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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

ANGELICA CURIEL, individually, and on behalf of other members of the general public similarly situated; TERESA AVILA, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act; KIRA CHAMBERS, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act; CHRISTINA ROMAY, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiffs,

vs.

BASS MEDICAL GROUP, a corporation;
and DOES 1 through 100, inclusive; BASS

Case No.: MSC21-01668

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES &
ENFORCEMENT UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE § 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code

PRIVIA MANAGEMENT COMPANY OF
CALIFORNIA f/k/a. BASS
MANAGEMENT SERVICES
ORGANIZATION, LLC, a California
Limited Liability Company; PRIVIA
HEALTH GROUP, INC., a Delaware
Corporation

Defendants.

- § 204 (Wages Not Timely Paid
During Employment);
(7) Violation of California Labor Code
§ 226(a) (Non-Compliant Wage
Statements);
(8) Violation of California Labor Code
§ 1174(d) (Failure To Keep
Requisite Payroll Records);
(9) Violation of California Labor Code
§§ 2800 and 2802 (Unreimbursed
Business Expenses);
(10) Violation of California Business &
Professions Code §§ 17200, et seq.
(11) Violation of California Labor Code
§ 2698, et seq. (California Labor
Code Private Attorneys General
Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff ANGELICA CURIEL (“Plaintiff CURIEL”), individually, and
on behalf of other members of the general public similarly situated, TERESA AVILA
 (“Plaintiff AVILA), individually, and on behalf of other members of the general public
 similarly situated and on behalf of other aggrieved employees pursuant to the California
 Private Attorneys General Act (“PAGA”); KIRA CHAMBERS (“Plaintiff CHAMBERS”)
 individually, and on behalf of other members of the general public similarly situated and on
 behalf of other aggrieved employees pursuant to the California Private Attorneys General Act
 (“PAGA”); and CHRISTINA ROMAY (“Plaintiff ROMAY”) individually, and on behalf of
 other members of the general public similarly situated and on behalf of other aggrieved
 employees pursuant to the California Private Attorneys General Act (“PAGA”) (Together,
 Plaintiff CURIEL, Plaintiff AVILA, Plaintiff CHAMBERS and Plaintiff ROMAY are referred
 to as “Plaintiffs”), and allege as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure
section 382. The monetary damages and restitution sought by Plaintiffs exceeds the minimal

jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, has agents, employ individuals, and/or transact business in the State of California, County of Contra Costa. The majority of acts and omissions alleged herein relating to Plaintiffs and the other class members took place in the State of California, including the County of Contra Costa. At all relevant times, Defendants maintained their headquarters/“nerve center” within the State of California, County of Contra Costa.

PARTIES

5. Plaintiff ANGELICA CURIEL is an individual residing in the State of California.

6. Plaintiff TERESA AVILA is an individual residing in the State of California.

7. Plaintiff KIRA CHAMBERS is an individual residing in the State of California.

8. Plaintiff KRISTINA ROMAY is an individual residing in the State of California.

9. Defendant BASS MEDICAL GROUP, at all times herein mentioned, was and is, upon information and belief, a corporation and, at all times herein mentioned, an employer whose employees are engaged throughout the State of California, including the County of Contra Costa.

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10. Defendant BASS PRIVIA MANAGEMENT COMPANY OF CALIFORNIA, at all times herein mentioned, was and is, upon information and belief, a corporation and, at all times herein mentioned, an employer whose employees are engaged throughout the State of California, including the County of Contra Costa.

11. Defendant PRIVIA HEALTH GROUP, INC., at all times herein mentioned, was and is, upon information and belief, a corporation and, at all times herein mentioned, an employer whose employees are engaged throughout the State of California, including the County of Contra Costa.

12. At all relevant times, Defendant BASS MEDICAL GROUP, BASS PRIVIA MANAGEMENT COMPANY OF CALIFORNIA, and/or PRIVIA HEALTH GROUP, INC., were the “employer” of Plaintiffs within the meaning of all applicable California laws and statutes.

13. At all times herein relevant, Defendants BASS MEDICAL GROUP, BASS PRIVIA MANAGEMENT COMPANY OF CALIFORNIA, and PRIVIA HEALTH GROUP, INC., and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

14. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs who sue said defendants by such fictitious names. Plaintiffs are informed and believe, and based on that information and belief allege, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiffs and the other class members as alleged in this Complaint. Plaintiffs will seek leave of court to amend this Complaint to show the true names and

capacities when the same have been ascertained.

15. Defendant BASS MEDICAL GROUP, BASS PRIVIA MANAGEMENT COMPANY OF CALIFORNIA, and PRIVIA HEALTH GROUP, INC., and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

16. Plaintiffs further allege that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiffs and the other class members so as to make each of said Defendants employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

17. Plaintiffs bring this action on their own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under California Code of Civil Procedure section 382.

18. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time from August 4, 2017 to final judgment and who reside in California.

SUBCLASS ONE

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants as independent contractors within the State of California at any time from August 4, 2017 to final judgment and who reside in California.

19. Plaintiffs reserve the right to establish other subclasses as appropriate.

20. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiffs at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants’ employment records.

- 1 b. Typicality: Plaintiffs' claims are typical of all other class members' as
2 demonstrated herein. Plaintiffs will fairly and adequately protect the
3 interests of the other class members with whom she has a well-defined
4 community of interest.
- 5 c. Adequacy: Plaintiffs will fairly and adequately protect the interests of
6 each class member, with whom she has a well-defined community of
7 interest and typicality of claims, as demonstrated herein. Plaintiffs have
8 no interest that is antagonistic to the other class members. Plaintiffs'
9 attorneys, the proposed class counsel, are versed in the rules governing
10 class action discovery, certification, and settlement. Plaintiffs have
11 incurred, and during the pendency of this action will continue to incur,
12 costs and attorneys' fees, that have been, are, and will be necessarily
13 expended for the prosecution of this action for the substantial benefit of
14 each class member.
- 15 d. Superiority: A class action is superior to other available methods for the
16 fair and efficient adjudication of this litigation because individual joinder
17 of all class members is impractical.
- 18 e. Public Policy Considerations: Certification of this lawsuit as a class
19 action will advance public policy objectives. Employers of this great
20 state violate employment and labor laws every day. Current employees
21 are often afraid to assert their rights out of fear of direct or indirect
22 retaliation. However, class actions provide the class members who are
23 not named in the complaint anonymity that allows for the vindication of
24 their rights.

25 21. There are common questions of law and fact as to the class members that
26 predominate over questions affecting only individual members. The following common
27 questions of law or fact, among others, exist as to the members of the class:

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- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants' had a corporate policy and practice of failing to pay their hourly-paid or non-exempt employees within the State of California for all hours worked and missed (short, late, interrupted, and/or missed altogether) meal periods and rest breaks in violation of California law;
- c. Whether Defendants required Plaintiffs and the other class members to work over eight (8) hours per day and/or over forty (40) hours per week and failed to pay the legally required overtime compensation to Plaintiffs and the other class members;
- d. Whether Defendants failed to use earned commissions/non-discretionary bonuses/non-discretionary monetary and non-monetary incentives/non-discretionary production and/or performance pay/shift differentials to calculate the regular rate of pay used to calculate the overtime rate for the payment of overtime wages where Plaintiffs and other class members earned commissions/non-discretionary bonuses/non-discretionary monetary and non-monetary incentives/non-discretionary production and/or performance pay/shift differentials and overtime wages in the same workweek;
- e. Whether Defendants deprived Plaintiffs and the other class members of meal and/or rest periods or required Plaintiffs and the other class members to work during meal and/or rest periods without compensation
- f. Whether Defendants failed to pay minimum wages to Plaintiffs and the other class members for all hours worked;
- g. Whether Defendants failed to pay all wages due to Plaintiffs and the other class members within the required time upon their discharge or resignation;

- h. Whether Defendants failed to timely pay all wages due to Plaintiffs and the other class members during their employment;
- i. Whether Defendants complied with wage reporting as required by the California Labor Code; including, *inter alia*, section 226;
- j. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including, *inter alia*, section 1174(d);
- k. Whether Defendants failed to reimburse Plaintiffs and the other class members for necessary business-related expenses and costs;
- l. Whether Defendants' conduct was willful or reckless;
- m. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- n. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- o. Whether Plaintiffs and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

PAGA ALLEGATIONS

22. At all times herein set forth, PAGA was applicable to Plaintiff AVILA's employment by Defendants.

23. At all times herein set forth, PAGA was applicable to Plaintiff CHAMBERS' employment by Defendants.

24. At all times herein set forth, PAGA was applicable to Plaintiff ROMAY's employment by Defendants.

25. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in

1 California Labor Code section 2699.3.

2 26. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
3 employee,” who is any person that was employed by the alleged violator and against whom
4 one or more of the alleged violations was committed.

5 27. Plaintiff AVILA, Plaintiff CHAMBERS and Plaintiff ROMAY were employed
6 by Defendants and the alleged violations were committed against them during their times of
7 employment and they, therefore, aggrieved employees. Plaintiffs AVILA, Plaintiff
8 CHAMBERS and Plaintiff ROMAY and the other employees are “aggrieved employees” as
9 defined by California Labor Code section 2699(c) in that they are current or former employees
10 of Defendants, and one or more of the alleged violations were committed against them.

11 28. Pursuant to California Labor Code sections 2699.3 and 2699.5, aggrieved
12 employees, including Plaintiffs, may pursue a civil action arising under PAGA after the
13 following requirements have been met:

14 a. The aggrieved employees shall give written notice by online submission
15 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail to the employer
16 of the specific provisions of the California Labor Code alleged to have been violated,
17 including the facts and theories to support the alleged violations.

18 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
19 employer and the aggrieved employees by certified mail that it does not intend to
20 investigate the alleged violation within sixty (60) calendar days of the postmark date of
21 the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is
22 not provided within sixty-five (65) calendar days of the postmark date of the
23 Employee’s Notice, the aggrieved employees may commence a civil action pursuant to
24 California Labor Code section 2699 to recover civil penalties in addition to any other
25 penalties to which the employee may be entitled.

26 29. On October 6, 2022 Plaintiff AVILA provided written notice by online
27 submission to the LWDA and by certified mail to BASS MEDICAL GROUP of the specific
28 provisions of the California Labor Code alleged to have been violated, including the facts and

1 theories to support the alleged violations. Plaintiff AVILA did not receive an LWDA Notice
2 within sixty-five (65) days of the date of the submission of Plaintiff AVILA's notice.

3 30. On March 15, 2022 Plaintiff CHAMBERS provided written notice by online
4 submission to the LWDA and by certified mail to BASS MEDICAL GROUP of the specific
5 provisions of the California Labor Code alleged to have been violated, including the facts and
6 theories to support the alleged violations. Plaintiff CHAMBERS did not receive an LWDA
7 Notice within sixty-five (65) days of the date of the submission of Plaintiff CHAMBERS'
8 notice.

9 31. On May 12, 2022 Plaintiff ROMAY provided written notice by online
10 submission to the LWDA and by certified mail to Defendants of the specific provisions of the
11 California Labor Code alleged to have been violated, including the facts and theories to
12 support the alleged violations. Plaintiff ROMAY did not receive an LWDA Notice within
13 sixty-five (65) days of the date of the submission of Plaintiff ROMAY's notice.

14 32. Therefore, the administrative prerequisites under California Labor Code section
15 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for
16 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a),
17 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and applicable Industrial Welfare
18 Commission Wage Orders have been satisfied.

19 **GENERAL ALLEGATIONS**

20 33. At all relevant times set forth herein, Defendants employed Plaintiffs and other persons
21 as hourly-paid or non-exempt employees within the State of California, including the County
22 of Contra Costa.

23 34. Defendants, jointly and severally, employed Plaintiff CURIEL as an hourly-
24 paid, non-exempt employee, during the Class Period in the State of California.

25 35. Defendants, jointly and severally, employed Plaintiff AVILA as an hourly-paid,
26 non-exempt employee, during the Class Period in the State of California.

27 36. Defendants, jointly and severally, employed Plaintiff CHAMBERS as an
28 hourly-paid, non-exempt employee, during the Class Period in the State of California.

37. Defendants, jointly and severally, employed Plaintiff ROMAY as an hourly-paid, non-exempt employee, during the Class Period in the State of California.

38. Defendants hired Plaintiffs and the other class members, classified them as hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and missed, late, short, and/or interrupted meal periods and/or rest breaks.

39. Defendants had the authority to hire and terminate Plaintiffs and the other class members, to set work rules and conditions governing Plaintiffs' and the other class members' employment, and to supervise their daily employment activities.

40. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs' and the other class members' employment for them to be joint employers of Plaintiffs and the other class members.

41. Defendants directly hired and paid wages and benefits to Plaintiffs and the other class members.

42. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

43. Plaintiffs and the other class members worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

44. Plaintiffs are informed and believe, and based thereon allege, that Defendants engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt employees within the State of California. This pattern and practice involved, *inter alia*, failing to pay them for all regular and/or overtime wages earned and for missed, short, late, and/or interrupted meal periods and rest breaks in violation of California law.

45. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to receive certain wages for overtime compensation and that they were not receiving accurate overtime compensation for all overtime hours worked as a result of, *inter alia*, Defendants' requiring Plaintiffs and the other class members to perform work off-the-clock.

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1 46. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 failed to use earned commissions/non-discretionary bonuses/non-discretionary monetary and
3 non-monetary incentives/non-discretionary production and/or performance pay/shift differentials
4 to calculate the regular rate of pay used to calculate the overtime rate for the payment of
5 overtime wages where Plaintiffs and the other class members earned commissions/non-
6 discretionary bonuses/non-discretionary monetary and non-monetary incentives/non-
7 discretionary production and/or performance pay/shift differentials and overtime wages in the
8 same workweek.

9 47. Plaintiffs are informed and believe, and based thereon allege, that Defendants
10 failed to provide Plaintiffs and the other class members all required rest and meal periods
11 during the relevant time period as required under the Industrial Welfare Commission Wage
12 Orders and thus they are entitled to any and all applicable penalties.

13 48. Plaintiffs are informed and believe, and based thereon allege, that Defendants
14 knew or should have known that Plaintiffs and the other class members were entitled to receive
15 all meal periods or payment of one additional hour of pay at Plaintiffs' and the other class
16 member's regular rate of pay when a meal period was missed, short, late, and/or interrupted,
17 and they did not receive all meal periods or payment of one additional hour of pay at Plaintiffs'
18 and the other class members' regular rate of pay when a meal period was missed, short, late,
19 and/or interrupted.

20 49. Plaintiffs are informed and believe, and based on thereon allege, that Defendants
21 failed to relieve Plaintiffs and other class members of all duties, failed to relinquish control
22 over Plaintiffs and the other class members' activities, failed to permit Plaintiffs and other
23 class members a reasonable opportunity to take, impeded or discouraged them from taking
24 thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work
25 for shifts lasting at least six (6) hours, and/or take second thirty (30) minute uninterrupted meal
26 breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours.

27 50. Plaintiffs are informed and believe, and based thereon allege, that Defendants
28 knew or should have known that Plaintiffs and the other class members were entitled to receive

1 all rest periods or payment of one additional hour of pay at Plaintiffs' and the other class
2 member's regular rate of pay when a rest period was missed, short, late, and/or interrupted, and
3 they did not receive all rest periods or payment of one additional hour of pay at Plaintiffs' and
4 the other class members' regular rate of pay when a rest period was missed, short, late, and/or
5 interrupted.

6 51. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 knew or should have known that Plaintiffs and the other class members were entitled to receive
8 at least minimum wages for compensation and that they were not receiving at least minimum
9 wages for all hours worked. Defendants' failure to pay minimum wages included, *inter alia*,
10 Defendants' effective payment of zero dollars per hour for hours Plaintiffs and the other class
11 members worked off-the-clock performing work duties.

12 52. Plaintiffs are informed and believe, and based thereon allege, that Defendants
13 knew or should have known that Plaintiffs and the other class members were entitled to receive
14 all wages owed to them upon discharge or resignation, including overtime and minimum wages
15 and meal and rest period premiums, and they did not, in fact, receive all such wages owed to
16 them at the time of their discharge or resignation.

17 53. Plaintiffs are informed and believe, and based thereon allege, that Defendant
18 knew or should have known that Plaintiffs and the other class members were entitled to receive
19 all wages owed to them during their employment. Plaintiffs and the other class members did
20 not receive payment of all wages, including overtime and minimum wages and meal and rest
21 period premiums, within any time permissible under California Labor Code section 204.

22 54. Plaintiffs are informed and believe, and based thereon allege, that Defendants
23 knew or should have known that Plaintiffs and the other class members were entitled to receive
24 complete and accurate wage statements in accordance with California law, but, in fact, they did
25 not receive complete and accurate wage statements from Defendants. The deficiencies
26 included, *inter alia*, the failure to include the total number of hours worked by Plaintiffs and
27 the other class members, including work performed off-the-clock.

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1 55. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have known that Defendants had to keep complete and accurate payroll records
3 for Plaintiffs and the other class members in accordance with California law, but, in fact, did
4 not keep complete and accurate payroll records.

5 56. Plaintiffs are informed and believe, and based thereon allege, that Defendants
6 knew or should have known that Plaintiffs and the other class members were entitled to
7 reimbursement for necessary business-related expenses and costs, including, but not limited to
8 use of personal cell phones for work-related purposes and the costs of complying with
9 Defendants' dress code.

10 57. Plaintiffs are informed and believe, and based thereon allege, that Defendants
11 knew or should have known that they had a duty to compensate Plaintiffs and the other class
12 members pursuant to California law, and that Defendants had the financial ability to pay such
13 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
14 represented to Plaintiffs and the other class members that they were properly denied wages, all
15 in order to increase Defendants' profits.

16 58. During the relevant time period, Defendants failed to pay overtime wages to
17 Plaintiffs and the other class members for all overtime hours worked. Plaintiffs and the other
18 class members were required to work more than eight (8) hours per day and/or forty (40) hours
19 per week, and/or more than six (6) consecutive days in a workweek without overtime
20 compensation for all overtime hours worked.

21 59. During the relevant time period, Defendants failed to use earned
22 commissions/non-discretionary bonuses/non-discretionary monetary and non-monetary
23 incentives/non-discretionary production and/or performance pay/shift differentials to calculate
24 the regular rate of pay used to calculate the overtime rate for the payment of overtime wages
25 where Plaintiffs and the other class members earned commissions/non-discretionary
26 bonuses/non-discretionary monetary and non-monetary incentives/non-discretionary production
27 and/or performance pay/shift differentials and overtime wages in the same workweek.

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60. During the relevant time period, Defendants failed to provide all requisite uninterrupted meal and rest periods to Plaintiffs and the other class members.

61. During the relevant time period, Defendants failed to pay Plaintiffs and the other class members at least minimum wages for all hours worked.

62. During the relevant time period, Defendants failed to pay Plaintiffs and the other class members all wages owed to them upon discharge or resignation.

63. During the relevant time period, Defendants failed to pay Plaintiffs and the other class members all wages within any time permissible under California law, including, *inter alia*, California Labor Code section 204.

64. During the relevant time period, Defendants failed to provide complete or accurate wage statements to Plaintiffs and the other class members. The deficiencies included, *inter alia*, the failure to include the total number of hours worked by Plaintiffs and the other class members, including work performed off-the-clock.

65. During the relevant time period, Defendants failed to keep complete or accurate payroll records for Plaintiffs and the other class members.

66. During the relevant time period, Defendants failed to reimburse Plaintiffs and the other class members for all necessary business-related expenses and costs, including, but not limited to, use of personal cell phones for work-related purposes and the costs of complying with Defendants' dress code .

67. During the relevant time period, Defendants failed to properly compensate Plaintiffs and the other class members pursuant to California law in order to increase Defendants' profits.

68. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

MISCLASSIFICATION ALLEGATIONS

69. Defendants engaged in a pattern and practice of misclassifying California workers as independent contractors, hired to perform work and services core to Defendants' businesses,

1 in violation of California Labor Code Section 226.8. California Labor Code Section 226.8
2 provides that “[i]t is unlawful for any person or employer to engage in ...[w]illful
3 misclassification of an individual as an independent contractor.” The penalty for willful
4 misclassification of employees is a “civil penalty of not less than five thousand dollars (\$5,000)
5 and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other
6 penalties or fines permitted by law.” It is further provided that, in the event that an employer is
7 found to have engaged in “a pattern or practice of these violations,” the penalties increase to “not
8 less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars
9 (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.” Cal.
10 Labor Code § 226.8.

11 70. Similarly, Plaintiffs and other members of SUBCLASS ONE were not
12 compensated overtime wages for any of their time spent working in excess of eight (8) hours in a
13 workday, twelve (12) hours in a workday, and/or forty (40) hours in a workweek. Plaintiffs and
14 other members of SUBCLASS ONE were paid the hourly rate to perform labor services on
15 Defendants’ behalf. Plaintiffs and other workers were not compensated any other wages besides
16 the non-negotiable hourly rate and/or flat rate, and they were not allowed to record their time
17 while they waited for Defendants to give them work. Specifically, Plaintiffs and other
18 SUBCLASS ONE members were only paid an hourly rate and/or flat rate per patient seen that
19 Defendants unilaterally prescribed for each job. For example, Defendants would assign Plaintiff
20 at least seven to eight (7-8) patients per day that resulted, from time to time, in Plaintiffs working
21 throughout her shift without the legally-required meal and rest periods. Defendants only paid
22 Plaintiffs a flat rate per patient and failed to pay Plaintiffs any compensation for overtime wages
23 at the overtime rate of one-and-a-half times the regular rate of pay for any time spent working in
24 excess of eight (8) hours in a workday, twelve (12) hours in a workday, and/or forty (40) hours in
25 a workweek. The finite set of tasks required to be performed by the workers is, when notified
26 via cell phone, travel to Defendants’ healthcare facility to perform jobs, including but not limited
27 to, message therapy, all in accordance with Defendants’ business practices and policies.

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1 71. As a result, stripped of all the legal fictions and artificial barriers to an honest
2 classification of the relationship between Plaintiffs and all the other members of SUBCLASS
3 ONE on the one hand, and Defendants on the other hand, Plaintiffs and all the other members
4 of SUBCLASS ONE are and were employees of Defendants and not independent contractors
5 of Defendants and should therefore be properly classified as non-exempt, hourly employees.

6 72. The finite set of tasks required of Plaintiffs and the other SUBCLASS ONE
7 members as defined by Defendants was executed by them through the performance of non-
8 exempt labor. Specifically, Plaintiffs and other SUBCLASS ONE members performed non-
9 exempt tasks, including but not limited to, caring for patients by assessing their physical health,
10 obtaining physical index tests on patients, obtaining medical clearances, charting patients
11 progress, and performing message therapy on patients.

12 73. Although Plaintiffs and the other SUBCLASS ONE members performed non-
13 exempt labor subject to Defendants' complete control over the manner and means of
14 performance, Defendants instituted a blanket classification policy, practice and procedure by
15 which all of these SUBCLASS ONE Members were classified as "independent contractors"
16 exempt from compensation for overtime worked, meal breaks and rest breaks, and
17 reimbursement for business related expenses. By reason of this uniform misclassification,
18 SUBCLASS ONE Members were also required to pay Defendants' share of payroll taxes and
19 mandatory insurance premiums. As a result of this uniform misclassification practice, policy
20 and procedure applicable to Plaintiffs and the other SUBCLASS ONE Members who
21 performed this work for Defendants, Defendants committed acts of unfair competition in
22 violation of the California Unfair Competition law, Cal. Bus. & Prof. Code §§ 17200, et seq.
23 (the "UCL"), by engaging in a company-wide policy, practice and procedure which failed to
24 properly classify Plaintiffs and the other SUBCLASS ONE members as employees and thereby
25 failed to pay them wages for all time worked, reimbursement of business related expenses,
26 failed to provide them with meal and rest breaks, and failed to reimburse these employees for
27 the employer's share of payroll taxes and mandatory insurance.

28 ///

74. Defendants, as a matter of law, have the burden of proving that the employees are properly classified and that Defendants otherwise comply with applicable laws.

Defendants, as a matter of as a matter of corporate policy, erroneously and unilaterally classified all the SUBCLASS ONE Members as independent contractors in violation of the California Labor Code and regulations promulgated thereunder.

i. Plaintiff and Other Members of SUBCLASS ONE Were Not Free from the Control and Direction of Defendants

75. Defendants controlled and directed the work performed by Plaintiffs and the other similarly situated misclassified California workers by, among other things, scheduling hours of work, providing job site facility, enforcing a dress code and issuing written policies and procedures for the performance of work and conduct in the workplace. Upon hire, the position was represented by Defendants to Plaintiffs and the other workers as an independent contractor position in exchange for an hourly rate and/or flat rate of pay for the time they spend providing labor and services to Defendants' third-party clients and patients.

76. To perform their job duties, Plaintiffs and the other members of SUBCLASS ONE perform work subject to the control of Defendants in that Defendants had the authority to exercise complete control over the work performed and the manner and means in which the work was performed. Defendants provided the patients and Defendants provided the instructions as to how to perform their work. Specifically, Defendants issues policies and procedures regarding every work-related task performed by Plaintiffs and other SUBCLASS ONE members, including control and direction regarding, caring for patients by assessing their physical health, obtaining physical index tests on patients, obtaining medical clearances, charting patients' progress, performing massage therapy on patients, and submitting requests to Defendants for time-off, all in accordance with Defendants' business practices and policies.

77. California Labor Code § 3357 defines "employee" as "every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed." Additionally, to the California Labor Code's presumption that workers are employees, the California Supreme

1 Court has determined the most significant factor to be considered in distinguishing an
2 independent contractor from an employee is whether the *employer or principal has control or*
3 *the right to control the work both as to the work performed and the manner and means in*
4 *which the work is performed.* Defendants heavily controlled both the work performed and the
5 manner and means in which the P and other workers performed their work in that:

- 6 a. Plaintiffs and other members of SUBCLASS ONE were not involved in a
7 distinct business, but instead were provided with instructions as to how to
8 perform their work and the manner and means in which the work was to be
9 performed by means of Defendants and Defendants' manuals and written
10 instructions;
- 11 b. Plaintiffs and other members of SUBCLASS ONE were continuously provided
12 with training and supervision, including following Defendants' company
13 documents, and received training from Defendants as to how and in what way to
14 perform the services;
- 15 c. Defendants set the requirements as to what policies and procedures all of the
16 workers were to follow, including but not limited to, flat rates and/or hourly
17 rates and location of assignment;
- 18 d. Plaintiffs and other members of SUBCLASS ONE had no opportunity for profit
19 or loss because Defendants only paid these workers a flat rate and/or an hourly
20 rate. Defendants controlled and assigned the workers which tasks were to be
21 performed;
- 22 e. Plaintiffs and other members of SUBCLASS ONE performed services and labor
23 which are part of the core of Defendants' principal business and is closely
24 integrated with and essential to the employer's business of services and labor to
25 their patients;
- 26 f. Plaintiffs and other members of SUBCLASS ONE performed the work
27 themselves and did not hire others to perform their work for them;
- 28 g. Plaintiffs and other members of SUBCLASS ONE did not have the authority to

1 make employment-related personnel decisions;

2 h. Plaintiffs and other members of SUBCLASS ONE were provided with
3 schedules to follow and patients to treat in accordance with Defendants'
4 instructions;

5 i. Plaintiffs and other members of SUBCLASS ONE performed their work in a
6 particular order and sequence in accordance with Defendants' company policies;
7 and,

8 j. Defendants had the "right" to control every critical aspect of Defendants' labor
9 operation in that Defendants provided the client or patient, assigned where
10 Plaintiffs and other members of SUBCLASS ONE were to go, assigned the
11 hourly rate or flat rate, enforced a dress code, and step by step instructions to
12 Plaintiffs and other members of SUBCLASS ONE as to the entire process of
13 working at Defendants' facility. Plaintiffs and other workers provided services
14 and labor for Defendants' patients and were not actually in business for
15 themselves.

16 ii. **Plaintiffs and Other Members of SUBCLASS ONE Did Not Perform**
17 **Work Outside the Usual Course of Defendants' Business**

18 78. Defendants willfully misclassified Plaintiffs and other members of SUBCLASS
19 ONE who provided Defendants with healthcare services for Defendants' clients. In other
20 words, Plaintiffs and other similarly situated California workers provided Defendants with
21 work and services within the usual course of Defendants' business.

22 79. Defendants market themselves to the public, Plaintiffs and other members of
23 SUBCLASS ONE as a provider of specialized healthcare services. As a result, Defendants
24 unquestionably hold themselves out to the public, Plaintiffs and other members of SUBCLASS
25 ONE as providers of specialized healthcare services. Therefore, the performance of caring for
26 patients by assessing their physical health, obtaining physical index tests on patients, obtaining
27 medical clearances, charting patients progress, and performing message therapy on patients by
28 Plaintiffs and other members of SUBCLASS ONE is not outside Defendants' usual course of

business.

iii. **Plaintiff and Other Members of SUBCLASS ONE Were Not Engaged in an Independently Established Trade, Occupation, or Business of the Same Nature as the Work Performed for Defendant**

80. Plaintiffs and the other members of SUBCLASS ONE are not and were not engaged in a customarily independently established trade, occupation or business as the same nature of the work performed.

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against DEFENDANTS and DOES 1 through 100)

81. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 80, and each and every part thereof with the same force and effect as though fully set forth herein.

82. California Labor Code section 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

83. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiffs and the other class members employed by Defendants, and working more than eight (8) hours in a day or more than forty (40) hours in a workweek, and/or more than six (6) consecutive days in a workweek at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek, or the first eight (8) hours worked on the seventh day in a workweek.

84. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiffs and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

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85. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

86. During the relevant time period, Plaintiffs and the other class members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week and/or in excess of six (6) consecutive days in a workweek.

87. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiffs and the other class members.

88. Defendants' failure to pay Plaintiffs and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

89. Pursuant to California Labor Code section 1194, Plaintiffs and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against DEFENDANTS and DOES 1 through 100)

90. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 89, and each and every part thereof with the same force and effect as though fully set forth herein.

91. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiffs' and the other class members' employment by Defendants.

92. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an

1 applicable order of the California IWC.

2 93. At all relevant times, the applicable IWC Wage Order and California Labor
3 Code section 512(a) provide that an employer may not require, cause or permit an employee to
4 work for a work period of more than five (5) hours per day without providing the employee
5 with a meal period of not less than thirty (30) minutes, except that if the total work period per
6 day of the employee is no more than six (6) hours, the meal period may be waived by mutual
7 consent of both the employer and employee.

8 94. At all relevant times, the applicable IWC Wage Order and California Labor
9 Code section 512(a) further provide that an employer may not require, cause or permit an
10 employee to work for a work period of more than ten (10) hours per day without providing the
11 employee with a second uninterrupted meal period of not less than thirty (30) minutes, except
12 that if the total hours worked is no more than twelve (12) hours, the second meal period may
13 be waived by mutual consent of the employer and the employee only if the first meal period
14 was not waived.

15 95. During the relevant time period, Plaintiffs and the other class members who
16 were scheduled to work for a period of time no longer than six (6) hours, and who did not
17 waive their legally-mandated meal periods by mutual consent, were required to work for
18 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
19 (30) minutes and/or rest period.

20 96. During the relevant time period, Plaintiffs and the other class members who
21 were scheduled to work for a period of time in excess of six (6) hours were required to work
22 for periods longer than five (5) hours without an uninterrupted meal period of not less than
23 thirty (30) minutes and/or rest period.

24 97. During the relevant time period, Defendants' failed to relieve Plaintiffs and the
25 other class members of all duties, failed to relinquish control over Plaintiffs and the other class
26 members' activities, failed to permit Plaintiffs and the other class members a reasonable
27 opportunity to take, and impeded or discouraged them from taking thirty (30) minute
28 uninterrupted meal periods no later than the end of their fifth hour of work for shifts lasting at

1 least six (6) hours, and/or take second thirty (30) minute uninterrupted meal periods no later
2 than their tenth hour of work for shifts lasting more than ten (10) hours.

3 98. During the relevant time period, Defendants intentionally and willfully required
4 Plaintiffs and the other class members to work during meal periods and failed to compensate
5 Plaintiffs and the other class members the full meal period premium for work performed during
6 meal periods.

7 99. During the relevant time period, Defendants failed to pay Plaintiffs and the other
8 class members the full meal period premium due pursuant to California Labor Code section
9 226.7.

10 100. Defendants' conduct violates applicable IWC Wage Order and California Labor
11 Code sections 226.7 and 512(a).

12 101. Pursuant to applicable IWC Wage Order and California Labor Code section
13 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one
14 additional hour of pay at the employee's regular rate of compensation for each workday that
15 the meal or rest period is not provided.

16 **THIRD CAUSE OF ACTION**

17 **(Violation of California Labor Code § 226.7)**

18 **(Against DEFENDANTS and DOES 1 through 100)**

19 102. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
20 through 101, and each and every part thereof with the same force and effect as though fully set
21 forth herein.

22 103. At all times herein set forth, the applicable IWC Wage Order and California
23 Labor Code section 226.7 were applicable to Plaintiffs' and the other class members'
24 employment by Defendants.

25 104. At all relevant times, California Labor Code section 226.7 provides that no
26 employer shall require an employee to work during any rest period mandated by an applicable
27 order of the California IWC.

28 105. At all relevant times, the applicable IWC Wage Order provides that "[e]very

1 employer shall authorize and permit all employees to take rest periods, which insofar as
2 practicable shall be in the middle of each work period” and that the “rest period time shall be
3 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
4 hours or major fraction thereof” unless the total daily work time is less than three and one-half
5 (3 ½) hours.

6 106. During the relevant time period, Defendants required Plaintiffs and other class
7 members to work four (4) or more hours without authorizing or permitting a ten (10) minute
8 rest period per each four (4) hour period worked.

9 107. During the relevant time period, Defendants willfully required Plaintiffs and the
10 other class members to work during rest periods and failed to pay Plaintiffs and the other class
11 members the full rest period premium for work performed during rest periods.

12 108. During the relevant time period, Defendants failed to pay Plaintiffs and the other
13 class members the full rest period premium due pursuant to California Labor Code section
14 226.7.

15 109. Defendants’ conduct violates applicable IWC Wage Orders and California
16 Labor Code section 226.7.

17 110. Pursuant to the applicable IWC Wage Orders and California Labor Code section
18 226.7(c), Plaintiffs and the other class members are entitled to recover from Defendants one
19 additional hour of pay at the employees’ regular hourly rate of compensation for each workday
20 that the rest period was not provided.

21 **FOURTH CAUSE OF ACTION**

22 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

23 **(Against DEFENDANTS and DOES 1 through 100)**

24 111. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
25 through 110, and each and every part thereof with the same force and effect as though fully set
26 forth herein.

27 112. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
28 provide that the minimum wage to be paid to employees, and the payment of a lesser wage

1 than the minimum so fixed is unlawful.

2 113. During the relevant time period, Defendants failed to pay minimum wage to
3 Plaintiffs and the other class members as required, pursuant to California Labor Code sections
4 1194, 1197, and 1197.1.

5 114. Defendants' failure to pay Plaintiffs and the other class members the minimum
6 wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to
7 those sections Plaintiffs and the other class members are entitled to recover the unpaid balance
8 of their minimum wage compensation as well as interest, costs, and attorney's fees, and
9 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

10 115. Pursuant to California Labor Code section 1197.1, Plaintiffs and the other class
11 members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
12 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
13 minimum wages.

14 116. Pursuant to California Labor Code section 1194.2, Plaintiffs and the other class
15 members are entitled to recover liquidated damages in an amount equal to the wages
16 unlawfully unpaid and interest thereon.

17 **FIFTH CAUSE OF ACTION**

18 **(Violation of California Labor Code §§ 201 and 202)**

19 **(Against DEFENDANTS and DOES 1 through 100)**

20 117. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
21 through 116, and each and every part thereof with the same force and effect as though fully set
22 forth herein.

23 118. At all relevant times herein set forth, California Labor Code sections 201 and
24 202 provide that if an employer discharges an employee, the wages earned and unpaid at the
25 time of discharge are due and payable immediately, and if an employee quits his or her
26 employment, his or her wages shall become due and payable not later than seventy-two (72)
27 hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
28 intention to quit, in which case the employee is entitled to his or her wages at the time of

1 quitting.

2 119. During the relevant time period, Defendants intentionally and willfully failed to
3 pay Plaintiffs and the other class members who are no longer employed by Defendants their
4 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

5 120. Defendants' failure to pay Plaintiffs and the other class members who are no
6 longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72)
7 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
8 201 and 202.

9 121. California Labor Code section 203 provides that if an employer willfully fails to
10 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee
11 shall continue as a penalty from the due date thereof at the same rate until paid or until an
12 action is commenced; but the wages shall not continue for more than thirty (30) days.

13 122. Plaintiffs and the other class members are entitled to recover from Defendants
14 the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum
15 pursuant to California Labor Code section 203.

16 **SIXTH CAUSE OF ACTION**

17 **(Violation of California Labor Code § 204)**

18 **(Against DEFENDANTS and DOES 1 through 100)**

19 123. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
20 through 122 and each and every part thereof with the same force and effect as though fully set
21 forth herein.

22 124. At all times herein set forth, California Labor Code section 204 provides that all
23 wages earned by any person in any employment between the 1st and 15th days, inclusive, of
24 any calendar month, other than those wages due upon termination of an employee, are due and
25 payable between the 16th and the 26th day of the month during which the labor was
26 performed.

27 125. At all times herein set forth, California Labor Code section 204 provides that all
28 wages earned by any person in any employment between the 16th and the last day, inclusive,

1 of any calendar month, other than those wages due upon termination of an employee, are due
2 and payable between the 1st and the 10th day of the following month.

3 126. At all times herein set forth, California Labor Code section 204 provides that all
4 wages earned for labor in excess of the normal work period shall be paid no later than the
5 payday for the next regular payroll period.

6 127. During the relevant time period, Defendants intentionally and willfully failed to
7 pay Plaintiffs and the other class members all wages due to them, within any time period
8 permissible under California Labor Code section 204.

9 128. Plaintiffs and the other class members are entitled to recover all remedies
10 available for violations of California Labor Code section 204.

11 **SEVENTH CAUSE OF ACTION**

12 **(Violation of California Labor Code § 226(a))**

13 **(Against DEFENDANTS and DOES 1 through 100)**

14 129. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
15 through 128, and each and every part thereof with the same force and effect as though fully set
16 forth herein.

17 130. At all material times set forth herein, California Labor Code section 226(a)
18 provides that every employer shall furnish each of his or her employees an accurate itemized
19 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
20 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
21 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of
22 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
23 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
24 his or her social security number, (8) the name and address of the legal entity that is the
25 employer, and (9) all applicable hourly rates in effect during the pay period and the
26 corresponding number of hours worked at each hourly rate by the employee. The deductions
27 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
28 showing the month, day, and year, and a copy of the statement or a record of the deductions

1 shall be kept on file by the employer for at least three years at the place of employment or at a
2 central location within the State of California.

3 131. Defendants have intentionally and willfully failed to provide Plaintiffs and the
4 other class members with complete and accurate wage statements. The deficiencies include,
5 but are not limited to: the failure to include the total number of hours worked by Plaintiffs and
6 the other class members, including work performed off-the-clock.

7 132. As a result of Defendants' violation of California Labor Code section 226(a),
8 Plaintiffs and the other class members have suffered injury and damage to their statutorily-
9 protected rights.

10 133. More specifically, Plaintiffs and the other class members have been injured by
11 Defendants' intentional and willful violation of California Labor Code section 226(a) because
12 they were denied both their legal right to receive, and their protected interest in receiving,
13 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

14 134. Plaintiffs and the other class members are entitled to recover from Defendants
15 the greater of their actual damages caused by Defendants' failure to comply with California
16 Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
17 employee.

18 135. Plaintiffs and the other class members are also entitled to injunctive relief to
19 ensure compliance with this section, pursuant to California Labor Code section 226(h).

20 **EIGHTH CAUSE OF ACTION**

21 **(Violation of California Labor Code § 1174(d))**

22 **(Against DEFENDANTS and DOES 1 through 100)**

23 136. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
24 through 135, and each and every part thereof with the same force and effect as though fully set
25 forth herein.

26 137. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a
27 central location in the state or at the plants or establishments at which employees are
28 employed, payroll records showing the hours worked daily by and the wages paid to, and the

1 number of piece-rate units earned by and any applicable piece rate paid to, employees
2 employed at the respective plants or establishments. These records shall be kept in accordance
3 with rules established for this purpose by the commission, but in any case shall be kept on file
4 for not less than two years.

5 138. Defendants have intentionally and willfully failed to keep accurate and complete
6 payroll records showing the hours worked daily and the wages paid, to Plaintiffs and the other
7 class members.

8 139. As a result of Defendants' violation of California Labor Code section 1174(d),
9 Plaintiffs and the other class members have suffered injury and damage to their statutorily-
10 protected rights.

11 140. More specifically, Plaintiffs and the other class members have been injured by
12 Defendants' intentional and willful violation of California Labor Code section 1174(d) because
13 they were denied both their legal right and protected interest, in having available, accurate and
14 complete payroll records pursuant to California Labor Code section 1174(d).

15 **NINTH CAUSE OF ACTION**

16 **(Violation of California Labor Code §§ 2800 and 2802)**

17 **(Against DEFENDANTS and DOES 1 through 100)**

18 141. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
19 through 140, and each and every part thereof with the same force and effect as though fully set
20 forth herein.

21 142. Pursuant to California Labor Code sections 2800 and 2802, an employer must
22 reimburse its employee for all necessary expenditures incurred by the employee in direct
23 consequence of the discharge of his or her job duties or in direct consequence of his or her
24 obedience to the directions of the employer.

25 143. Plaintiffs and the other class members incurred necessary business-related
26 expenses and costs that were not fully reimbursed by Defendants.

27 144. Defendants have intentionally and willfully failed to reimburse Plaintiffs and the
28 other class members for all necessary business-related expenses and costs, including, but not

1 limited to, use of personal cell phones for work-related purposes and the costs of complying
2 with Defendants' dress code.

3 145. Plaintiffs and the other class members are entitled to recover from Defendants
4 their business-related expenses and costs incurred during the course and scope of their
5 employment, plus interest accrued from the date on which the employee incurred the necessary
6 expenditures at the same rate as judgments in civil actions in the State of California.

7 **TENTH CAUSE OF ACTION**

8 **(Violation of California Business & Professions Code §§ 17200, et seq.)**

9 **(Against DEFENDANTS and DOES 1 through 100)**

10 146. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
11 through 145, and each and every part thereof with the same force and effect as though fully set
12 forth herein.

13 147. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
14 unlawful and harmful to Plaintiffs, other class members, to the general public, and Defendants'
15 competitors. Accordingly, Plaintiffs seek to enforce important rights affecting the public
16 interest within the meaning of Code of Civil Procedure section 1021.5.

17 148. Defendants' activities as alleged herein are violations of California law, and
18 constitute unlawful business acts and practices in violation of California Business &
19 Professions Code section 17200, et seq.

20 149. A violation of California Business & Professions Code section 17200, et seq. may be
21 predicated on the violation of any state or federal law. In this instant case, Defendants'
22 policies and practices of requiring employees, including Plaintiffs and the other class members,
23 to work overtime without paying them proper compensation violate California Labor Code
24 sections 510 and 1198. Additionally, Defendants' policies and practices of requiring
25 employees, including Plaintiffs and the other class members, to work through their meal and
26 rest periods without paying them proper compensation violate California Labor Code sections
27 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate
28 California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and

practices of failing to timely pay wages to Plaintiff and the other class members violated California Labor Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

150. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

151. Plaintiffs and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

152. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiffs and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years preceding the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

ELEVENTH CAUSE OF ACTION
(Violation of California Labor Code §§ 2698, et seq.)
(Against DEFENDANTS and DOES 1 through 100)

153. Plaintiff AVILA, Plaintiff CHAMBERS, and Plaintiff ROMAY incorporate by reference the allegations contained in paragraphs 1 through 152, and each and every part thereof with the same force and effect as though fully set forth herein.

154. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by aggrieved employees on behalf of themselves, and other current or former employees.

155. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

1 156. Plaintiff AVILA, Plaintiff CHAMBERS, and Plaintiff and the other hourly-paid
2 or non-exempt employees are “aggrieved employees” as defined by California Labor Code
3 section 2699(c) in that they are all current or former employees of Defendants, and one or
4 more of the alleged violations was committed against them.

5 **Failure to Pay Overtime**

6 157. Defendants’ failure to pay overtime in violation of the Wage Orders and
7 California Labor Code sections 510 and 1198, as alleged above, constitutes unlawful and/or
8 unfair activity prohibited by California Labor Code sections 510 and 1198.

9 **Failure to Provide Meal Periods**

10 158. Defendants’ failure to provide legally required meal periods in violation of the
11 Wage Orders and California Labor Code sections 226.7 and 512(a), as alleged above,
12 constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7 and
13 512(a).

14 **Failure to Provide Rest Periods**

15 159. Defendants’ failure to provide legally required rest periods in violation of the
16 Wage Orders and California Labor Code section 226.7, as alleged above, constitutes unlawful
17 and/or unfair activity prohibited by California Labor Code section 226.7.

18 **Failure to Pay Minimum Wages**

19 160. Defendants’ failure to pay minimum wages in violation of the Wage Orders and
20 California Labor Code sections 1194, 1197 and 1197.1, as alleged above, constitutes unlawful
21 and/or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

22 **Failure to Timely Pay Wages Upon Termination**

23 161. Defendants’ failure to timely pay wages upon termination in violation of
24 California Labor Code sections 201 and 202, as alleged above, constitutes unlawful and/or
25 unfair activity prohibited by California Labor Code sections 201 and 202.

26 **Failure to Timely Pay Wages During Employment**

27 162. Defendants’ failure to timely pay wages during employment in violation of
28 California Labor Code section 204, as alleged above, constitutes unlawful and/or unfair

activity prohibited by California Labor Code section 20

Failure to Provide Compliant Wage Statements

163. Defendants' failure to provide compliant wage statements in violation of California Labor Code section 226(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

164. Defendants' failure to keep complete and accurate payroll records in violation of California Labor Code section 1174(d), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business Expenses

165. Defendants' failure to reimburse necessary business-related expenses and costs in violation of California Labor Code sections 2800 and 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

166. Pursuant to California Labor Code section 2699, Plaintiff AVILA, Plaintiff CHAMBERS, and Plaintiff ROMAY, individually, and on behalf of all aggrieved employees, request and are entitled to recover from Defendants and each of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all statutory penalties against Defendants, and each of them, including but not limited to:

a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

b. Penalties under California Code of Regulations Title 8 section 11010, et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

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c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

167. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

168. Further, Plaintiff AVILA, Plaintiff CHAMBERS, and Plaintiff ROMAY are entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

DEMAND FOR JURY TRIAL

Plaintiff CURIEL, individually and on behalf of other members of the general public similarly situated, Plaintiff AVILA individually, and on behalf of other members of the general public similarly situated and on behalf of other employees pursuant to the California Private Attorneys General Act, Plaintiff CHAMBERS individually, and on behalf of other members of the general public similarly situated and on behalf of other employees pursuant to the California Private Attorneys General Act, and Plaintiff ROMAY individually, and on behalf of other members of the general public similarly situated and on behalf of other employees pursuant to the California Private Attorneys General Act request a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CURIEL, individually and on behalf of other members of the general public similarly situated, Plaintiff AVILA individually, and on behalf of other members of the general public similarly situated and on behalf of other employees pursuant to

the California Private Attorneys General Act, Plaintiff CHAMBERS individually, and on behalf of other members of the general public similarly situated and on behalf of other employees pursuant to the California Private Attorneys General Act, and Plaintiff ROMAY individually, and on behalf of other members of the general public similarly situated and on behalf of other employees pursuant to the California Private Attorneys General Act, pray for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action as to the first ten causes of action;
2. That Plaintiffs be appointed as the representative of the Class as to the first ten causes of action;
3. That counsel for Plaintiffs be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and the other class members;
6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;
7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;
8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and
9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to

1 provide all meal periods (including second meal periods) to Plaintiff and the other class
2 members;

3 11. That the Court make an award to Plaintiff and the other class members of one
4 (1) hour of pay at each employee's regular rate of compensation for each workday that a meal
5 period was not provided;

6 12. For all actual, consequential, and incidental losses and damages, according to
7 proof;

8 13. For premium wages pursuant to California Labor Code section 226.7(c);

9 14. For pre-judgment interest on any unpaid wages from the date such amounts
10 were due;

11 15. For reasonable attorneys' fees and costs of suit incurred herein; and

12 16. For such other and further relief as the Court may deem just and proper.

13 **As to the Third Cause of Action**

14 17. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
16 rest periods to Plaintiff and the other class members;

17 18. That the Court make an award to Plaintiff and the other class members of one
18 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
19 period was not provided;

20 19. For all actual, consequential, and incidental losses and damages, according to
21 proof;

22 20. For premium wages pursuant to California Labor Code section 226.7(c);

23 21. For pre-judgment interest on any unpaid wages from the date such amounts
24 were due; and

25 22. For such other and further relief as the Court may deem just and proper.

26 **As to the Fourth Cause of Action**

27 23. That the Court declare, adjudge and decree that Defendants violated California
28 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to

1 Plaintiff and the other class members;

2 24. For general unpaid wages and such general and special damages as may be
3 appropriate;

4 25. For statutory wage penalties pursuant to California Labor Code section 1197.1
5 for Plaintiff and the other class members in the amount as may be established according to
6 proof at trial;

7 26. For pre-judgment interest on any unpaid compensation from the date such
8 amounts were due;

9 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
10 California Labor Code section 1194(a);

11 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

12 29. For such other and further relief as the Court may deem just and proper.

13 **As to the Fifth Cause of Action**

14 30. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
16 time of termination of the employment of Plaintiff and the other class members no longer
17 employed by Defendants;

18 31. For all actual, consequential, and incidental losses and damages, according to
19 proof;

20 32. For statutory wage penalties pursuant to California Labor Code section 203 for
21 Plaintiff and the other class members who have left Defendants' employ;

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

24 34. For such other and further relief as the Court may deem just and proper.

25 **As to the Sixth Cause of Action**

26 35. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code section 204 by willfully failing to pay all compensation owed at the time required
28 by California Labor Code section 204 to Plaintiff and the other class members;

36. For all actual, consequential, and incidental losses and damages, according to proof;

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

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For statutory penalties pursuant to California Labor Code section 226(e);

42. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

43. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff and the other class members as required by California Labor Code section 1174(d);

45. For actual, consequential and incidental losses and damages, according to proof;

46. For statutory penalties pursuant to California Labor Code section 1174.5; and

47. For such other and further relief as the Court may deem just and proper.

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

- 1 49. For actual, consequential and incidental losses and damages, according to proof;
2 50. For the imposition of civil penalties and/or statutory penalties;
3 51. For reasonable attorneys' fees and costs of suit incurred herein; and
4 52. For such other and further relief as the Court may deem just and proper.

5 **As to the Tenth Cause of Action**

6 53. That the Court decree, adjudge and decree that Defendants violated California
7 Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the
8 other class members all overtime compensation due to them, failing to provide all meal and
9 rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to
10 Plaintiff and the other class members, failing to pay Plaintiff's and the other class members'
11 wages timely as required by California Labor Code section 201, 202 and 204 and by violating
12 California Labor Code sections 226(a), 1174(d), 2800 and 2802.

13 54. For restitution of unpaid wages to Plaintiff and all the other class members and
14 all pre-judgment interest from the day such amounts were due and payable;

15 55. For the appointment of a receiver to receive, manage and distribute any and all
16 funds disgorged from Defendants and determined to have been wrongfully acquired by
17 Defendants as a result of violation of California Business and Professions Code sections
18 17200, et seq.;

19 56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
20 California Code of Civil Procedure section 1021.5;

21 57. For injunctive relief to ensure compliance with this section, pursuant to
22 California Business and Professions Code sections 17200, et seq.; and

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As to the Eleventh Cause of Action

58. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f) and (g) and 558 plus costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

For such other and further relief as the Court may deem justice and proper.

Dated: April 15, 2024

LAWYERS for JUSTICE, PC

By: 

Brian J. St. John

Meg Razi

*Attorneys for Plaintiffs Angelica Curiel
and Teresa Avila*

Dated: April 15, 2024

JCL LAW FIRM, APC

By: 

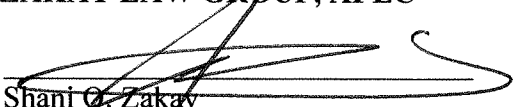
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Dated: April 15, 2024

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