double time worked, meal and rest period premiums, and sick pay
28 in accordance with applicable law is evidenced by DEFENDANTS' business records.

1 39. State law provides that employees must be paid overtime and meal and rest
2 break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and the
3 AGGRIEVED EMPLOYEES were compensated at an hourly rate plus incentive pay that
4 was tied to specific elements of an employee's performance.

5 40. The second component of PLAINTIFF's and the AGGRIEVED
6 EMPLOYEES' compensation was DEFENDANTS' non-discretionary incentive program that
7 paid PLAINTIFF and the AGGRIEVED EMPLOYEES incentive wages based on their
8 performance for DEFENDANTS. The non-discretionary bonus program provided all
9 employees paid on an hourly basis with bonus compensation when the employees met the
10 various performance goals set by DEFENDANTS.

11 41. However, from-time-to-time, when calculating the regular rate of pay, in those
12 pay periods where PLAINTIFF and the AGGRIEVED EMPLOYEES worked overtime,
13 double time, paid meal and rest period premium payments, and/or paid sick pay, and earned
14 this non-discretionary bonus, incentive, or shift differential DEFENDANTS failed to
15 accurately include the non-discretionary bonus compensation and/or incentive and/or shift
16 differential paid as part of the employees' "regular rate of pay" and/or calculated all hours
17 worked rather than just all non-overtime hours worked. Management and supervisors
18 described the incentive/bonus program to potential and new employees as part of the
19 compensation package. As a matter of law, the incentive compensation and/or shift
20 differentials received by PLAINTIFF and the AGGRIEVED EMPLOYEES must be
21 included in the "regular rate of pay." The failure to do so has resulted in an underpayment of
22 overtime and double time compensation, meal and rest period premiums, and sick pay to
23 PLAINTIFF and the AGGRIEVED EMPLOYEES by DEFENDANTS. Specifically,
24 California Labor Code Section 246 mandates that paid sick time for non-employees shall be
25 calculated in the same manner as the regular rate of pay for the workweek in which the
26 non-exempt employee uses paid sick time, whether or not the employee actually works
27 overtime in that workweek. DEFENDANTS' conduct, as articulated herein, by failing to
28 include the incentive compensation and/or shift differentials as part of the "regular rate of

1 pay" for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the
2 underpayment of which is recoverable under Cal. Labor Code Sections 201, 202, 203 and/or
3 204.

4 42. In violation of the applicable sections of the California Labor Code and the
5 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS
6 as a matter of company policy, practice, and procedure, intentionally and knowingly failed to
7 compensate PLAINTIFF and the AGGRIEVED EMPLOYEES at the correct rate of pay for
8 all overtime and double time worked, meal and rest period premiums, and sick pay. This
9 policy and practice of DEFENDANTS is intended to purposefully avoid the payment of the
10 correct overtime and double time compensation, meal and rest period premiums, and sick
11 pay as required by California law.

12 G. Unlawful Deductions

13 43. DEFENDANTS, from time-to-time unlawfully deducted wages from
14 PLAINTIFF and the AGGRIEVED EMPLOYEES' pay without explanations and without
15 authorization to do so or notice to PLAINTIFF and the AGGRIEVED EMPLOYEES. As a
16 result, DEFENDANTS violated Labor Code § 221.

17 H. Violations for Untimely Payment of Wages

18 44. Pursuant to California Labor Code section 204, PLAINTIFF and the
19 AGGRIEVED EMPLOYEES were entitled to timely payment of wages during their
20 employment. PLAINTIFF and the AGGRIEVED EMPLOYEES, from time to time, did not
21 receive payment of all wages, including, but not limited to, overtime wages, minimum
22 wages, meal period premium wages, and rest period premium wages within permissible time
23 period.

24 I. Suitable Seating Violations

25 45. PLAINTIFF further alleges that the workstations in DEFENDANTS'
26 emergency room provide ample space to allow for the presence and use of a stool or seat by
27 DEFENDANTS' employees' during the performance of their work duties. DEFENDANTS'
28 employees working at DEFENDANTS' veterinary hospital spend a very substantial portion,

1 and, in many workdays, the vast majority of their working time in the emergency room. The
2 nature of the position can reasonably be accomplished while using a seat/stool.

3 46. In violation of the applicable sections of the California Labor Code and the
4 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,
5 DEFENDANTS as a matter of company policy, practice, and procedure, intentionally, and
6 knowingly failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES suitable
7 seating when the nature of these employees' work reasonably permitted sitting.

8 47. DEFENDANTS knew or should have known that PLAINTIFF and the
9 AGGRIEVED EMPLOYEES were entitled to suitable seating and/or were entitled to sit
10 when it did not interfere with the performance of their duties, and that DEFENDANTS did
11 not provide suitable seating and/or did not allow them to sit when it did not interfere with
12 the performance of their duties. By reason of this conduct applicable to PLAINTIFF and all
13 AGGRIEVED EMPLOYEES, DEFENDANTS violated California Labor Code Section
14 1198 and Wage Order 4-2001, Section 14 by failing to provide suitable seats.

15 48. All of the conduct and violations alleged herein occurred during the PAGA
16 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
17 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations
18 that affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.*
19 2018 AJDAR 12157 (Certified for Publication 12/19/18).

20 **JURISDICTION AND VENUE**

21 49. This Court has jurisdiction over this Action pursuant to California Code of
22 Civil Procedure, Section 410.10.

23 50. Venue is proper in this Court pursuant to California Code of Civil Procedure,
24 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
25 DEFENDANT (i) currently maintains and at all relevant times maintained offices and
26 facilities in this County and/or conducts substantial business in this County, and (ii)
27 committed the wrongful conduct herein alleged in this County against PLAINTIFF and the
28 AGGRIEVED EMPLOYEES.

1 **FIRST CAUSE OF ACTION**

2 **For Violation of the Private Attorneys General Act**

3 **[Cal. Lab. Code §§ 2698, *et seq.*]**

4 **(By PLAINTIFF and Against All Defendants)**

5 51. PLAINTIFF realleges and incorporates by this reference, as though fully set
6 forth herein, the prior paragraphs of this Complaint.

7 52. PAGA is a mechanism by which the State of California itself can enforce state
8 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
9 the state's labor law enforcement agencies. An action to recover civil penalties under
10 PAGA is fundamentally a law enforcement action designed to protect the public and not to
11 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
12 but to create a means of "deputizing" citizens as private attorneys general to enforce the
13 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
14 public interest to allow aggrieved employees, acting as private attorneys general to recover
15 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
16 claims cannot be subject to arbitration.

17 53. PLAINTIFF, and such persons that may be added from time to time who
18 satisfy the requirements and exhaust the administrative procedures under the Private
19 Attorney General Act, brings this Representative Action on behalf of the State of California
20 with respect to herself and all individuals who are or previously were employed by Ethos-
21 California Veterinary Group, Inc. and/or Ethos Veterinary Health LLC in California and
22 classified as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time
23 period of May 24, 2021 until a date as determined by the Court (the "PAGA PERIOD").

24 54. On May 24, 2022, PLAINTIFF gave written notice by electronic mail to the
25 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
26 employer of the specific provisions of this code alleged to have been violated as required by
27 Labor Code § 2699.3. The statutory waiting period for PLAINTIFF to add these allegations
28 to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now

1 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
2 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

3 55. The policies, acts and practices heretofore described were and are an unlawful
4 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
5 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly
6 record and provide legally required meal and rest periods, (c) failed to pay minimum wages,
7 (d) failed to pay overtime wages and sick pay wages, (e) failed to reimburse employees for
8 required expenses, (f) failed to provide wages when due, and (g) failed to provide suitable
9 seating, all in violation of the applicable Labor Code sections listed in Labor Code §§ 201,
10 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 510, 512, 558,
11 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and the
12 applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
13 conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
14 Labor Code Private Attorney General Act of 2004 as the representative of the State of
15 California for the illegal conduct perpetrated on PLAINTIFF and the AGGRIEVED
16 EMPLOYEES.

17
18 **PRAYER FOR RELIEF**

19 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
20 severally, as follows:

21 1. On behalf of the State of California and with respect to all AGGRIEVED
22 EMPLOYEES:

23 A) Recovery of civil penalties as prescribed by the Labor Code Private
24 Attorneys General Act of 2004; and,

25 B) An award of attorneys' fees and cost of suit, as allowable under the
26

27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 law, including, but not limited to, pursuant to Labor Code §2699.

2 Dated: February 3, 2023 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
3 LLP

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5
6 By: 

7 Norman B. Blumenthal
8 Nicholas J. De Blouw
9 Attorneys for Plaintiff
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