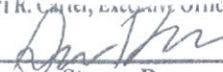


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 Superior Court of California
 County of Los Angeles

DEC 11 2020

Sherri R. Carter, Executive Officer/Clerk of Court
 By , Deputy
 Steven Drew

Attorneys for Plaintiff AL FUASTINO DE GUZMAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES
 UNLIMITED JURISDICTION

AL FUASTINO DE GUZMAN, on behalf of
 himself and all others similarly situated,

Plaintiff,

vs.

PACIFICA OF THE VALLEY
 CORPORATION, a Delaware corporation;
 and DOES 1 through 50, inclusive,

Defendants.

Case No. **20STCV47460**

CLASS ACTION COMPLAINT FOR:

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
5. Failure to Indemnify (Lab. Code § 2802);
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
7. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);

JURY TRIAL DEMANDED

1 Plaintiff AL FUASTINO DE GUZMAN (“Plaintiff”), on behalf of himself, all others similarly
2 situated, and the general public, complain and allege as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class action against Defendants GREENWICH LOGISTICS, LLC,
5 a Delaware corporation; PACIFICA OF THE VALLEY CORPORATION, a Delaware corporation;
6 and DOES 1 through 50, inclusive, (collectively referred to as “Defendants”) for alleged violations
7 of the California Labor Code and California Business and Professions Code. As set forth below,
8 Plaintiff alleges that Defendants have:

- 9 (1) failed to pay them at least minimum wage for all hours worked;
- 10 (2) failed to pay them overtime wages at the correct rate;
- 11 (3) failed to pay them double time wages at the correct rate;
- 12 (4) failed to pay them overtime and/or double time wages by failing to include all
13 applicable remuneration in calculating the regular rate of pay;
- 14 (5) failed to provide him and all other similarly situated individuals with meal
15 periods;
- 16 (6) failed to provide them with rest periods;
- 17 (7) failed to pay them premium wages for missed meal and/or rest periods;
- 18 (8) failed to reimburse them for necessary business expenditures incurred;
- 19 (9) failed to provide them with accurate written wage statements; and
- 20 (10) failed to pay them all of their final wages following separation of employment.

21 Based on these alleged Labor Code violations, Plaintiff now brings this class action to recover
22 unpaid wages, liquidated damages, penalties, restitution and related relief on behalf of himself, all
23 others similarly situated, and the general public.

24 **2. JURISDICTION AND VENUE**

25 3. This Court has subject matter jurisdiction to hear this case because the monetary
26 damages and restitution sought by Plaintiff from Defendants conduct exceeds the minimal jurisdiction
27 of the Superior Court of the State of California.

28 4. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure

1 sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions
2 that are the subject matter of this Complaint occurred therein and/or each defendant is found,
3 maintains offices, transacts business and/or has an agent therein or that Defendant is either a resident

4 5. Venue is proper in Los Angeles County because Defendants' have at all times alleged
5 herein, conducted business in Los Angeles County, and throughout California. As such, venue is
6 proper in any county in California.

7 6. Plaintiff is informed and believes, and thereupon alleges that the individual claims of
8 the classes defined below are under the \$75,000 threshold for federal diversity jurisdiction and the
9 aggregate claim is under the \$5,000,000 threshold for federal jurisdiction under the Class Action
10 Fairness Act of 2005.

11 **PARTIES**

12 7. Plaintiff AL FUASTINO DE GUZMAN is, and at all relevant times mentioned herein,
13 an individual residing in the State of California.

14 8. Plaintiff is informed and believes, and thereupon alleges that Defendant PACIFICA
15 OF THE VALLEY CORPORATION, is, and at all relevant times mentioned herein, a Delaware
16 corporation doing business in the State of California.

17 9. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
18 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff
19 will amend this Complaint to allege the true names and capacities of the DOE defendants when
20 ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously
21 named defendants are responsible in some manner for the occurrences, acts and omissions alleged
22 herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of
23 them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE
24 defendants when ascertained.

25 10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
26 mentioned herein, some or all of the defendants were the representatives, agents, employees, partners,
27 directors, associates, joint venturers, joint employers, principals or co-participants of some or all of
28 the other defendants, and in doing the things alleged herein, were acting within the course and scope

1 of such relationship and with the full knowledge, consent and ratification by such other defendants.

2 11. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
3 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and
4 conspired with one another, and aided and abetted one another to accomplish the occurrences, acts
5 and omissions alleged herein.

6 12. This action has been brought and may be maintained as a class action pursuant to Code
7 of Civil Procedure section 382 because there is a well-defined community of interest among the
8 persons who comprise the readily ascertainable classes defined below and because Plaintiff is
9 unaware of any difficulties likely to be encountered in managing this case as a class action.

10 13. **Relevant Time Period:** The relevant time period is defined as the time period
11 beginning four years prior to the filing of this action until judgment is entered.

12 **Hourly Employee Class:** All persons employed by Defendants, collectively or separately,
13 and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions
14 in California four years prior to the filing of this action and ending on the date that final
judgment is entered in this action ("Hourly Employee Class").

15 **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in a
16 shift in excess of five hours during the four years prior to the filing of this action and
ending on the date that final judgment is entered in this action.

17 **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a shift
18 of at least three and one-half (3.5) hours the four years prior to the filing of this action
and ending on the date that final judgment is entered in this action.

19 **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who
20 separated from their employment with Defendants during the period beginning three
years before the filing of this action and ending when final judgment is entered.

21 **Wage Statement Class:** All persons employed by Defendants in California during the period
22 beginning one year before the filing of this action and ending when final judgment is entered.

23 **Reimbursement Class:** All persons employed by Defendants in California who incurred
24 unreimbursed business expenditures for Defendants during the period beginning four years
before the filing of this action and ending when final judgment is entered.

25 **UCL Class:** All **Hourly Employee Class** members employed by Defendants in California
26 during the four years prior to the filing of this action and ending on the date that final judgment
is entered in this action.

27 14. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right
28 to amend or modify the class definitions with greater specificity, by further division into sub-classes

1 and/or by limitation to particular issues.

2 15. **Numerosity**: The class members are so numerous that the individual joinder of each
3 individual class member is impractical. While Plaintiff does not currently know the exact number of
4 class members, Plaintiff is informed and believes, and thereupon alleges that the actual number
5 exceeds the minimum required for numerosity under California law.

6 16. **Commonality and Predominance**: Common questions of law and fact exist as to all
7 class members and predominate over any questions which affect only individual class members.
8 These common questions include, but are not limited to:

- 9 A. Whether Defendants maintained a policy or practice of failing to provide
10 employees with their meal periods;
- 11 B. Whether Defendants maintained a policy or practice of failing to provide
12 employees with their rest periods;
- 13 C. Whether Defendants failed to pay premium wages to class members when they
14 have not been provided with required meal and/or rest periods;
- 15 D. Whether Defendants failed to pay minimum and/or overtime wages to class
16 members as a result of policies that fail to provide meal periods in accordance
17 with California law;
- 18 E. Whether Defendants failed to pay minimum and/or overtime wages to class
19 members for all time worked;
- 20 F. Whether Defendants failed to provide class members with accurate written
21 wage statements as a result of providing them with written wage statements
22 with inaccurate entries for, among other things, amounts of gross and net
23 wages, and total hours worked;
- 24 G. Whether Defendants applied policies or practices that result in late and/or
25 incomplete final wage payments;
- 26 H. Whether Defendants are liable to class members for waiting time penalties
27 under Labor Code section 203;
- 28 I. Whether Defendants failed to reimburse class members for necessary business

1 expenditures incurred; and

2 J. Whether class members are entitled to restitution of money or property that
3 Defendants may have acquired from them through unfair competition;

4 17. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff
5 is informed and believes and thereupon alleges that Defendants have a policy or practice of failing to
6 comply with the California Labor Code and Business and Professions Code as alleged in this
7 Complaint.

8 18. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in
9 that he has no interests that are adverse to, or otherwise conflict with, the interests of absent class
10 members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly
11 and adequately represent and protect the interests of the other class members.

12 19. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
13 they have no known conflicts of interest with Plaintiff or absent class members, are experienced in
14 wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf
15 of Plaintiff and absent class members.

16 20. **Superiority:** A class action is vastly superior to other available means for fair and
17 efficient adjudication of the class members' claims and would be beneficial to the parties and the
18 Court. Class action treatment will allow a number of similarly situated persons to simultaneously and
19 efficiently prosecute their common claims in a single forum without the unnecessary duplication of
20 effort and expense that numerous individual actions would entail. In addition, the monetary amounts
21 due to many individual class members are likely to be relatively small and would thus make it difficult,
22 if not impossible, for individual class members to both seek and obtain relief. Moreover, a class
23 action will serve an important public interest by permitting class members to effectively pursue the
24 recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent
25 or contradictory judgments inherent in individual litigation.

26 **GENERAL ALLEGATIONS**

27 21. Plaintiff worked for Defendants from 2002 through November of 2020 as a non-
28 exempt hourly employee.

1 22. Defendants had a common policy and practice of denying class members minimum
2 and overtime wages for all hours worked. Defendants had a common policy and practice of denying
3 class members uninterrupted meal periods in compliance with California law. Class members were
4 required to perform work duties during their meal period for which they were not paid wages. As a
5 result of performing off-the-clock work that was directed, permitted or otherwise encouraged by
6 Defendants, class members should have been paid for this time. The uncompensated time discussed
7 herein caused class members was worked in excess of eight hours a day and/or forty hours a week,
8 entitled Plaintiff and class members to overtime wages which they were systemically denied.

9 23. Additionally, Defendant implemented a common policy and practice of failing to pay
10 Plaintiff and class members overtime wages at the proper rates of pay. Specifically, the overtime
11 wages paid to Plaintiff and class members failed to factor and account for shift differential pay which
12 was never accounted for in the regular and overtime rates of pay owed.

13 24. Putative class members were not provided with meal periods of at least thirty (30)
14 minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal
15 period as part of each work shift; (2) no formal written meal policy that encouraged employees to
16 take their meal periods, or that advised putative class members of their meal and rest period rights;
17 and (3) Defendants' practice of requiring putative class members to continue working through their
18 meal and rest periods due to the excessive workload. Additionally, Plaintiff and putative class
19 members' meal periods were consistently taken after the completion of their fifth hour of work.
20 Moreover, Plaintiff and putative class members were never afforded the opportunity to take second
21 meal periods when they worked in excess if ten (10) hours a day.

22 25. Putative class members were not provided with rest periods of at least ten (10) minutes
23 for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy of not
24 scheduling each rest period as part of each work shift; (2) no formal written rest period policy that
25 encouraged employees to take their rest periods, or that advised putative class members of their meal
26 and rest period rights; and (3) Defendants' practice of requiring putative class members to continue
27 working through their rest breaks due to the excessive workload. Putative class members were often
28 given work-related tasks to complete during their rest periods and were never provided the

1 opportunity to take uninterrupted rest breaks to which they were entitled.

2 26. Defendants also implemented a common policy and practice of failing to reimburse
3 Plaintiff and putative class members for necessary expenditures incurred in executing their duties
4 under Defendants employ. Specifically, Plaintiff and class members were required to purchase tools
5 and equipment necessary to execute their duties under Defendants' employ, which included
6 stethoscopes disposable oximeters for which they were never reimbursed. Moreover, Plaintiff and
7 class members were required to purchase and maintain their mandatory uniforms for which they were
8 never reimbursed.

9 27. Plaintiff and the putative class were not provided with accurate wage statements as
10 mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage
11 statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or
12 separately if wages are paid by personal check or cash, an accurate itemized statement in writing."
13 Additionally, the wage statements issued to Plaintiff and class members were not recorded in "ink or
14 other indelible form."

15 28. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages
16 earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

17 29. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked
18 by the employee" were not accurately reflected in that: all hours worked, including overtime, were
19 not included.

20 30. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned"
21 were not accurately reflected in that: all hours worked, including overtime, were not included.

22 31. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable
23 hourly rates in effect during the pay period and the corresponding number of hours worked at each
24 hourly rate by the employee" were not accurately reflected in that: all hours worked, including
25 overtime, were not included.

26 32. Additionally, Plaintiff and class members were required to purchase no-slip shoes and
27 black slacks in order to execute his duties under Defendants' employ, and for which hey were never
28 reimbursed.

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 **(Lab. Code §§ 004, 223, 226.7, 512 and 1198)**

4 **(Plaintiff and Meal Period Sub-Class)**

5 33. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
6 fully alleged herein.

7 34. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been
8 non-exempt employees of Defendant entitled to the full meal period protections of both the Labor
9 Code and the applicable Industrial Welfare Commission Wage Order.

10 35. Labor Code section 512 and Section 11 of the applicable Industrial Welfare
11 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt
12 employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period
13 of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty
14 minutes for each work period of ten hours.

15 36. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare
16 Commission Wage Order ("Wage Order") both prohibit employers from requiring employees to work
17 during required meal periods and require employers to pay non-exempt employees an hour of
18 premium wages on each workday that the employee is not provided with the required meal period.

19 37. Compensation for missed meal periods constitutes wages within the meaning of Labor
20 Code section 200.

21 38. Labor Code section 1198 makes it unlawful to employ a person under conditions that
22 violate the applicable Wage Order.

23 39. Section 11 of the applicable Wage Order states:

24 "No employer shall employ any person for a work period of more than five (5) hours
25 without a meal period of not less than 30 minutes, except that when a work period of
26 not more than six (6) hours will complete the day's work the meal period may be
27 waived by mutual consent of the employer and employee. Unless the employee is
28 relieved of all duty during a 30 minute meal period, the meal period shall be considered
an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall
be permitted only when the nature of the work prevents an employee from being
relieved of all duty and when by written agreement between the parties an on-the-job
paid meal period is agreed to. The written agreement shall state that the employee

1 may, in writing, revoke the agreement at any time.”

2 40. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
3 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
4 members were not subject to valid on-duty meal period agreements with Defendants.

5 41. Plaintiff alleges that, at all relevant times during the applicable limitations period,
6 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
7 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
8 hour work period, as required by Labor Code section 512 ad the applicable Wage Order.

9 42. Plaintiff alleges that, at all relevant times during the applicable limitations period,
10 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
11 **Class** members when they worked five (5) hours without clocking out for any meal period.

12 43. Plaintiff alleges that, at all relevant times during the applicable limitations period,
13 Plaintiff and **Meal Period Sub-Class** members’ meal periods were consistently taken after the
14 completion of their fifth hour of work. Moreover, Plaintiff and **Meal Period Sub-Class** members
15 were never afforded the opportunity to take second meal periods when they worked in excess if ten
16 (10) hours a day.

17 44. Plaintiff alleges that, at all relevant times during the applicable limitations period,
18 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
19 **Sub-Class** with a second meal period when they worked shifts of ten or more hours and failed to pay
20 them premium wages as required by Labor Code 512 and the applicable Wage Order.

21 45. Moreover, Defendants written policies fail to inform Meal period Class Members of
22 their meal period rights under the Labor Code and applicable Wage Orders.

23 46. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
24 **Class** members additional premium wages, and/or were not paid premium wages at the employees’
25 regular rates of pay when required meal periods were not provided.

26 47. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of
27 himself and the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest
28 thereon, and costs of suit.

48. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the **Meal Period Sub-Class** members, seek to recover reasonable attorneys' fees.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS
(Lab. Code §§ 204, 223, 226.7 and 1198)
(Plaintiff and Rest Period Sub-Class)

49. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

50. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been non-exempt employees of Defendants entitled to the full rest period protections of both the Labor Code and the applicable Wage Order.

51. Section 12 of the applicable Wage Order imposes an affirmative obligation on employers to permit and authorize employees to take required rest periods at a rate of no less than ten minutes of net rest time for each four hour work period, or major fraction thereof, that must be in the middle of each work period insofar as practicable.

52. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit employers from requiring employees to work during required rest periods and require employers to pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each workday that the employee is not provided with the required rest period(s).

53. Compensation for missed rest periods constitutes wages within the meaning of Labor Code section 200.

54. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the Wage Order.

55. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class** with net rest period of at least ten uninterrupted minutes for each four hour work period, or major fraction thereof, as required by the applicable Wage Order.

56. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class** members additional premium wages when required rest periods were not provided.

57. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of herself and **Rest Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and costs of suit.

58. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Rest Period Sub-Class** members, seek to recover reasonable attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PAY HOURLY AND OVERTIME WAGES

(Lab. Code §§ 223, 510, 1194, 1197 and 1198)

(Plaintiff and Hourly Employee Class)

59. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

60. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the applicable Wage Order.

61. Section 2 of the applicable Wage Order defines “hours worked” as “the time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

62. Section 4 of the applicable Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

63. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum or overtime wage required under the applicable Wage Order.

64. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition

1 to the underlying unpaid minimum wages and interest thereon.

2 65. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
3 than the minimum wage required under the applicable Wage Order for all hours worked during a
4 payroll period.

5 66. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
6 person acting either individually or as an officer, agent or employee of another person, to pay an
7 employee, or cause an employee to be paid, less than the applicable minimum wage.

8 67. Labor Code section 1198 makes it unlawful for employers to employ employees under
9 conditions that violate the applicable Wage Order.

10 68. Labor Code section 204 requires employers to pay non-exempt employees their earned
11 wages for the normal work period at least twice during each calendar month on days the employer
12 designates in advance and to pay non-exempt employees their earned wages for labor performed in
13 excess of the normal work period by no later than the next regular payday.

14 69. Labor Code section 223 makes it unlawful for employers to pay their employees lower
15 wages than required by contract or statute while purporting to pay them legal wages.

16 70. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
17 to pay non-exempt employees overtime wages of no less than one and one-half times their respective
18 regular rates of pay for all hours worked in excess of eight hours in one workday, all hours worked in
19 excess of forty hours in one workweek, and/or for the first eight hours worked on the seventh
20 consecutive day of one workweek.

21 71. Labor Code section 510 and Section 3 of the applicable Wage Order also require
22 employers to pay non-exempt employees overtime wages of no less than two times their respective
23 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
24 worked in excess of eight hours on a seventh consecutive workday during the workweek.

25 72. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
26 centrally devised policies and practices to her and **Hourly Employee Class** members with respect to
27 working conditions and compensation arrangements.

28 73. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**

1 **Employee Class** members for all time worked, including but not limited to, overtime hours at
2 statutory and/or agreed rates.

3 74. At all relevant times during the applicable limitations period, Defendants maintained
4 a policy or practice of failing to pay Plaintiff and **Hourly Employee Class** members overtime wages
5 at the proper rates of pay. Specifically, the overtime wages paid to Plaintiff and **Hourly Employee**
6 **Class** members failed to factor and account for shift differential pay which was never accounted for
7 in the regular and overtime rates of pay owed.

8 75. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
9 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
10 full amount of wages earned during each pay period during the applicable limitations period,
11 including overtime wages.

12 76. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
13 behalf of herself and **Hourly Employee Class** members, seek to recover unpaid straight time and
14 overtime wages, interest thereon and costs of suit.

15 77. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
16 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and
17 **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

20 **(Lab. Code § 226)**

21 **(Plaintiff and Wage Statement Penalties Sub-Class)**

22 78. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
23 herein.

24 79. Labor Code section 226(a) states:

25 "An employer, semimonthly or at the time of each payment of wages, shall furnish to
26 his or her employee, either as a detachable part of the check, draft, or voucher paying
27 the employee's wages, or separately if wages are paid by personal check or cash, an
28 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
worked by the employee, except as provided in subdivision (j), (3) the number of
piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
rate basis, (4) all deductions, provided that all deductions made on written orders of

1 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
2 inclusive dates of the period for which the employee is paid, (7) the name of the
3 employee and only the last four digits of his or her social security number or an
4 employee identification number other than a social security number, (8) the name and
5 address of the legal entity that is the employer and, if the employer is a farm labor
6 contractor, as defined in subdivision (b) of Section 1682, the name and address of the
7 legal entity that secured the services of the employer, and (9) all applicable hourly
8 rates in effect during the pay period and the corresponding number of hours worked at
9 each hourly rate by the employee and, beginning July 1, 2013, if the employer is a
10 temporary services employer as defined in Section 201.3, the rate of pay and the total
11 hours worked for each temporary services assignment. The deductions made from
12 payment of wages shall be recorded in ink or other indelible form, properly dated,
13 showing the month, day, and year, and a copy of the statement and the record of the
14 deductions shall be kept on file by the employer for at least three years at the place of
15 employment or at a central location within the State of California. For purposes of
16 this subdivision, 'copy' includes a duplicate of the itemized statement provided to an
17 employee or a computer-generated record that accurately shows all of the information
18 required by this subdivision."

19 80. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize the
20 "detachable part of the check" provision and the "accurate itemized statement in writing" provision
21 of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee
22 retains the right to elect to receive a written paper stub or record and that those who are provided with
23 electronic wage statements retain the ability to easily access the information and convert the electronic
24 statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

25 81. Plaintiff is informed and believes that, at all relevant times during the applicable
26 limitations period, Defendants have failed to provide **Wage Statement Class** members with written
27 wage statements as described above. Additionally, the wage statements issued to class members
28 failed to account for the unpaid minimum wages, overtime, and premium pay wages described
above.

82. Plaintiff is informed and believes that Defendants' failure to provide her and **Wage
Statement Class** members with accurate written wage statements were intentional in that Defendants
have the ability to provide them with accurate wage statements but have intentionally provided them
with written wage statements that Defendants have known do not comply with Labor Code section
226(a).

83. Plaintiff and **Wage Statement Class** members have suffered injuries, in that
Defendants have violated their legal rights to receive accurate wage statements and have misled them

1 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage
2 statements have prevented immediate challenges to Defendants' unlawful pay practices, has required
3 discovery and mathematical computations to determine the amount of wages owed, has caused
4 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
5 submission of inaccurate information about wages and deductions to federal and state government
6 agencies.

7 84. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of himself and **Wage**
8 **Statement Class** members, seek the greater of actual damages or \$50.00 for the initial pay period in
9 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
10 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
11 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

12 **FIFTH CAUSE OF ACTION**

13 **FAILURE TO INDEMNIFY**

14 **(Lab. Code § 2802)**

15 **(Plaintiff and Expense Reimbursement Class)**

16 85. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
17 herein.

18 86. Labor Code section 2802(a) states:

19 "An employer shall indemnify his or her employee for all necessary expenditures or
20 losses incurred by the employee in direct consequence of the discharge of his or her
21 duties, or of his or her obedience to the directions of the employer, even though
unlawful, unless the employee, at the time of obeying the directions, believed them to
be unlawful."

22 87. At all relevant times during the applicable limitations period, Plaintiff and the **Expense**
23 **Reimbursement Class** members incurred necessary business-related expenses and costs in executing
24 their duties under Defendants' employ. Specifically, Plaintiff and **Expense Reimbursement Class**
25 members were required to purchase tools and equipment necessary to execute their duties under
26 Defendants' employ, which included stethoscopes disposable oximeters for which they were never
27 reimbursed. Moreover, Plaintiff and **Expense Reimbursement Class** members were required to
28 purchase and maintain their mandatory uniforms for which they were never reimbursed. Plaintiff is

1 informed and believes, and thereupon alleges that the reimbursement paid by Defendants was
2 insufficient to indemnify Plaintiff and **Expense Reimbursement Class** members for all necessary
3 expenses incurred in the discharge of their duties.

4 88. At all relevant times during the applicable limitations period, Defendants required
5 Plaintiff and the **Expense Reimbursement Class** members to pay for expenses and/or losses caused
6 by Defendants' want of ordinary care. Defendants failed to indemnify Plaintiff and **Expense**
7 **Reimbursement Class** members for all such expenditures.

8 89. Plaintiff is informed and believes that, during the applicable limitations period,
9 Defendants maintained a policy or practice of not reimbursing Plaintiff and **Expense**
10 **Reimbursement Class** members for all necessary business expenses.

11 90. Accordingly, Plaintiff and **Expense Reimbursement Class** members are entitled to
12 restitution for all unpaid amounts due and owing to within four years of the date of the filing of the
13 Complaint and until the date of entry of judgment.

14 91. Plaintiff, on behalf of himself, and **Expense Reimbursement Class** members, seek
15 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees
16 pursuant to Code of Civil Procedure section 1021.5.

17 **SIXTH CAUSE OF ACTION**

18 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

19 **(Lab. Code §§ 201-203)**

20 **(Plaintiff and Waiting Time Penalties Sub-Class)**

21 92. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
22 herein.

23 93. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have
24 been entitled, upon the end of their employment with Defendants, to timely payment of all wages
25 earned and unpaid before termination or resignation.

26 94. At all relevant times, pursuant to Labor Code section 201, employees who have been
27 discharged have been entitled to payment of all final wages immediately upon termination.

28 95. At all relevant times, pursuant to Labor Code section 202, employees who have

1 resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to
2 payment of all final wages at the time of resignation.

3 96. Plaintiff is informed and believes that, at all relevant time during the applicable
4 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
5 members all of their final wages in accordance with the Labor Code.

6 97. Plaintiff is informed and believes that, at all relevant times during the applicable
7 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
8 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
9 sections 201 or 202 by failing to timely pay them all final wages.

10 98. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to
11 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been willful
12 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
13 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
14 requirements.

15 99. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of himself and
16 **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that their
17 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

18 100. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
19 and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-**
20 **Class** members, seek awards of reasonable attorneys' fees and costs.

21 **SEVENTH CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

23 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

24 **(Plaintiff and UCL Class)**

25 101. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
26 herein.

27 102. Business and Professions Code section 17200 defines "unfair competition" to include
28 any unlawful business practice.

1 103. Business and Professions Code section 17203-17204 allow a person who has lost
2 money or property as a result of unfair competition to bring a class action in accordance with Code
3 of Civil Procedure section 382 to recover money or property that may have been acquired from
4 similarly situated persons by means of unfair competition.

5 104. California law requires employers to pay hourly, non-exempt employees for all hours
6 they are permitted or suffered to work, including hours that the employer knows or reasonable should
7 know that employees have worked.

8 105. Plaintiff and the **UCL Class** members re-alleges and incorporates the FIRST,
9 SECOND, THIRD, and FIFTH, causes of action herein.

10 106. Plaintiff lost money or property as a result of the aforementioned unfair competition.

11 107. Defendants have or may have acquired money by means of unfair competition.

12 108. Plaintiff is informed and believes and thereupon alleges that by committing the Labor
13 Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225,
14 226.6, 226.7, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199 and 2802,
15 which make it a misdemeanor to commit the Labor Code violations alleged herein.

16 109. Defendants have committed criminal conduct through their policies and practices of,
17 *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt
18 employees with compliant meal and rest periods; pay non-exempt employees for all hours worked;
19 and reimburse them for all expenses.

20 110. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes
21 unfair competition within the meaning of Business and Professions Code section 17200 *et seq.*
22 Business and Professions Code sections 17200 *et seq.* protects against unfair competition and allows
23 a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair,
24 unlawful or fraudulent business practice to seek restitution on her own behalf and on behalf of
25 similarly situated persons in a class action proceeding.

26 111. As a result of Defendants' violations of the Labor Code during the applicable
27 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
28 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants' conduct.

1 112. Plaintiff is informed and believes that other similarly situated persons have been
2 subject to the same unlawful policies or practices of Defendants.

3 113. Due to the unfair and unlawful business practices in violation of the Labor Code,
4 Defendants have gained a competitive advantage over other comparable companies doing business in
5 the State of California that comply with their legal obligations.

6 114. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
7 for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act violates
8 or is considered unlawful under any other state or federal law.

9 115. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,
10 Plaintiffs request the issuance of temporary, preliminary and permanent injunctive relief enjoining
11 Defendants, and each of them, and their agents and employees, from further violations of the Labor
12 Code and applicable Wage Orders.

13 116. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs
14 request the issuance of temporary, preliminary and permanent injunctive relief enjoining Defendants,
15 and each of them, and their agents and employees, from further violations of the Labor Code and
16 applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek an order
17 permanently enjoining Defendants, and each of them, and their respective agents and employees,
18 from further violations of the Labor Code and applicable Industrial Welfare Commission Wage
19 Orders.

20 117. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
21 himself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
22 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
23 and unfair business practices.

24 118. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
25 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
26 reasonable attorneys' fees in connection with their unfair competition claims.

27 119. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
28 herself and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully

1 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
2 and unfair business practices.

3 120. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
4 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
5 reasonable attorneys' fees in connection with their unfair competition claims.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general
8 public, prays for relief and judgment against Defendants as follows:

- 9 (1) An order that the action be certified as a class action;
10 (2) An order that Plaintiff be appointed class representative;
11 (3) An order that counsel for Plaintiff be appointed class counsel;
12 (4) Unpaid wages;
13 (5) Actual damages;
14 (6) Liquidated damages;
15 (7) Unreimbursed expenses incurred
16 (8) Restitution;
17 (9) Declaratory relief;
18 (10) Pre-judgment interest;
19 (11) Statutory penalties;
20 (12) Civil penalties;

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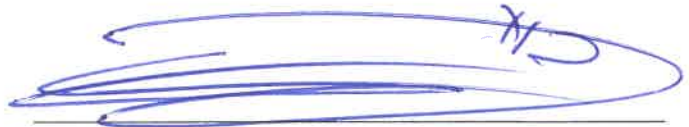
- 1 (13) Costs of suit;
2 (14) Reasonable attorneys' fees; and
3 (15) Such other relief as the Court deems just and proper.

4 **DEMAND FOR JURY TRIAL**

5 Plaintiff, on behalf of himself, all other similarly situated, and the general public, hereby
6 demands a jury trial on all issues so triable.

7
8 Dated: December 10, 2020

SETAREH LAW GROUP

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12 Shaun Setareh
13 David Keledjian
14 Attorneys for Plaintiff
15 AL FUÁSTINO DE GUZMAN
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