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**FILED**  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

JUL 01 2022



6 Attorneys for Plaintiff Beverly MingLee,  
7 individually and on behalf of all others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN BERNARDINO**

10 Beverly MingLee, individually and on  
11 behalf of all others similarly situated

Case No. **CIV SB 2213595**

12 Plaintiff,

**CLASS ACTION COMPLAINT FOR:**

13 vs.

14 Interface Rehab, Inc.; and Does 1 through  
15 20, inclusive,

16 Defendants.

- 17 1. Failure to Pay Minimum Wages (Cal. Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1199, and the IWC Wage Order);
- 18 2. Failure to Pay Overtime Wages (Cal. Labor Code §§ 510, 1194, 1198, and the IWC Wage Order);
- 19 3. Failure to Provide Meal Periods (Cal. Labor Code §§ 226.7, 512, and the IWC Wage Order);
- 20 4. Failure to Provide Rest Breaks (Cal. Labor Code § 226.7, and the IWC Wage Order);
- 21 5. Failure to Timely Pay All Wages (Cal. Labor Code §§ 204, 210, and the IWC Wage Order.)
- 22 6. Failure to Pay Wages Upon Separation of Employment and Within the Required Time (Cal. Labor Code § 201, 202, 203 and the IWC Wage Order);
- 23 7. Failure to Furnish Accurate and Itemized Wage Statements (Cal. Labor Code § 226, and the IWC Wage Order);
- 24 8. Failure to Reimburse All Business Expenses (Cal. Labor Code § 2802, and the IWC Wage Order); and
- 25 9. Violation of California Business and Professions Code §§ 17200 *et seq.*

26 **DEMAND FOR JURY TRIAL**

1 Plaintiff Beverly MingLee, individually and on behalf of others similarly situated,  
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Beverly MingLee ("Plaintiff") brings this putative class action against  
5 defendants Interface Rehab, Inc., and DOES 1 through 20, inclusive (collectively,  
6 "Defendants"), on behalf of herself individually and a putative class of non-exempt employees  
7 employed by Defendants.

8 2. Defendants operate nursing home and rehabilitation facilities in the state of  
9 California.

10 3. Through this action, Plaintiff alleges that Defendants have engaged in a  
11 systematic pattern of wage and hour violations under the California Labor Code and Industrial  
12 Welfare Commission ("IWC") Wage Orders, all of which contribute to Defendants' deliberate  
13 unfair competition.

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

16 (a) Failing to pay minimum wages;

17 (b) Failing to pay overtime and doubletime wages;

18 (c) Failing to provide meal periods or compensation in lieu thereof;

19 (d) Failing to authorize or permit rest breaks or provide compensation in lieu thereof;

20 (e) Failing to timely pay all wages due during employment;

21 (f) Failing to pay all wages due upon separation of employment;

22 (g) Failing to provide accurate itemized wage statements; and

23 (h) Failing to reimburse for all business expenses incurred by workers in direct  
24 consequence of the discharge of his or her duties.

25 5. Plaintiff brings this lawsuit seeking monetary relief against Defendants on  
26 behalf of herself and all others similarly situated in California to recover, among other things,  
27 unpaid wages and benefits, interest, attorneys' fees, costs and expenses and penalties pursuant  
28 to Labor Code §§ 201-203, 204, 210, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1198, 2800,

1 and 2802.

2 6. Plaintiff, on behalf of herself and all class members, pursuant to Business and  
3 Professions Code sections 17200, *et seq*, also seeks injunctive relief and restitution for the  
4 unfair, unlawful, or fraudulent practices alleged in this Complaint.

5 **JURISDICTION AND VENUE**

6 7. This is a class action, pursuant to California Code of Civil Procedure § 382. The  
7 monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdictional limits  
8 of the Superior Court and will be established according to proof at trial.

9 8. This Court has jurisdiction over this action pursuant to the California  
10 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all  
11 causes except those given by statutes to other courts. The statutes under which this action is  
12 brought do not specify any other basis for jurisdiction.

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

18 10. Venue is proper in this Court because, upon information and belief, Defendants  
19 reside, transact business or have offices in this county and the acts and omissions alleged herein  
20 took place in this county.

21 **THE PARTIES**

22 11. Plaintiff is a citizen of California. Plaintiff was employed by Defendants during  
23 the class period in California as a Compliance Quality Improvement Designee. Plaintiff  
24 worked for Defendants from approximately December of 2010 to August of 2019. Details  
25 regarding Plaintiff's precise hours, pay, and revenue generated for Defendants are available by  
26 reference to Defendants' records.

27 12. Plaintiff is informed and believes, and thereon alleges, that Defendants at all  
28 times hereinafter mentioned, were and are employers as defined in and subject to the Labor

1 Code and IWC Wage Orders, whose employees were and are engaged throughout this county  
2 and the State of California.

3 13. Plaintiff is unaware of the true names or capacities of the defendants sued herein  
4 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this  
5 Complaint and serve such fictitiously named defendants once their names and capacities  
6 become known.

7 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted  
8 in all respects pertinent to this action as the agent of the other defendant, carried out a joint  
9 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant  
10 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as  
11 the employer and/or joint employer of Plaintiff and the class members.

12 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the  
13 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or  
14 Does 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on  
15 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,  
16 the official policy of Defendants.

17 16. At all relevant times, Defendants, and each of them, acted within the scope of  
18 such agency or employment, or ratified each and every act or omission complained of herein.  
19 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of  
20 each and all the other Defendants in proximately causing the damages herein alleged.

21 17. Plaintiff is informed and believes, and thereon alleges, that each of said  
22 Defendants is in some manner intentionally, negligently or otherwise responsible for the acts,  
23 omissions, occurrences and transactions alleged herein.

24 **CLASS ACTION ALLEGATIONS**

25 18. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of  
26 herself and all others similarly situated who were affected by Defendants' Labor Code,  
27 Business and Professions Code §§ 17200, and IWC Wage Order violations.

28 19. All claims alleged herein arise under California law for which Plaintiff seeks

1 relief authorized by California law.

2 20. Plaintiff's proposed Class consists of and is defined as follows:

3 Class

4 All current and former non-exempt employees who worked for  
5 Defendants in the State of California from four years plus 178 days  
6 before the filing of this complaint to the date of trial.<sup>1</sup>

6 Plaintiff also seeks to certify the following Subclass of employees:

7 Waiting Time Subclass

8 All members of the Class who separated their employment from Defendants from  
9 three years plus 178 days before the filing of this complaint to the date of trial.

9 21. Members of the Class and Subclass described above will be collectively referred  
10 to as "class members." Plaintiff reserves the right to establish other or additional subclasses, or  
11 modify any Class or Subclass definition, as appropriate based on investigation, discovery, and  
12 specific theories of liability.

13 22. This action has been brought and may properly be maintained as a class action  
14 under the California Code of Civil Procedure § 382 because there are common questions of law  
15 and fact as to the Class that predominate over questions affecting only individual members  
16 including, but not limited to:

- 17 (a) Whether Defendants paid Plaintiff and class members all minimum wage  
18 compensation for all hours worked;
- 19 (b) Whether Defendants paid Plaintiff and class members overtime and doubletime  
20 compensation at the proper rates;
- 21 (c) Whether Defendants deprived Plaintiff and class members of compliant meal  
22 periods or required Plaintiff and class members to work through meal periods  
23 without compensation;
- 24 (d) Whether Defendants deprived Plaintiff and class members of compliant rest  
25 breaks;
- 26 (e) Whether Defendants failed to timely pay Plaintiff and class members all wages

27 <sup>1</sup> The statute of limitations for this matter was tolled from April 6, 2020, to October 1, 2020,  
28 pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

1 due during employment;

2 (f) Whether Defendants failed to timely pay Plaintiff and former class members all  
3 wages due upon termination or within 72 hours of resignation;

4 (g) Whether Defendants failed to furnish Plaintiff and class members with accurate,  
5 itemized wage statements;

6 (h) Whether Defendants failed to reimburse Plaintiff and class members for all  
7 necessary business expenses; and

8 (i) Whether Defendants engaged in unfair business practices in violation of Business  
9 & Professions Code §§ 17200, *et seq.*

10 23. There is a well-defined community of interest in this litigation and the Class is  
11 readily ascertainable:

12 (a) Numerosity: The members of the Class are so numerous that joinder of all  
13 members is impractical. Although the members of the Class are unknown  
14 to Plaintiff at this time, on information and belief, the Class is estimated to  
15 be greater than 100 individuals. The identity of the class members are  
16 readily ascertainable by inspection of Defendants' employment and payroll  
17 records.

18 (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the  
19 claims (or defenses, if any) of the Class because Defendants' failure to  
20 comply with the provisions of California wage and hour laws entitled each  
21 class member to similar pay, benefits, and other relief. The injuries  
22 sustained by Plaintiff are also typical of the injuries sustained by the Class  
23 because they arise out of and are caused by Defendants' common course of  
24 conduct as alleged herein.

25 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent  
26 and protect the interests of all members of the Class because it is in her best  
27 interest to prosecute the claims alleged herein to obtain full compensation  
28 and penalties due to her and the Class. Plaintiff's attorneys, as proposed

1 class counsel, are competent and experienced in litigating large  
2 employment class actions and are versed in the rules governing class action  
3 discovery, certification, and settlement. Plaintiff has incurred and,  
4 throughout the duration of this action, will continue to incur attorneys' fees  
5 and costs that have been and will be necessarily expended for the  
6 prosecution of this action for the substantial benefit of each class member.

7 (d) Superiority: The nature of this action makes the use of class action  
8 adjudication superior to other methods. A class action will achieve  
9 economies of time, effort, and expense as compared with separate lawsuits,  
10 and will avoid inconsistent outcomes because the same issues can be  
11 adjudicated in the same manner and at the same time for each class  
12 member. If appropriate this Court can, and is empowered to, fashion  
13 methods to efficiently manage this case as a class action.

14 Public Policy Considerations: Employers in the State of California and  
15 other states violate employment and labor laws every day. Current  
16 employees are often afraid to assert their rights out of fear of direct or  
17 indirect retaliation. Former employees are fearful of bringing actions  
18 because they believe their former employers might damage their future  
19 endeavors through negative references and/or other means. Class actions  
20 provide the class members who are not named in the complaint with a  
21 type of anonymity that allows for the vindication of their rights at the  
22 same time as affording them privacy protections.

### 23 GENERAL ALLEGATIONS

24 24. Through this action, Plaintiff alleges that Defendants have engaged in a  
25 systematic pattern of wage and hour violations under the California Labor Code and IWC  
26 Wage Orders, all of which contribute to Defendants' deliberate unfair competition.

27 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
28 should have known that Plaintiff and class members were entitled to receive wages for all time

1 worked (including minimum and overtime wages) and that they were not receiving all wages  
2 earned for work that was required to be performed. In violation of the Labor Code and IWC  
3 Wage Orders, Plaintiff and class members were not paid wages (including minimum and  
4 overtime wages) for all hours worked when Defendants failed to pay or underpaid Plaintiff and  
5 class members for all hours worked, and failed to pay for time spent in rest breaks, among other  
6 things.

7         26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
8 should have known that Plaintiff and class members were entitled to receive overtime wages at  
9 the correct regular rate of pay. However, Defendants failed to properly calculate the regular  
10 rate of pay for Plaintiff and class members. For example, Defendants failed to pay Plaintiff and  
11 class members the proper overtime and doubletime rate by failing to include non-discretionary  
12 bonuses and other incentive payments in the regular rate of pay. In violation of the Labor Code  
13 and IWC Wage Orders, Defendants failed to properly compensate Plaintiff and class members  
14 for overtime pay.

15         27. Plaintiff is informed and believes, and thereon alleges, that Defendants also  
16 subjected Plaintiff and other class members to a uniform policy and practice of unlawful time  
17 rounding and manipulation. That is, Defendants rounded the hours worked of Plaintiff and  
18 other class members to the nearest quarter of an hour, or otherwise manipulated the reported  
19 hours, which over time, unlawfully favored Defendant and resulted in time loss to the  
20 employees, including Plaintiff. This rounding policy was not neutral on its face or in  
21 application and resulted in cumulative loss of time to the employees.

22         28. Plaintiffs is informed and believes, and thereon alleges, that Defendants knew or  
23 should have known that Plaintiff and class members were entitled to receive all meal periods or  
24 payment of one (1) additional hour of pay at Plaintiff's and class members' regular rate of pay  
25 when they did not receive a timely, uninterrupted meal period. Plaintiff and class members did  
26 not receive compliant meal periods in that they were often late, skipped, or interrupted.  
27 Moreover, Defendants would regularly hold meetings during Plaintiff's and other class  
28 members' meal breaks such that these meal breaks were effectively "on duty" in violation of



1 the Labor Code. In violation of the Labor Code and IWC Wage Orders, Plaintiff and class  
2 members did not receive all meal periods or payment of one (1) additional hour of pay at  
3 Plaintiff's and class members' regular rate of pay when they did not receive a timely,  
4 uninterrupted meal period.

5 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
6 should have known that Plaintiff and class members were entitled to receive all rest breaks or  
7 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay  
8 when a rest break was missed, and were entitled to payment of wages for time spent when rest  
9 breaks were taken. Plaintiff and class members did not receive compliant rest breaks in that  
10 they were often late, skipped, or interrupted. In violation of the Labor Code and IWC Wage  
11 Orders, Plaintiff and class members did not receive paid rest breaks or payment of one (1)  
12 additional hour of pay at Plaintiff and class members' regular rate of pay when a rest break was  
13 missed.

14 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
15 should have known that Plaintiff and class members were entitled to timely payment of wages  
16 during their employment. In violation of the California Labor Code, Plaintiff and class  
17 members did not receive timely payment of all wages including, but not limited to, unpaid  
18 minimum and overtime wages, meal periods premiums, and rest break premiums within  
19 permissible time periods.

20 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
21 should have known that Plaintiff and Waiting Time class members were entitled to timely  
22 payment of wages upon separation of employment. In violation of the California Labor Code,  
23 Plaintiff and Waiting Time class members did not receive payment of all wages including, but  
24 not limited to, unpaid minimum and overtime wages, meal periods premiums, and rest break  
25 premiums within permissible time periods.

26 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
27 should have known that Plaintiff and class members were entitled to receive complete and  
28 accurate wage statements in accordance with California law. In violation of the California

1 Labor Code, Plaintiff and class members were not furnished with complete and accurate wage  
2 statements showing their total hours worked, number of hours worked at each hourly rate and  
3 gross and net wages, among other things.

4 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or  
5 should have known that Plaintiff and class members were entitled to reimbursement for  
6 necessary expenditures incurred in connection with the performance and execution of their job  
7 duties. In violation of the California Labor Code, Plaintiff and class members did not receive  
8 adequate reimbursement for necessary business expenses, including but not limited to  
9 reimbursement for use of their personal cell phones, home internet costs, and for gas mileage  
10 and travelling expenses for using their personal vehicle to drive to Defendants' various nursing  
11 home and rehabilitation facilities.

12 34. Plaintiff is informed and believes, and thereon alleges, that at all times  
13 mentioned herein, Defendants knew or should have known that it had a duty to compensate  
14 Plaintiff and class members, and that Defendants had the financial ability to pay such  
15 compensation but willfully, knowingly and intentionally failed to do so, all in order to increase  
16 Defendants' profits.

17 35. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief  
18 against Defendants on behalf of herself and all class members to recover, among other things,  
19 unpaid wages, interest, attorney's fees, penalties, reimbursements, costs, and expenses.

20 **FIRST CAUSE OF ACTION**

21 **FAILURE TO PAY MINIMUM WAGES**

22 **(Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order § 3)**

23 36. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as  
24 though fully set forth herein.

25 37. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees  
26 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser  
27 wage than the minimum so fixed is unlawful.

28 38. During the relevant time period, Defendants paid Plaintiff and class members

1 less than minimum wages when, for example, Defendants required Plaintiff and class members  
2 to work off-the-clock during meal breaks and rest breaks. Plaintiff and class members were  
3 also required to perform work-related duties off-the-clock before their shifts began and after  
4 their shifts ended, including on their days off and on weekends.

5 39. During the relevant time period, Defendants also unlawfully rounded and  
6 manipulated hours worked of Plaintiff and class members to the nearest quarter of an hour,  
7 which over time, unlawfully favored Defendant and resulted in time loss to employees. To the  
8 extent these hours do not qualify for the payment of overtime or doubletime, Plaintiff and class  
9 members were not being paid at least minimum wage for their work.

10 40. During the relevant time period, Defendants regularly failed to pay at least  
11 minimum wage to Plaintiff and class members for all hours worked pursuant to Labor Code  
12 §§ 1194 and 1197.

13 41. Defendants' failure to pay Plaintiff and class members the minimum wage as  
14 required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and class  
15 members are entitled to recover the unpaid balance of their minimum wage compensation as  
16 well as interest, costs, and attorney's fees.

17 42. Pursuant to Labor Code § 1194.2, Plaintiff and class members are entitled to  
18 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest  
19 thereon.

20 **SECOND CAUSE OF ACTION**

21 **FAILURE TO PAY OVERTIME WAGES**

22 **(Violation of Labor Code §§ 510, 1194 and 1198; Violation of IWC Wage Order)**

23 43. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as  
24 though fully set forth herein.

25 44. Labor Code § 1198 and the applicable IWC Wage Order provide that it is  
26 unlawful to employ persons without compensating them at a rate of pay either one and one-half  
27 or two times the person's regular rate of pay, depending on the number of hours worked by the  
28 person on a daily or weekly basis.

1           45. Pursuant to California Labor Code §§ 510 and 1194, during the relevant time  
2 period, Defendants were required to compensate Plaintiff and class members for all overtime  
3 hours worked, calculated at one and one-half (1½) times the regular rate of pay for hours  
4 worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first  
5 eight (8) hours of the seventh consecutive work day, with doubletime after eight (8) hours on  
6 the seventh day of any work week, or after twelve (12) hours in any work day.

7           46. Plaintiff and class members were non-exempt employees entitled to the  
8 protections of California Labor Code §§ 510 and 1194.

9           47. In violation of state law, Defendants have knowingly and willfully refused to  
10 perform their obligations and compensate Plaintiff and class members for all wages earned as  
11 alleged above.

12           48. During the relevant time period, Defendants also failed to properly calculate the  
13 regular rate of pay for Plaintiff and class members. For example, Defendants failed to pay  
14 Plaintiff and class members the proper overtime and doubletime rate by failing to include non-  
15 discretionary bonuses and other incentive payments in the regular rate of pay.

16           49. During the relevant time period, Defendants also unlawfully rounded and  
17 manipulated hours worked of Plaintiff and class members to the nearest quarter of an hour,  
18 which over time, unlawfully favored Defendant and resulted in time loss to employees. To the  
19 extent these hours qualified for the payment of overtime or doubletime, Plaintiff and class  
20 members were not properly being compensated for all overtime hours worked.

21           50. Defendants' failure to pay Plaintiff and class members the unpaid balance of  
22 overtime and doubletime compensation, as required by California law, violates the provisions  
23 of Labor Code §§ 510 and 1198, and is therefore unlawful.

24           51. Pursuant to Labor Code § 1194, Plaintiff and class members are entitled to  
25 recover their unpaid overtime and doubletime compensation as well as interest, costs, and  
26 attorneys' fees.

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**THIRD CAUSE OF ACTION**

**FAILURE TO PROVIDE MEAL PERIODS**

**(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)**

52. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

53. Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by the IWC Wage Orders.

54. Section 11 of the applicable IWC Wage Order states, “no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.”

55. Labor Code § 512(a) provides that an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

56. Labor Code § 512(a) also provides that an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

57. During the relevant time period, Plaintiff and class members did not receive compliant meal periods for each five hours worked per day as a result of, among other things, lack of proper coverage and scheduling of meal periods during these employees’ shifts. Defendants have also required class members to perform work-related duties during meal periods such that they have not been provided with legally compliant duty-free meal periods

1 under California law. Finally, Defendants also routinely failed to provide Plaintiff and class  
2 members with a second, off-the-clock meal break for shifts lasting longer than ten hours.

3 58. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require  
4 an employer to pay an employee one additional hour of pay at the employee's regular rate of  
5 compensation for each work day that a meal period is not provided.

6 59. At all relevant times, Defendants failed to pay Plaintiff and class members all  
7 meal period premiums due for meal period violations pursuant to Labor Code § 226.7(b) and  
8 section 11 of the applicable IWC Wage Order.

9 60. As a result of Defendants' failure to pay Plaintiff and class members an  
10 additional hour of pay for each day a meal period was not provided, Plaintiff and class members  
11 suffered and continue to suffer a loss of wages and compensation.

12 **FOURTH CAUSE OF ACTION**

13 **FAILURE TO PERMIT REST BREAKS**

14 **(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order)**

15 61. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as  
16 though fully set forth herein.

17 62. Labor Code § 226.7(a) provides that no employer shall require an employee to  
18 work during any rest period mandated by the IWC Wage Orders.

19 63. Section 12 of the applicable IWC Wage Order states "every employer shall  
20 authorize and permit all employees to take rest periods, which insofar as practicable shall be in  
21 the middle of each work period" and the "authorized rest period time shall be based on the total  
22 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major  
23 fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

24 64. During the relevant time period, Plaintiff and class members did not receive a ten  
25 (10) minute rest period for every four (4) hours or major fraction thereof worked. For instance,  
26 Plaintiff and class members were required to perform work-related duties during rest breaks and  
27 frequently skipped rest breaks entirely as a result.

28 65. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order

1 requires an employer to pay an employee one additional hour of pay at the employee's regular  
2 rate of compensation for each workday that the rest period is not provided.

3 66. At all relevant times, Defendants failed to pay Plaintiff and class members all  
4 rest period premiums due for rest period violations pursuant to Labor Code § 226.7(b) and  
5 section 12 of the applicable IWC Wage Order.

6 67. As a result of Defendants' failure to pay Plaintiff and class members an  
7 additional hour of pay for each day a rest period was not provided, Plaintiff and class members  
8 suffered and continue to suffer a loss of wages and compensation.

9 **FIFTH CAUSE OF ACTION**

10 **FAILURE TO TIMELY PAY ALL EARNED WAGES**

11 **(Violation of Labor Code §§ 204 and 210; Violation of IWC Wage Order)**

12 68. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as  
13 though fully set forth herein.

14 69. Labor Code § 204 provides that all wages earned by an employee are due and  
15 payable twice during each calendar month.

16 70. Defendants failed to timely pay Plaintiff and class members all of their earned  
17 wages as required by Labor Code Section 204, including, but not limited to, unpaid minimum  
18 and overtime wages, meal periods premiums, and rest break premiums within permissible time  
19 periods.

20 71. Plaintiff and class members have been deprived of their rightfully earned wages  
21 as a direct and proximate result of Defendants' failure to pay said compensation.

22 72. Plaintiff and class members are entitled to recover such amounts, plus interest  
23 thereon, attorney's fees, and costs.

24 73. In addition, Plaintiff and class members are entitled to penalties pursuant to  
25 Labor Code § 210 as follows: (1) for Defendant's initial violation, \$100 for each failure to pay  
26 each class member; and (2) for each of Defendant's subsequent violations, or any willful or  
27 intentional violation, \$200 for each failure to pay each class member, plus 25 percent of the  
28 amount unlawfully held.

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2 **SIXTH CAUSE OF ACTION**

3 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT AND**  
4 **WITHIN THE REQUIRED TIME**

5 **(Violation of Labor Code §§ 201, 202 and 203; Violation of IWC Wage Order)**

6 74. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as  
7 though fully set forth herein.

8 75. California Labor Code §§ 201 and 202 provide that if an employer discharges an  
9 employee, the wages earned and unpaid at the time of discharge are due and payable  
10 immediately, and that if an employee voluntarily leaves his employment, his wages shall  
11 become due and payable not later than seventy-two (72) hours thereafter, unless the employee  
12 has given seventy-two (72) hours previous notice of his intention to quit, in which case the  
13 employee is entitled to his wages at the time of quitting.

14 76. During the relevant time period, Defendants willfully failed to pay Plaintiff and  
15 Waiting Time Subclass members all their earned wages upon termination including, but not  
16 limited to, proper minimum wages, Reporting Time Pay, and overtime and doubletime  
17 compensation, either at the time of discharge or within seventy-two (72) hours of their leaving  
18 Defendants' employ.

19 77. Defendants' failure to pay Plaintiff and Waiting Time Subclass members all  
20 their earned wages at the time of discharge or within seventy-two (72) hours of their leaving  
21 Defendants' employ is in violation of Labor Code §§ 201 and 202.

22 78. California Labor Code § 203 provides that if an employer willfully fails to pay  
23 wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201  
24 and 202, then the wages of the employee shall continue as a penalty from the due date at the  
25 same rate until paid or until an action is commenced; but the wages shall not continue for more  
26 than thirty (30) days.

27 79. Plaintiff and Waiting Time Subclass members are entitled to recover from  
28 Defendants the statutory penalty which is defined as Plaintiff's and Waiting Time Subclass



1 members' regular daily wages for each day they were not paid, at their regular hourly rate of  
2 pay, up to a thirty (30) day maximum pursuant to Labor Code § 203.

3 **SEVENTH CAUSE OF ACTION**

4 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

5 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

6 80. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as  
7 though fully set forth herein.

8 81. Labor Code § 226(a) requires Defendants to provide each employee with an  
9 accurate wage statement in writing showing nine pieces of information, including: (1) gross  
10 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units  
11 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all  
12 deductions, provided that all deductions made on written orders of the employee may be  
13 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period  
14 for which the employee is paid, (7) the name of the employee and the last four digits of his or  
15 her social security number or an employee identification number other than a social security  
16 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable  
17 hourly rates in effect during the pay period and the corresponding number of hours worked at  
18 each hourly rate by the employee.

19 82. During the relevant time period, Defendants have knowingly and intentionally  
20 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff  
21 and class members. The deficiencies include, among other things, the failure to correctly state  
22 the gross and net wages earned, accurate inclusive dates of the pay period, and all applicable  
23 hourly rates in effect and the number of hours worked at each hourly rate by Plaintiff and class  
24 members.

25 83. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff  
26 and class members have suffered injury and damage to their statutorily protected rights.  
27 Specifically, Plaintiff and class members have been injured by Defendants' intentional  
28 violation of California Labor Code § 226(a) because they were denied both their legal right to

1 receive, and their protected interest in receiving, accurate itemized wage statements under  
2 California Labor Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the  
3 extent of the underpayment of wages, thereby causing Plaintiff to incur expenses and lost time.  
4 Plaintiff would not have had to engage in these efforts and incur these costs had Defendants  
5 provided the accurate wages earned. This has also delayed Plaintiff's ability to demand and  
6 recover the underpayment of wages from Defendants.

7 84. California Labor Code § 226(a) requires an employer to pay the greater of all  
8 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,  
9 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,  
10 plus attorney's fees and costs, to each employee who was injured by the employer's failure to  
11 comply with California Labor Code § 226(a).

12 85. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff  
13 and class members from knowing, understanding, and disputing the wages paid to them, and  
14 resulted in an unjustified economic enrichment to Defendants. As a result of Defendants'  
15 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiff and  
16 class members have suffered an injury, and the exact amount of damages and/or penalties is all  
17 in an amount to be shown according to proof at trial.

18 **EIGHTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

20 **(Violation of Labor Code §§ 2800, 2802, and the Applicable IWC Wage Order § 9)**

21 86. Plaintiff re-alleges and incorporates by this reference each and every allegation  
22 set forth in all previous paragraphs of the Complaint.

23 87. Labor Code § 2800 provides, in pertinent part, "[a]n employer shall in all cases  
24 indemnify his employee for losses caused by the employer's want of ordinary care."

25 88. Labor Code § 2802 provides, in pertinent part, "[a]n employer shall indemnify  
26 his or her employee for all necessary expenditures or losses incurred by the employee in direct  
27 consequence of the discharge of his or her duties..."

28 89. Further, Labor Code § 2802 additionally provides, in pertinent part: "(c)...the

1 term 'necessary expenditures or losses' shall include all reasonable costs, including but not  
2 limited to, attorney's fees incurred by the employee enforcing the rights granted by this  
3 section."

4 90. The Applicable IWC Wage Order § 9 provides that: "When tools or equipment  
5 are required by the employer or are necessary to the performance of a job, such tools and  
6 equipment shall be provided and maintained by the employer . . ."

7 91. California Labor Code section 2804 mandates that this statutory right cannot be  
8 waived.

9 92. During the relevant time period, Defendants were required to indemnify and  
10 reimburse Plaintiff and class members for all expenditures or losses caused by the employer's  
11 want of ordinary care and/or incurred in direct consequent of the discharge of their duties, but  
12 failed to indemnify and reimburse Plaintiff and class members. In particular, Plaintiff and class  
13 members were forced to use their personal cellular phones and home internet to complete work-  
14 related tasks and communicate with management without being reimbursed for a reasonable  
15 percentage of their cellular phone bill or costs for home internet, fees, and equipment.  
16 Furthermore, Plaintiff and class members were not fully reimbursed for gas mileage and  
17 travelling expenses for using of their personal vehicle to drive to Defendants' various nursing  
18 home and rehabilitation facilities.

19 93. As a direct and proximate result, Plaintiff and class members have suffered, and  
20 continue to suffer, substantial losses, related to the use and enjoyment of such monies to be  
21 reimbursed, lost interest on such monies, and expenses and attorney's fees in seeking to compel  
22 Defendants to fully perform their obligations under California law, all to their damage in  
23 amounts according to proof at the time of trial.

24 94. Accordingly, Plaintiff and class members are entitled to recover, and hereby  
25 seek, an amount equal to incurred necessary expenditures, pre- and post-judgment interest,  
26 applicable penalties, attorneys' fees and costs, and any further equitable relief this Court may  
27 deem just and proper. *See* Cal. Lab. Code § 2802, *see also*, Cal. Civ. Proc. Code § 1021.5.

28 95. Plaintiff, on behalf of herself and class members, requests relief as described

1 below.

2 **NINTH CAUSE OF ACTION**

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

4 96. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as  
5 though fully set forth herein.

6 97. Defendants' conduct, as alleged herein, has been and continues to be unfair,  
7 unlawful and harmful to Plaintiff and class members. Plaintiff seeks to enforce important  
8 rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

9 98. Defendants' activities, as alleged herein, violate California law and constitute  
10 unlawful business acts or practices in violation of California Business and Professions Code §§  
11 17200, *et seq.*

12 99. A violation of Business and Professions Code §§ 17200, *et seq.* may be  
13 predicated on the violation of any state or federal law.

14 100. Defendants' policies and practices have violated state law in at least the  
15 following respects:

16 (a) Failing to pay all minimum wages owed to Plaintiff and class members in  
17 violation of Labor Code §§ 1194.2, and 1197;

18 (b) Failing to pay all overtime and doubletime wages at the proper rate to Plaintiff  
19 and class members in violation of Labor Code §§ 510, 1194 and 1198;

20 (c) Failing to provide compliant meal periods without paying Plaintiff and class  
21 members premium wages for every day said meal periods were not provided in violation of  
22 Labor Code §§ 226.7 and 512;

23 (d) Failing to authorize or permit rest breaks without paying Plaintiff and class  
24 members premium wages for every day said rest breaks were not authorized or permitted in  
25 violation of Labor Code § 226.7;

26 (e) Failing to timely pay all wages earned during employment in violation of Labor  
27 Code §§ 204 and 210;

28 (f) Failing to timely pay all earned wages to Plaintiff and Waiting Time Subclass

1 members upon separation of employment in violation of Labor Code §§ 201, 202 and 203.

2 (g) Failing to provide Plaintiff and class members with accurate itemized wage  
3 statements in violation of Labor Code § 226; and

4 (h) Failing to reimburse for all necessary business expenses in violation of Labor  
5 Code §§ 2800 and 2802.

6 101. Defendants intentionally avoided paying Plaintiff and class members' wages and  
7 monies, thereby creating for Defendants an artificially lower cost of doing business in order to  
8 undercut their competitors and establish and gain a greater foothold in the marketplace.

9 102. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiff and class  
10 members are entitled to restitution of the wages unlawfully withheld and retained by  
11 Defendants during a period that commences four years and 178 days prior to the filing of the  
12 Complaint; an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other  
13 applicable laws; and an award of costs.

14 **PRAYER FOR RELIEF**

15 Plaintiff, on her own behalf and on behalf of all others similarly situated, pray for relief  
16 and judgment against Defendants, jointly and severally, as follows:

- 17 1. For certification of this action as a class action, including certifying the Class  
18 and Subclass alleged by Plaintiff;
- 19 2. For appointment of Beverly MingLee as the class representative;
- 20 3. For appointment of Lebe Law, APLC as class counsel for all purposes;
- 21 4. For compensatory damages in an amount according to proof with interest  
22 thereon;
- 23 5. For economic and/or special damages in an amount according to proof with  
24 interest thereon;
- 25 6. For reasonable attorneys' fees, costs of suit and interest to the extent permitted  
26 by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e) and  
27 1194;
- 28 7. For statutory penalties to the extent permitted by law, including those pursuant

1 to the Labor Code and IWC Wage Orders;

2 8. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

3 9. For an order requiring Defendants to restore and disgorge all funds to each  
4 employee acquired by means of any act or practice declared by this Court to be unlawful,  
5 unfair, or fraudulent and, therefore, constituting unfair competition under Business and  
6 Professions Code §§ 17200, *et seq.*;

7 10. For an award of damages in the amount of unpaid compensation including, but  
8 not limited to, unpaid wages, benefits, and penalties, including interest thereon;

9 11. For pre-judgment interest; and

10 12. For such other relief as the Court deems just and proper.

11 Dated: June 30, 2022

**Lebe Law, APLC**

12  
13 By: \_\_\_\_\_



Jonathan M. Lebe  
Zachary T. Gershman  
Nicolas W. Tomas

Attorneys for Plaintiff Beverly MingLee,  
Individually and on behalf of all others similarly  
situated

14  
15  
16  
17  
18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

20  
21 Dated: June 30, 2022

**Lebe Law, APLC**

22  
23 By: \_\_\_\_\_



Jonathan M. Lebe  
Zachary T. Gershman  
Nicolas W. Tomas

Attorneys for Plaintiff Beverly MingLee,  
Individually and on behalf of all others similarly  
situated

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