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

LARRY TABLANTE, AL FAUSTINO DE
GUZMAN, NICOLE MAE MORA, and
EDWIN A. ALBAYERO FLORES, as
individuals and on behalf of all others
similarly situated,

Plaintiffs,

vs.

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

Defendants.

Case No.: 20STCV26124

**FIRST AMENDED CONSOLIDATED
CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) FAILURE TO PAY WAGES;**
- (2) FAILURE TO PAY OVERTIME;**
- (3) FAILURE TO PROVIDE PROPER
MEAL BREAKS;**
- (4) FAILURE TO PROVIDE PROPER REST
BREAKS;**
- (5) VIOLATION OF LABOR CODE § 226(a);**
- (6) VIOLATION OF LABOR CODE § 2802;**
- (7) VIOLATION OF LABOR CODE §§ 201-
203;**
- (8) VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200, ET SEQ.;**
And
- (9) VIOLATION OF CAL. LABOR CODE
§ 2698, ET SEQ.**

DEMAND OVER \$25,000.00

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1 Plaintiffs Al Fuastino De Guzman, Larry Tablante, Nicole Mae Mora, and Edwin A.
2 Albayero Flores (collectively, “Plaintiffs”) hereby submit this First Amended Consolidated Class
3 and Representative Action Complaint (“Complaint”) against Defendant Pacifica of the Valley
4 Corporation (“Defendant”) and Does 1 through 50 (collectively, “Defendants”) on behalf of
5 themselves and all other similarly situated current and former employees of Defendants, for
6 penalties and/or damages for failure to provide complete and accurate itemized wage statements
7 in violation of the California Labor Code as follows:

8 **INTRODUCTION**

9 1. This class and representative action is within the Court’s jurisdiction under
10 California Labor Code §§ 200, *et seq.*, 201, 202, 202.7, 203, 204, 223, 226, 226.7, 510, 512,
11 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, *et seq.*, California Business and Professions
12 Code § 17200, *et seq.* (the “UCL”), and the applicable Wage Orders of the California Industrial
13 Welfare Commission (“IWC”).

14 2. This Complaint challenges systemic illegal employment practices resulting in
15 violations of the California Labor Code and the UCL against individuals who worked for
16 Defendants.

17 3. Plaintiffs are informed and believe, and based thereon allege, that Defendants,
18 jointly and severally, have acted intentionally and with deliberate indifference and conscious
19 disregard of the rights of all employees by failing to pay minimum wages for all hours worked,
20 failing to pay overtime and double time wages at the correct regular rate of pay, failing to
21 provide proper off-duty meal and rest breaks, failing to provide complete and accurate wage
22 statements, failing to reimburse for necessary business expenses, and failing to pay all wages
23 upon separation of employment to Plaintiffs and Class Members.

24 4. Plaintiffs are informed and believe, and based thereon allege that Defendants have
25 engaged in, among other things, a system of willful violations of the California Labor Code and
26 the UCL by creating and maintaining policies, practices, and customs that knowingly deny their
27 employees the above stated rights and benefits.

28 5. The policies, practices, and customs of Defendants described above and below

1 have resulted in unjust enrichment of Defendants and an unfair business advantage over
2 businesses that routinely adhere to the strictures of the California Labor Code and the UCL.

3 **JURISDICTION AND VENUE**

4 6. The Court has jurisdiction over the violations of California Labor Code §§ 200, *et*
5 *seq.*, 201, 202, 202.7, 203, 204, 223, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198,
6 2802, and 2698, *et seq.*, the UCL, and the applicable IWC Wage Orders.

7 7. Venue is proper because Defendants are located in Los Angeles County.

8 **PARTIES**

9 8. Plaintiffs Al Fuastino De Guzman (“Plaintiff De Guzman”) was employed by
10 Defendants as a non-exempt hourly employee from 2002 through November of 2020.

11 9. Plaintiff Larry Tablante (“Plaintiff Tablante”) is employed by Defendants as a
12 Registered Nurse. Plaintiff Tablante began working for Defendants in or about June 1997.

13 10. Plaintiff Nicole Mae Mora (“Plaintiff Mora”) was employed by Defendants as a
14 registered nurse from approximately July 2, 2019, to August 14, 2019.

15 11. Edwin A. Albayero Flores (“Plaintiff Flores”) was employed by Defendants in an
16 hourly position from approximately December 15, 2022, until his termination on or about
17 January 26, 2023.

18 12. Plaintiffs were and are the victims of the policies, practices, and customs of
19 Defendants complained of in this action in ways that have deprived them of the rights guaranteed
20 by California Labor Code §§ 200, *et seq.*, 201, 202, 202.7, 203, 204, 223, 226, 226.7, 510, 512,
21 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, *et seq.*, and the UCL.

22 13. Plaintiffs are informed and believe, and based thereon allege, that Pacifica of the
23 Valley Corporation was and is a Delaware corporation doing business as Pacifica Hospital of the
24 Valley. Plaintiffs are informed and believe, and based thereon allege, that Defendant operates a
25 hospital in Sun Valley, California.

26 14. Plaintiffs are informed and believe and thereon allege that at all times herein
27 mentioned Defendant and Does 1 through 50, are and were corporations, business entities,
28 individuals, and partnerships, licensed to do business and actually doing business in the State of

1 California. As such, and based upon all the facts and circumstances incident to Defendants'
2 business, Defendants are subject to California Labor Code §§ 200, *et seq.*, 201, 202, 202.7, 203,
3 204, 223, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, *et seq.*, and
4 the UCL.

5 15. Plaintiffs do not know the true names or capacities, whether individual, partner, or
6 corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said
7 defendants are sued under such fictitious names, and Plaintiffs pray for leave to amend this
8 Complaint when the true names and capacities are known. Plaintiffs are informed and believe
9 and based thereon allege that each of said fictitious defendants were responsible in some way for
10 the matters alleged herein and proximately caused Plaintiffs and members of the general public
11 and Class to be subject to the illegal employment practices, wrongs, and injuries complained of
12 herein.

13 16. At all times herein mentioned, each of said Defendants participated in the doing
14 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
15 Defendants, and each of them, were the agents, servants, and employees of each of the other
16 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
17 acting within the course and scope of said agency and employment.

18 17. Plaintiffs are informed and believe, and based thereon allege, that at all times
19 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
20 joint venturer of, or working in concert with each of the other co-Defendants and was acting
21 within the course and scope of such agency, employment, joint venture, or concerted activity.
22 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
23 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
24 Defendants.

25 18. At all times herein mentioned, Defendants, and each of them, were members of,
26 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
27 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

28 19. At all times herein mentioned, the acts and omissions of various Defendants, and

each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

CLASS ACTION ALLEGATIONS

20. **Definition:** The named individual Plaintiffs seek class certification, pursuant to California Code of Civil Procedure § 382. Plaintiffs propose the following Class: all current and former non-exempt employees of Defendants in the State of California who worked at any time during the period of December 16, 2016, through the present (the “Class”). In addition, Plaintiffs propose the following sub-classes:

- a. all current and former non-exempt employees of Defendants in the State of California who did not receive wages for all hours worked during the period of December 16, 2016, through the present (the “Unpaid Wage Sub-Class”);
- b. all current and former non-exempt employees of Defendants in the State of California who worked more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a workweek, to whom Defendants did not pay overtime wages during the period of December 16, 2016, through the present (the “Overtime Sub-Class”);
- c. all current and former non-exempt employees of Defendants in the State of California who worked a shift in excess of five (5) hours during the period of December 16, 2016, through the present (the “Meal Period Sub-Class”);
- d. all current and former non-exempt employees of Defendants in the State of California who worked a shift of at least three and one-half hours (3.5) during the period of December 16, 2016, through the present (the “Rest

Period Sub-Class”);

e. all current and former employees of Defendants in the State of California who were paid wages at any time during the period of December 16, 2016, through the present (the “Wage Statement Sub-Class”);

f. all current and former non-exempt employees of Defendants in the State of California who incurred unreimbursed business expenditures for Defendants during the period of December 16, 2016, through the present (the “Reimbursement Sub-Class”); and

g. all non-exempt employees of Defendants in the State of California who separated from employment during the period of December 16, 2017, through the present (the “Wage Statement Sub-Class”).

21. Plaintiffs further reserve the right to amend such Class and Sub-Class definitions based upon further discovery.

22. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by review of Defendants’ records, including payroll records. Plaintiffs are informed and believe, and based thereon allege, that Defendants: (a) failed to pay minimum wages for all hours worked, in violation of Labor Code §§ 1194, 1197, and 1197.1; (b) failed to pay overtime wages at the regular rate of pay, in violation of Labor Code §§ 510, 558, 1194, 1197, and 1197.1; (c) failed to proper off-duty meal periods and/or pay meal period premium compensation at the regular rate of pay, in violation of Labor Code §§ 226.7 and 512; (d) failed to provide proper off-duty rest periods and/or pay rest period premium compensation at the regular rate of pay, in violation of Labor Code § 226.7; (e) failed to provide accurate itemized wage statements, in violation of Labor Code § 226; (f) failed to reimburse necessary business expenses, in violation of Labor Code § 2802; (g) failed to timely pay wages to employees upon separation of employment, in violation of Labor Code §§ 201, 202, and 203; and (h) engaged in unfair business practices in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

1 23. **Adequacy of Representation:** The named Plaintiffs are fully prepared to take all
2 necessary steps to represent fairly and adequately the interests of the Class defined above.
3 Plaintiffs' attorneys are ready, willing, and able to fully and adequately represent the Class and
4 the individual Plaintiffs. Plaintiffs' attorneys have prosecuted and settled wage-and-hour class
5 actions in the past and currently have a number of wage-and-hour class actions pending in
6 California state and federal courts.

7 24. Defendants uniformly administered a corporate policy and practice of: (a) failing
8 to pay minimum wages for all hours worked, in violation of Labor Code §§ 1194, 1197, and
9 1197.1; (b) failing to pay overtime wages at the regular rate of pay, in violation of Labor Code
10 §§ 510, 558, 1194, 1197, and 1197.1; (c) failing to proper off-duty meal periods and/or pay meal
11 period premium compensation at the regular rate of pay, in violation of Labor Code §§ 226.7 and
12 512; (d) failing to provide proper off-duty rest periods and/or pay rest period premium
13 compensation at the regular rate of pay, in violation of Labor Code § 226.7; (e) failing to provide
14 accurate itemized wage statements, in violation of Labor Code § 226; (f) failing to reimburse
15 necessary business expenses, in violation of Labor Code § 2802; (g) failing to timely pay wages
16 to employees upon separation of employment, in violation of Labor Code §§ 201, 202, and 203;
17 and (h) engaging in unfair business practices in violation of the UCL, the California Labor Code,
18 and the applicable IWC Wage Orders.

19 25. Plaintiffs are informed and believe, and based thereon allege, that this corporate
20 conduct is accomplished with advanced knowledge and designed intent to willfully and
21 intentionally fail to accurately record proper hourly rates of pay, number of hours worked, gross
22 wages earned, and net wages earned.

23 26. Plaintiffs are informed and believe, and based thereon allege, that Defendants had
24 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
25 Labor Code § 226(a).

26 27. **Common Question of Law and Fact:** There are predominant common questions
27 of law and fact and a community of interest amongst Plaintiffs and the claims of the Class
28 concerning Defendants' policy and practice of: (a) failing to pay minimum wages for all hours

1 worked, in violation of Labor Code §§ 1194, 1197, and 1197.1; (b) failing to pay overtime wages
2 at the regular rate of pay, in violation of Labor Code §§ 510, 558, 1194, 1197, and 1197.1; (c)
3 failing to proper off-duty meal periods and/or pay meal period premium compensation at the
4 regular rate of pay, in violation of Labor Code §§ 226.7 and 512; (d) failing to provide proper
5 off-duty rest periods and/or pay rest period premium compensation at the regular rate of pay, in
6 violation of Labor Code § 226.7; (e) failing to provide accurate itemized wage statements, in
7 violation of Labor Code § 226; (f) failing to reimburse necessary business expenses, in violation
8 of Labor Code § 2802; (g) failing to timely pay wages to employees upon separation of
9 employment, in violation of Labor Code §§ 201, 202, and 203; and (h) engaging in unfair
10 business practices in violation of the UCL, the California Labor Code, and the applicable IWC
11 Wage Orders.

12 28. **Typicality:** The claims of the Plaintiffs are typical of the claims of all members
13 of the Class in that Plaintiffs suffered the harm alleged in this Complaint in a similar and typical
14 manner as Class Members. As with other members of the Class, Plaintiffs were regularly
15 required to perform work while “off the clock.” More specifically, Defendants (a) failed to
16 maintain a proper timekeeping system to track the hours worked, time spent on meal periods, if
17 any, and determine when an employee is entitled to overtime wages; (b) rounded down” or
18 “shaved down” Plaintiffs’ and other employees’ daily hours worked at the time of their clock-ins
19 and clock-outs, including clock ins and clock outs for meal breaks, to the nearest one-tenth of an
20 hour, to the benefit of Defendants; (c) failed to include shift differential and all other
21 remuneration in the regular rate calculation for the purposes of paying overtime wages; (d)
22 automatically deducted 30-minutes or more from the total hours worked by an employee,
23 regardless of whether the employee was provided with a meal period; and (e) failed to schedule
24 rest breaks for each employee during each shift, as mandated by policy documents – which in
25 turn, do not authorize an employee to take a rest break as required under California law. As a
26 result, Plaintiffs were regularly performed uncompensated work and are owed minimum and
27 overtime wages, including additional overtime pay based on the correct, regular rate of pay.

28 29. As a result of Defendants’ automatic meal period deduction policy, Plaintiffs were

1 not provided with proper off-duty meal breaks. Defendants failed to provide a duty-free first
2 meal period no later than the end of the fifth hour of work, and a second meal period no later
3 than the end of the tenth hour of work. Defendants also created incentives to forego meal
4 periods, encouraged the skipping of meal periods, and coerced non-exempt employees to forgo
5 their legally mandated meal periods by adopting, implementing, and enforcing: (a) a uniform pay
6 plan that essentially required non-exempt employees to work through meal periods in order to
7 make sufficient wages; (b) uniform policies and practices whereby Defendants failed to schedule
8 meal and rest periods; (c) uniform policies and practices whereby Defendants pressured non-
9 exempt employees to forego meal and rest periods; (d) uniform policies and practices whereby
10 non-exempt employees could not take meal and rest periods because of work requirements,
11 including but not limited to patient care. Defendants failed to pay Plaintiffs and other non-
12 exempt employees one hour of pay at their regular rate of pay for each workday that a proper
13 meal period was not provided.

14 30. Similarly, Plaintiffs were regularly denied proper off-duty rest breaks. As a
15 matter of policy and/or practice, therefore, Defendants failed to provide Plaintiffs and other non-
16 exempt employees with a duty-free rest period of 10 minutes for shifts from three and one-half to
17 six hours of work, 20 minutes of rest for shifts of more than six hours up to 10 hours, and 30
18 minutes of rest for shifts of more than 10 hours up to 14 hours of work. Based on this unlawful
19 policy and/or practice, Defendants failed to pay Plaintiffs and other non-exempt employees one
20 hour of pay at their regular rate of pay for each workday that a proper rest period was not
21 provided.

22 31. In addition, like other members of the Class, Plaintiffs were denied
23 reimbursement for necessary expenditures incurred in executing their duties. Specifically,
24 Plaintiffs were required to purchase and maintain tools, equipment, and uniforms necessary to
25 execute their duties under Defendants' employ, including but not limited to stethoscopes,
26 disposable oximeters, no-slip shoes, and black slacks. Plaintiffs were required to purchase and
27 maintain such items and were not reimbursed.

28 32. As a result of the foregoing, Plaintiffs are owed minimum wages, overtime wages,

1 meal and rest break premium pay, and expense reimbursement. To date, Plaintiffs have yet to
2 receive all of the unpaid/underpaid wages owed to them. Thus, Defendants owe waiting time
3 penalties pursuant to Labor Code § 203.

4 33. Moreover, as a result of the unpaid/underpaid wages and premiums and
5 miscalculation of hourly pay rates, the wage statements issued to Plaintiffs identified inaccurate
6 number of hours worked, hourly rates of pay, total hours worked, and gross and net wages
7 earned, in violation of Labor Code § 226.

8 34. Based on the above, Plaintiffs are members of the Class and have suffered the
9 alleged violations of California Labor Code §§ 200, *et seq.*, 201, 202, 202.7, 203, 204, 223, 226,
10 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, and 2802, the UCL, and the applicable IWC
11 Wage Orders.

12 35. The California Labor Code upon which Plaintiffs base these claims are broadly
13 remedial in nature. These laws and labor standards serve an important public interest in
14 establishing minimum working conditions and standards in California. These laws and labor
15 standards protect the average working employee from exploitation by employers who may seek
16 to take advantage of superior economic and bargaining power in setting onerous terms and
17 conditions of employment.

18 36. The nature of this action and the format of laws available to Plaintiffs and
19 members of the Class identified herein make the class action format a particularly efficient and
20 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
21 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
22 advantage since it would be able to exploit and overwhelm the limited resources of each
23 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
24 Member to pursue an individual remedy would also discourage the assertion of lawful claims by
25 employees who would be disinclined to file an action against their former and/or current
26 employer for real and justifiable fear of retaliation and permanent damage to their careers at
27 subsequent employment.

28 37. The prosecution of separate actions by the individual Class Members, even if

possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class Members against the Defendants and which would establish potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to individual Class Members which would, as a practical matter, be dispositive of the interest of the other Class Members not parties to the adjudications or which would substantially impair or impede the ability of the Class Members to protect their interests. Further, the claims of the individual Class Members are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

38. Such a pattern, practice, and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by Plaintiffs and the Class identified herein, in a civil action, for applicable penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 218.5, 226, and 1194, and Code of Civil Procedure § 1021.5.

39. Proof of a common business practice or factual pattern, which the named Plaintiffs experienced and are representatives of, will establish the right of each of the members of the Plaintiff Class to recovery on the causes of action alleged herein.

40. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendants. This action is brought for the benefit of the entire Class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES

(BY PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS)

41. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as though fully set forth herein.

42. This cause of action is brought pursuant to California Labor Code §§ 510, 558, 1194, 1197, and 1197.1. The California Labor Code requires an employer to pay employees minimum and regular wages for all hours worked fewer than eight hours in a day and/or fewer

1 than 40 hours in a workweek. The California Labor Code also requires an employer to pay
2 employees overtime wages for all hours worked greater than eight hours in a day and/or greater
3 than 40 hours in a workweek.

4 43. As a pattern and practice, Defendants suffered and permitted Plaintiffs and Class
5 members to work without payment of minimum and regular wages for all hours worked in a
6 workday and workweek, and without payment of overtime wages for all hours worked greater
7 than eight hours in a day and/or greater than 40 hours in a workweek.

8 44. Specifically, Defendants maintained policies that required Plaintiffs and Class
9 members to work uncompensated and off-the-clock. Defendants (a) failed to maintain a proper
10 timekeeping system to track the hours worked, time spent on meal periods, if any, and determine
11 when an employee is entitled to overtime wages; (b) rounded down” or “shaved down”
12 Plaintiffs’ and other employees’ daily hours worked at the time of their clock-ins and clock-outs,
13 including clock ins and clock outs for meal breaks, to the nearest one-tenth of an hour, to the
14 benefit of Defendants; (c) failed to include shift differential and all other renumeration in the
15 regular rate calculation for the purposes of paying overtime wages; (d) automatically deducted
16 30-minutes or more from the total hours worked by an employee, regardless of whether the
17 employee was provided with a meal period; and (e) failed to schedule rest breaks for each
18 employee during each shift, as mandated by policy documents – which in turn, do not authorize
19 an employee to take a rest break as required under California law. Thus, Plaintiffs and Class
20 members were not paid minimum, regular, and overtime wages for all hours worked.

21 45. Defendants had a uniform corporate pattern, practice, and procedure regarding the
22 above practices in violation of the California Labor Code.

23 46. Such a pattern, practice, and uniform administration of corporate policy regarding
24 illegal employee compensation as described herein is unlawful and creates an entitlement to
25 recovery by Plaintiffs and the Class in a civil action, for the unpaid balance of the full amount of
26 damages owed, including interest thereon, penalties, attorneys’ fees, and costs of suit according
27 to the mandate of California Labor Code §§ 510, 558, 1194, 1197, and 1197.1.

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1 52. This cause of action is brought pursuant to Labor Code §§ 226.7 and 512, and the
2 applicable IWC Wage Order. Specifically, Labor Code § 226.7(c) provides that “the employer
3 shall pay the employee one additional hour of pay at the employee’s regular rate of
4 compensation for each workday that the meal or rest or recovery period is not provided.”

5 53. At all relevant times, Defendants failed in their affirmative obligation to ensure
6 that Plaintiffs and Class Members had the opportunity to take and were provided with timely,
7 off-duty meal periods in accordance with the mandates of the California Labor Code and the
8 applicable IWC Wage Order. As such, Defendants are responsible for paying premium
9 compensation for missed meal periods pursuant to Labor Code § 226.7 and the applicable IWC
10 Wage Order.

11 54. As a matter of corporate policy and practice, Defendants regularly failed to pay
12 meal period premium compensation to Plaintiffs and Class Members at the regular rate of pay.
13 Defendants, as a matter of corporate policy and practice, failed to correctly calculate such
14 premium compensation for each missed and/or noncompliant meal period in accordance with the
15 California Labor Code.

16 55. Specifically, Plaintiffs and Class Members routinely earned non-discretionary
17 remuneration, including without limitation shift differentials. However, at all relevant times
18 herein, Defendants did not factor said non-discretionary remuneration into the regular rate of pay
19 for the purpose of paying meal period premiums to Plaintiffs and Class Members. Instead,
20 whenever Plaintiffs and Class Members were paid meal period premiums and earned non-
21 discretionary pay during the same period, Defendants improperly paid the meal period premiums
22 at the lower, base rate of pay.

23 56. Plaintiffs are informed and believe, and based thereon allege, that Defendants
24 willfully failed to include all non-discretionary pay into the calculation of the regular rate of pay
25 for purposes of paying meal period premiums, as required by California law. Plaintiffs further
26 allege that Plaintiffs and Class Members are owed wages for the underpaid meal period
27 premiums as set forth above.

28 57. Such a pattern, practice, and uniform administration of corporate policy as

described herein is unlawful and creates an entitlement to recovery by the Plaintiffs and Class Members identified herein, in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order, including interest thereon, penalties, and costs of suit.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE PROPER REST BREAKS

(BY PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS)

58. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as though fully set forth herein.

59. This cause of action is brought pursuant to Labor Code § 226.7, which requires an employer to provide a duty-free, 10-minute rest period for every 4 hours worked, or major fraction thereof. Plaintiffs and Class Members regularly worked shifts of three and one-half (3.5) hours or more per day, and accordingly had a right to take a 10-minute rest period each day.

60. Specifically, Labor Code § 226.7(c) provides that “the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”

61. At all relevant times, Defendants failed in their affirmative obligation to provide Plaintiffs and Class Members with the opportunity to take rest periods in accordance with the mandate of the California Labor Code and the applicable IWC Wage Order. As such, Defendants are responsible for paying premium compensation for missed rest breaks pursuant to Labor Code § 226.7.

62. As a matter of corporate policy and practice, Defendants regularly failed to pay rest period premium compensation to Plaintiffs and Class Members at the regular rate of pay. Defendants, as a matter of corporate policy and practice, failed to correctly calculate such premium compensation for each missed and/or noncompliant rest period in accordance with the California Labor Code.

63. Specifically, Plaintiffs and Class Members routinely earned non-discretionary remuneration, including without limitation shift differentials. However, at all relevant times

1 herein, Defendants did not factor said non-discretionary incentives into the regular rate of pay for
2 the purpose of paying rest period premiums to Plaintiffs and Class Members. Instead, whenever
3 Plaintiffs and Class Members were paid rest period premiums and earned non-discretionary
4 incentives during the same period, Defendants improperly paid the rest period premiums at the
5 lower, base rate of pay.

6 64. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 willfully failed to include all non-discretionary incentives into the calculation of the regular rate
8 of pay for purposes of paying rest period premiums, as required by California law. Plaintiffs
9 further allege that Plaintiffs and Class Members are owed wages for the underpaid rest period
10 premiums as set forth above.

11 65. Such a pattern, practice, and uniform administration of corporate policy as
12 described herein is unlawful and creates an entitlement to recovery by Plaintiffs and the Class in
13 a civil action, for the unpaid balance of the unpaid premium compensation pursuant to California
14 Labor Code § 226.7 and the applicable IWC Wage Order, including interest thereon, penalties,
15 and costs of suit.

16 **FIFTH CAUSE OF ACTION**

17 **VIOLATION OF LABOR CODE § 226(a)**

18 **(BY PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS)**

19 66. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
20 though fully set forth herein.

21 67. Labor Code § 226(a) requires employers to provide itemized wage statements to
22 their employees that identify accurate information, including without limitation, the total number
23 of hours worked during each pay period. Defendants failed in their affirmative obligation to
24 provide accurate itemized wage statements to Plaintiffs and the Class in violation of Labor Code
25 § 226(a).

26 68. Plaintiffs and the Class were paid hourly. As such, the wage statements should
27 have reflected accurate payroll information. As a result of the aforementioned nonpayment
28 and/or underpayment of wages and premiums and miscalculation of hourly pay rates, the wage

1 statements issued to Plaintiffs and Class Members identified inaccurate number of hours worked,
2 hourly rates of pay, total hours worked, and gross and net wages earned. This policy and
3 practice is a direct violation of Labor Code § 226(a).

4 69. Such a pattern, practice, and uniform administration of corporate policy as
5 described herein is unlawful and creates an entitlement to recovery by Plaintiffs and the Class
6 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
7 including interest thereon, attorneys' fees, and costs of suit according to the mandate of
8 California Labor Code § 226.

9 **SIXTH CAUSE OF ACTION**

10 **VIOLATION OF LABOR CODE § 2802**

11 **(BY PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS)**

12 70. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
13 though fully set forth herein.

14 71. This cause of action is brought pursuant to Labor Code § 2802, which provides
15 that employees are entitled to be indemnified for expenses and losses in discharging the duties of
16 their employers.

17 72. At all relevant times, Defendants regularly failed to reimburse and indemnify
18 Plaintiffs and Class Members for expenses incurred in the performance of their duties, including,
19 but not limited to, the purchase and maintenance of tools, equipment, and uniforms. This
20 included stethoscopes, disposable oximeters, no-slip shoes, and black slacks.

21 73. As a matter of practice and policy, Defendants required Plaintiffs and Class
22 Members to purchase their own tools and equipment and purchase and maintain their own
23 uniforms in the course of performing their job duties. Defendants, however, failed to reimburse
24 Plaintiffs and Class Members for such expenses.

25 74. Such a pattern, practice, and uniform administration of corporate policy regarding
26 illegal employee compensation as described herein is unlawful and creates an entitlement to
27 recovery by Plaintiffs and the Class identified herein, in a civil action, for the unpaid balance of
28 the full amount of damages owed, including interest thereon, penalties, attorneys' fees, and costs

of suit according to the mandate of California Labor Code § 2802.

SEVENTH CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 201-203

(BY PLAINTIFFS AND THE AGAINST ALL DEFENDANTS)

75. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as though fully set forth herein.

76. Labor Code § 201 states that an employer is required to provide an employee who is terminated all unpaid wages immediately upon termination.

77. Plaintiffs are informed and believe and thereon allege that Defendants failed to pay Plaintiffs and Class Members all wages due and owing immediately upon termination, thereby violating Labor Code § 201.

78. Labor Code § 202 states, in pertinent part, that an employer is required to provide an employee who quits his or her employment all wages due and owing not later than 72 hours thereafter.

79. Plaintiffs are informed and believe and thereon allege that Defendants failed to pay Plaintiffs and Class Members all wages due and owing upon voluntary resignation, thereby violating Labor Code § 202.

80. Labor Code § 203 states that if an employer willfully fails to pay an employee wages according to Labor Code §§ 201 and 202, these wages shall continue as a penalty for up to a maximum of 30 days.

81. Defendants willfully withheld paying Plaintiffs and Class Members' wages thereby violating Labor Code § 203 and requiring Defendants to pay Plaintiffs and Class Members a 30 day wage penalty in addition to all unpaid wages as described herein.

82. Such as pattern, practice, and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement to recovery by the Plaintiffs and the Class identified herein, in a civil action, for the unpaid balance of the full amount of damages and penalties, attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 201-203.

1 **EIGHTH CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

3 **(BY PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS)**

4 83. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
5 though fully set forth herein.

6 84. Defendants have engaged and continue to engage in unfair and unlawful business
7 practices in California by practicing, employing, and utilizing the employment practices outlined
8 above, include, to wit, by: (a) failing to pay minimum wages for all hours worked, in violation of
9 Labor Code §§ 1194, 1197, and 1197.1; (b) failing to pay overtime wages at the regular rate of
10 pay, in violation of Labor Code §§ 510, 558, 1194, 1197, and 1197.1; (c) failing to proper off-
11 duty meal periods and/or pay meal period premium compensation at the regular rate of pay, in
12 violation of Labor Code §§ 226.7 and 512; (d) failing to provide proper off-duty rest periods
13 and/or pay rest period premium compensation at the regular rate of pay, in violation of Labor
14 Code § 226.7; (e) failing to reimburse necessary business expenses, in violation of Labor Code §
15 2802; and (f) failing to timely pay wages to employees upon separation of employment, in
16 violation of Labor Code §§ 201, 202, and 203.

17 85. Defendants' utilization of such unfair and unlawful business practices constitutes
18 unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

19 86. Plaintiffs seek, individually and on behalf of other members of the Class, full
20 restitution of monies, as necessary and according to proof, to restore any and all monies
21 withheld, acquired and/or converted by the Defendants by means of the unfair practices
22 complained of herein.

23 87. Plaintiffs are informed and believe, and based thereon allege, that at all times
24 herein mentioned Defendants have engaged in unlawful, deceptive, and unfair business practices,
25 as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set
26 forth herein above thereby depriving Plaintiffs and other members of the Class the minimum
27 working condition standards and conditions due to them under the California laws and the
28 applicable IWC Wage Orders as specifically described therein.

1 **NINTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

3 **(BY PLAINTIFFS AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

4 88. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
5 though fully set forth herein.

6 89. Plaintiffs bring this cause of action as proxies for the State of California and in
7 this capacity, seek penalties on behalf of all Aggrieved Employees from June 30, 2019, through
8 the present, for Defendants' violation of Labor Code § 226(a), as alleged above. Specifically,
9 Defendants violated Labor Code § 226(a) by failing to provide accurate itemized wage
10 statements to Plaintiffs and other Aggrieved Employees that identified the accurate total number
11 of hours worked whenever shift differential wages were paid.

12 90. Plaintiffs also seek penalties on behalf of all Aggrieved Employees from April 20,
13 2022, through the present for Defendants' violation of Labor Code §§ 201, 202, 203, 204, 226,
14 226.7, 510, 512, 1194, and 1197, as alleged above. Specifically, Defendants have committed the
15 following violations of California Labor Code:

16 91. **Failure to pay wages for all hours worked at the legal minimum wage:**
17 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
18 employees. In California, an employer is required to pay hourly employees for all "hours
19 worked," which includes all time that an employee is under control of the employer and all time
20 the employee is suffered and permitted to work. This includes the time an employee spends,
21 either directly or indirectly, performing services which inure to the benefit of the employer.

22 92. Labor Code §§ 1194 and 1197 require an employer to compensate employees for
23 all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
24 Wage Orders.

25 93. In this case, Plaintiffs and other current and former aggrieved California-based
26 hourly non-exempt employees worked more minutes per shift than Defendants credited them
27 with having worked. Specifically, Defendants failed to pay Plaintiffs and other current and
28 former aggrieved California-based hourly non-exempt employees all wages at the applicable

1 minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures
2 including, but not limited to:

3 (a) "Rounding down" or "shaving down" Plaintiffs and other current and
4 former aggrieved California-based hourly non-exempt employees daily hours worked at the time
5 of their clock-ins and clock-outs, including clock ins and clock outs for meal breaks, to the
6 nearest one-tenth of an hour, to the benefit of Defendants.

7 94. Therefore, Defendants suffered, permitted, and required Plaintiffs and other
8 current and former aggrieved California-based hourly non-exempt employees to be subject to
9 Defendants' control without paying wages for that time. This resulted in Plaintiffs and other
10 current and former aggrieved California-based hourly non-exempt employees working time for
11 which they were not compensated any wages, in violation of Labor Code §§ 1194 and 1197 and
12 the applicable Wage Order.

13 95. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
14 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
15 employees. In California, an employer is required to pay hourly employees for all "hours
16 worked," which includes all time that an employee is under control of the employer and all time
17 the employee is suffered and permitted to work. This includes the time an employee spends,
18 either directly or indirectly, performing services that inure to the benefit of the employer.'

19 96. Labor Code §§ 510 and 1194 require an employer to compensate employees a
20 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
21 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

22 Any work in excess of eight (8) hours in one workday, any work in excess of forty
23 (40) hours in any one (1) workweek, and the first eight (8) hours worked on the
24 seventh day of work in any one (1) workweek, shall be compensated at the rate of
25 no less than one-and-one-half (1.5) times the regular rate of pay for an employee.
26 Any work in excess of twelve (12) hours in one (1) day shall be compensated at the
27 rate of no less than twice the regular rate of pay for an employee. In addition, any
28 work in excess of eight (8) hours on any seventh day of a workweek shall be
compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code § 510.

1 97. In this case, Defendants failed to pay Plaintiffs and other current and former
2 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
3 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

4 (a) "Rounding down" or "shaving down" Plaintiffs and other current and
5 former aggrieved California-based hourly non-exempt employees daily hours worked at the time
6 of their clock-ins and clock-outs, including clock ins and clock outs for meal breaks, to the
7 nearest one-tenth of an hour, to the benefit of Defendants.

8 98. Overtime is based upon an employee's regular rate of pay. "The regular rate at
9 which an employee is employed shall be deemed to include all remuneration for employment
10 paid to, or on behalf, of the employee." *See* Division of Labor Standards Enforcement –
11 Enforcement Policies and Interpretations Manual, Section 49.1.2.

12 99. In this case, Plaintiffs allege that when they and other current and former
13 aggrieved California-based hourly non-exempt employees earned overtime wages, Defendants
14 failed to pay them overtime wages at the proper overtime rate of pay due to Defendants failure to
15 include all remuneration when calculating the overtime rate of pay. Specifically, Defendants
16 maintained a policy, practice, and/or procedure of failing to include all remuneration such as
17 "shift 2 pay" and "shift 3 pay" for example, when calculating Plaintiffs and other current and
18 former aggrieved California-based hourly non-exempt employees' regular rate of pay for the
19 purpose of paying overtime.

20 100. The foregoing policies, practices, and/or procedures resulted in time during each
21 workday that Plaintiffs and other current and former aggrieved California-based hourly non-
22 exempt employees were under the control of Defendants but were not compensated. To the
23 extent that the foregoing uncompensated time occurred when Plaintiffs and other current and
24 former aggrieved California-based hourly non-exempt employees worked more than eight (8)
25 hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a
26 workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours
27 worked, in violation of Labor Code §§ 510 and 1194 and the applicable Wage Order.

28 **101. Failure to pay wages to hourly non-exempt employees for workdays that**

1 **Defendants failed to provide legally required and compliant meal periods:** Plaintiffs and
2 other current and former aggrieved California-based hourly non-exempt employees regularly
3 worked shifts of more than five (5) hours in length and shifts of more than ten (10) hours in
4 length.

5 102. California law requires an employer to authorize or permit an employee an
6 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
7 all duties and the employer relinquishes control over the employee's activities prior to the
8 employee's sixth hour of work. Labor Code §§ 226.7, 512; Wage Order 5 at §11; *Brinker Rest.*
9 *Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal. 4th 1004. An employer may not employ an
10 employee for a work period of more than ten (10) hours per day without providing the employee
11 with a second meal period of not less than thirty (30) minutes prior to the start of the eleventh
12 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal
13 period shall be considered an "on duty" meal period and counted as time worked. A paid "on
14 duty" meal period is only permitted when: (1) the nature of the work prevents an employee from
15 being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal
16 periods.

17 103. If an employer fails to provide an employee with a meal period in accordance
18 with the law, the employer must pay the employee one (1) hour of pay at the employee's regular
19 rate of pay for each workday that a legally required and compliant meal period was not provided.
20 Labor Code § 226.7; Wage Order 5 at §11.

21 104. In this case, Defendants failed to authorize or permit legally required and
22 compliant meal periods to Plaintiffs and other current and former aggrieved California-based
23 hourly non-exempt employees due to Defendants' policies, practices, and/or procedures,
24 including but not limited to:

25 (a) "Rounding down" or "shaving down" Plaintiffs and other current and former
26 aggrieved California-based hourly non-exempt employees daily hours worked at the time of their
27 clock-ins and clock-outs, including clock ins and clock outs for meal breaks, to the nearest one-
28 tenth of an hour, to the benefit of Defendants.

1 105. Additionally, Plaintiffs allege that Defendants maintained a policy, practice,
2 and/or procedure of failing to compensate Plaintiffs and other current and former aggrieved
3 California-based hourly non-exempt employees one (1) hour of pay at their regular rate of pay
4 for each workday that Plaintiffs and other current and former aggrieved California-based hourly
5 non-exempt employees did not receive legally required and compliant meal periods, in violation
6 of Labor Code § 226.7.

7 106. Finally, on occasions when Defendants paid Plaintiffs and other current and
8 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
9 missed, short, on-premises, on-duty, and/or interrupted meal periods, Defendants failed to pay
10 the one (1) additional hour of pay at Plaintiffs and other current and former aggrieved California-
11 based hourly non-exempt employees’ regular rate of compensation. Specifically, Defendants
12 maintained a policy, practice, and/or procedure of failing to include all remuneration such as
13 “shift 2 pay” and “shift 3 pay,” for example, when calculating Plaintiffs and other current and
14 former aggrieved California-based hourly non-exempt employees regular rate of compensation
15 for the purpose of paying meal period premium wages.

16 107. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiffs
17 and other current and former aggrieved California-based hourly non-exempt employees not
18 receiving wages to compensate them for workdays during which Defendants did not provide
19 them with meal periods in compliance with California law.

20 108. **Failure to pay wages to hourly non-exempt employees for workdays that**
21 **Defendants failed to provide legally required and compliant rest periods:** Plaintiffs and
22 other current and former aggrieved California-based hourly non-exempt employees regularly
23 worked shifts of more than three-and-a-half (3.5) hours.

24 109. California law requires every employer to authorize and permit an employee a rest
25 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
26 Code § 226.7; Wage Order 5 at § 12. Under California law, “[e]mployees are entitled to 10
27 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of
28 more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours,

1 and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal. 4th 1004, 1029;
2 Labor Code § 226.7; Wage Order 5 at § 12. Rest periods, insofar as practicable, shall be in the
3 middle of each work period. Wage Order 5 at § 12. Additionally, the rest period requirement
4 “obligates employers to permit – and authorizes employees to take – off-duty rest periods.”
5 *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal. 5th 257, 269. That is, during rest periods
6 employers must relieve employees of all duties and relinquish control over how employees spend
7 their time. *Id.*

8 110. If the employer fails to authorize or permit a required rest period, the employer
9 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each
10 workday the employer did not authorize or permit a legally required rest period. Labor Code §
11 226.7; Wage Order 5 at § 12.

12 111. In this case, Defendants failed to authorize or permit all legally required and
13 compliant rest periods to Plaintiffs and other current and former aggrieved California-based
14 hourly non-exempt employees due to Defendants’ policies, practices, and/or procedures
15 including, but not limited to:

16 (a) Failure to include all remuneration such as “shift 2 pay” and “shift 3” pay”
17 for example, when calculating Plaintiffs and other current and former aggrieved California-based
18 hourly non-exempt employees’ regular rate of compensation for the purpose of paying rest
19 period premium wages.

20 112. Additionally, Plaintiffs allege that Defendants maintained a policy, practice,
21 and/or procedure of failing to compensate Plaintiffs and other current and former aggrieved
22 California-based hourly non-exempt employees with one (1) hour of pay at their regular rate of
23 pay for each workday they did not receive legally required and compliant rest periods, in
24 violation of Labor Code § 226.7.

25 113. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiffs
26 and other current and former aggrieved California-based hourly non-exempt employees not
27 receiving wages to compensate them for workdays in which Defendants did not provide them
28 with rest periods in compliance with California law.

1 114. **Failure to timely pay earned wages during employment:** In California, wages
2 must be paid at least twice during each calendar month on days designated in advance by the
3 employer as regular paydays, subject to some exceptions. Labor Code § 204(a). Wages earned
4 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th
5 and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of
6 any calendar month must be paid between the 1st and 10th day of the following month. *Id.*
7 Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid
8 within seven (7) calendar days following the close of the payroll period in which wages were
9 earned. Labor Code § 204(d).

10 115. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed
11 to timely pay Plaintiffs' and other current and former aggrieved California-based hourly non-
12 exempt employees' earned wages (including minimum wages, overtime wages, meal period
13 premium wages and/or rest period premium wages), in violation of Labor Code § 204.
14 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
15 Plaintiffs' and other current and former aggrieved California-based hourly non-exempt
16 employees' their earned wages within the applicable time frames outlined in Labor Code § 204.

17 116. **Failure to provide complete and accurate wage statements:** Labor Code §
18 226(a). Labor Code § 226(a) provides, *inter alia*, that, upon paying an employee his or her
19 wages, the employer must "furnish each of his or her employees...an itemized statement in
20 writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
21 employee whose compensation is solely based on a salary and who is exempt from payment of
22 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
23 Commission, (3) the number of piece-rate units earned and any applicable piece rate if the
24 employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on
25 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
26 (6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the
27 employee and his or her social security number, (8) the name and address of the legal entity that
28 is the employer, and (9) all applicable hourly rates in effect during the pay period and the

1 corresponding number of hours worked at each hourly rate by the employee.”

2 117. As a derivative of Plaintiffs’ allegations above, Defendants’ failure to pay
3 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
4 all wages earned (including minimum wages, overtime wages, meal period premium wages
5 and/or rest period premium wages) rendered Plaintiffs’ and other current and former aggrieved
6 California-based hourly non-exempt employees’ wage statements inaccurate, in violation of
7 Labor Code § 226.

8 118. **Failure to pay employees all wages due at time of termination/resignation:**
9 An employer is required to pay all unpaid wages timely after an employee’s employment ends.
10 The wages are due immediately upon termination (Labor Code § 201) or within seventy-two (72)
11 hours of resignation (Labor Code § 202).

12 119. As a derivative of Plaintiffs’ allegations above, because Defendants failed to pay
13 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
14 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
15 and/or rest period premium wages), Defendants failed to pay those employees timely after each
16 employee’s termination and/or resignation, in violation of Labor Code §§ 201, 202, and 203.

17 120. Plaintiffs are “aggrieved employee[s]” pursuant to Labor Code § 2699, as
18 Plaintiffs have suffered the violations of Labor Code § 226(a) alleged above.

19 121. On or about June 30, 2020, Plaintiff Tablante sent written notice to the California
20 Labor and Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code
21 § 226(a), pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act (“PAGA”).
22 As of the date of the filing of this Complaint, the LWDA has not responded to Plaintiff
23 Tablante’s written notice nor indicated whether it intends to investigate the Labor Code
24 violations provided for in the written notice. Pursuant to Labor Code § 2699.3, Plaintiff Tablante
25 also sent written notice of Defendants’ violations of the Labor Code to Defendants via certified
26 mail.

27 122. On or about April 20, 2023, Plaintiff Albayero Flores sent written notice to the
28 LWDA of Defendants’ violation of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512,

1 1194, 1197, and 1198, pursuant to the PAGA. As of the date of the filing of this Complaint, the
2 LWDA has not responded to Plaintiff Albayero Flores' written notice nor indicated whether it
3 intends to investigate the Labor Code violations provided for in the written notice. Plaintiff
4 Albayero Flores also sent written notice of Defendants' violations of the Labor Code to
5 Defendants via certified mail.

6 123. As such, pursuant to Labor Code § 2699(a), Plaintiffs seek recovery of any and all
7 applicable civil penalties for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 226,
8 226.7, 510, 512, 1194, 1197, and 1198 for the time periods described above, on behalf of
9 themselves and other Aggrieved Employees.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray for judgment for themselves and all others on whose
12 behalf this suit is brought against Defendants, jointly and severally, as follows:

- 13 1. For an order certifying the proposed Class and Sub-Classes;
- 14 2. For an order appointing Plaintiffs as representatives of the Class;
- 15 3. For an order appointing Counsel for Plaintiffs as Class Counsel;
- 16 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
17 California Labor Code §§ 201-204, 1194, 1197, and 1197.1, and for costs and attorneys' fees;
- 18 5. Upon the Second Cause of Action, for damages and/or penalties pursuant to
19 California Labor Code §§ 201-204, 510, 558, and 1194, and for costs and attorneys' fees;
- 20 6. Upon the Third Cause of Action, for damages and/or penalties pursuant to
21 California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys' fees;
- 22 7. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to
23 California Labor Code §§ 201-203 and 226.7, and for costs and attorneys' fees;
- 24 8. Upon the Fifth Cause of Action, for damages and/or penalties pursuant to
25 California Labor Code § 226, and for costs and attorneys' fees;
- 26 9. Upon the Sixth Cause of Action, for damages and/or penalties pursuant to
27 California Labor Code § 2802, and for costs and attorneys' fees;
- 28 10. Upon the Seventh Cause of Action, for damages and/or penalties pursuant to

1 California Labor Code §§ 201-203, and for costs and attorneys' fees;

2 11. Upon the Eighth Cause of Action, for restitution to Plaintiffs and other similarly
3 affected members of the general public of all funds unlawfully acquired by Defendants by means
4 of any acts or practices declared by this Court to be in violation of Business & Professions Code
5 § 17200, *et seq.*, and for costs and attorneys' fees;

6 12. Upon the Ninth Cause of Action, for damages and/or penalties pursuant to
7 California Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;

8 13. On all causes of action, for attorneys' fees and costs as provided by California
9 Labor Code §§ 218.5, 226, 1194, and 2699, and Code of Civil Procedure § 1021.5; and

10 14. For such other and further relief that the Court may deem just and proper.
11

12 DATED: August 26, 2025

DIVERSITY LAW GROUP, P.C.
POLARIS LAW GROUP
SETAREH LAW GROUP
VERUM LAW GROUP, APC
FARIVAR LAW FIRM, APC
LAVI & EBRAHIMIAN, LLP

16 By: 
17 _____

Max W. Gavron

18 Attorneys for Plaintiffs, the Class, and Aggrieved
19 Employees
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STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On August 26, 2025, I served the following document(s) described as: **FIRST AMENDED CONSOLIDATED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

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 X BY ELECTRONIC SERVICE VIA CASE ANYWHERE: Based on a court order I caused the above-entitled document(s) to be served through Case Anywhere at the website www.caseanywhere.com, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the Case Anywhere Filing Receipt/Confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 26, 2025, at Los Angeles, California.



Erika Mejia