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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JAMES CASEMENT, on behalf of himself
and others similarly situated

Plaintiff,

v.

SOLIANT HEALTH, INC.;
RIGHTSOURCING, INC. and DOES 1-20,
inclusive

Defendants.

Case No: 1:19-CV-01262-DAD-JLT

**FIRST-AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PROVIDE REPORTING TIME PAY
2. FAILURE TO PAY FOR ALL HOURS WORKED
3. FAILURE TO PAY OVERTIME
4. FAILURE TO PAY MINIMUM WAGE
5. FAILURE TO AUTHORIZE AND/OR PERMIT MEAL BREAKS
6. FAILURE TO AUTHORIZE AND/OR PERMIT REST BREAKS
7. FAILURE TO FURNISH ACCURATE WAGE STATEMENTS
8. WAITING TIME PENALTIES

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- 9. BREACH OF CONTRACT
 - 10. NEGLIGENT MISREPRESENTATION
 - 11. UNFAIR BUSINESS PRACTICES
 - 12. PAGA VIOLATIONS
- [AMOUNT DEMANDED EXCEEDS
\$25,000.00]

PLAINTIFF JAMES CASEMENT (“Plaintiff”), individual, on behalf of himself and all others similarly situated, as defined below, hereby alleges the following facts and claims against SOLIANT HEALTH, INC. (“Soliant”) and respectfully requests a trial by jury of all issues and causes of action so triable.

INTRODUCTION

1. This class action complaint challenges Soliant’s past and ongoing unlawful employment practices and policies on behalf of Plaintiff and other similarly situated former and current employees of Soliant, whose rights it violated and continues to violate under California law.

2. Specifically, as to Plaintiff and others similarly situated, Soliant has uniformly and systematically:

a. Failed and continues to fail to provide reporting time pay in violation of the applicable Industrial Welfare Commission Wage Orders (“Applicable Wage Orders”);

b. Failed and continues to fail to pay for all hours worked in violation of Labor Code §§ 200, 223, 226, 500, 1197 and 1198 and the Applicable Wage Orders;

c. Failed and continues to fail to pay overtime wages for all overtime hours worked in violation of Labor Code §§ 510 and 1194 and the Applicable Wage Orders;

1 d. Willfully failed and continues to fail to pay minimum wage for all hours
2 worked in violation of Labor Code §§ 1194 & 1197 and the Applicable IWC Wage Orders;

3 e. Failed and continues to fail to authorize or permit meal periods in violation
4 of Labor Code §§ 226.7 and 512 and the Applicable Wage Orders;

5 f. Failed and continues to fail to authorize or permit rest periods in violation
6 of Labor Code §§ 226.7 and the Applicable Wage Orders;

7 g. Failed and continues to fail to timely furnish complete and accurate
8 itemized wage statements in violation of Labor Code § 226 and the Applicable Wage Orders;

9 h. Willfully failed to pay, without abatement or reduction, all final wages
10 owed in accordance with Labor Code §§ 201 and 202 and in violation of Labor Code § 203; and

11 i. Committed and continues to commit unfair business practices in violation
12 of Business & Professions Code § 17200, et seq.

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14 3. The acts complained of herein occurred and will occur, at least in part, within the
15 time-period of four (4) years preceding the filing of the original Complaint, up to and through
16 the time of trial.

17 **JURISDICTION AND VENUE**

18 4. Soliant removed this action from state court under the Class Action Fairness Act.
19 (Dkt. 3).

20 5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Soliant
21 does business within this District and a substantial part of the events and omissions giving rise
22 to the claims pled in this Complaint occurred within this District.

23 **PARTIES**

24 6. At all relevant times mentioned herein, Plaintiff was a licensed nurse and a
25 resident of the State of California.
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1 7. Upon information and belief, Soliant is an employment staffing agency and is,
2 and at all times herein mentioned was, a Georgia corporation with its principal place of business
3 in Florida, and duly authorized to do business in California.

4 8. Soliant employs, compensates and/or assigns healthcare professionals to work at
5 various kinds of healthcare facilities throughout California.

6 9. The true names or capacities, whether individual, associate or otherwise, of Does
7 1-20, inclusive, are unknown to Plaintiff and, therefore, Plaintiff sues these Doe defendants by
8 such fictitious names. Plaintiff will seek leave of this Court to amend this Complaint to allege
9 such names and capacities as soon as they are ascertained. Upon information and belief, each of
10 these fictitiously named defendants is responsible in some manner for the occurrences alleged
11 herein, and that Plaintiff's injuries and damages as alleged and set forth herein were proximately
12 caused by such fictitiously named defendants.

13 10. Upon information and belief, Plaintiff alleges that at all relevant times each of the
14 defendants was the principal, agent, employer, employee, partner, joint venturer, officer, director,
15 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and
16 predecessor in interest of some or all of the other defendants, and was engaged with some or all
17 of the other defendants in a joint enterprise for profit, and bore such other relationships to some
18 or all of the other defendants so as to be liable for the conduct of each of them.

19 11. Upon information and belief, Plaintiff alleges that each defendant acted pursuant
20 to and within the scope of the relationships alleged above, that each defendant knew or should
21 have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the
22 conduct of all other defendants, and/or that each defendant acted pursuant to a conspiracy and
23 agreement to do the things alleged herein.
24

25 **GENERAL ALLEGATIONS**

26 12. Beginning in or about April 2017, Soliant hired, assigned and paid Plaintiff to
27 work as a nurse for three different healthcare facilities throughout California for various lengths
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1 of time, with the option to extend some of those assignments. In particular, from in or about April
2 2017 to November 2017, Soliant assigned Plaintiff to travel and work at Eisenhower Medical
3 Center in Rancho Mirage, California. From approximately December 2017 to March 2018,
4 Soliant assigned Plaintiff to travel and work at Ridgecrest Regional Hospital, and then from on
5 or about March 2018 to June 2018, Soliant assigned Plaintiff to travel and work back at
6 Eisenhower Medical Center.

7
8 13. From approximately from July 2018 to July 2019, Soliant assigned Plaintiff to
9 work a local assignment at Kern Medical Center.

10 14. Plaintiff's latest travel assignment for Soliant began in or about July 2019 at
11 Ridgecrest Regional Hospital.

12 **I. Soliant's Failure to Pay Overtime**

13 15. During the applicable recovery period, Soliant has had a policy and/or practice of
14 not providing its non-exempt employees overtime pay. For instance, during the time Soliant
15 assigned Plaintiff to work at Kern Medical Center, it failed to pay him overtime. As way of
16 example, during the workweek spanning from May 6, 2019 to May 12, 2019, Plaintiff worked 2
17 twelve-hour shifts, and 1 thirteen-hour shift, but Soliant did not pay him any overtime for that
18 workweek. Upon information and belief, during the applicable recovery period, Soliant similarly
19 failed to pay its other non-exempt employees their owed overtime under California law.

20 **II. Soliant's Failure to Pay for All Hours Worked or All Promised Wages**

21 16. During the applicable recovery period, Soliant has had a policy and/or practice of
22 requiring its non-exempt employees to review and/or complete competency/training/orientation
23 courses (or modules) without compensating them for time spent on those courses that are facility-
24 specific. For instance, Soliant required Plaintiff to review and familiarize himself with the
25 specific policies of Kern Medical Center, such as its "Notice of Privacy Practices", prior to the
26 start of his assignment without compensating him for such time. Soliant also required Plaintiff to
27 take certain competency exams without pay that were specifically required by Kern Medical
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1 Center. Upon information and belief, Soliant also failed to compensate its other non-exempt
2 employees for time spent on competency/training/orientation courses (or modules) that were
3 specific to their assigned facilities.

4 17. Under California law, time spent attending these facility-specific
5 competency/training/orientation courses is compensable because, among other things, they are
6 not voluntary and are directly related to employees' jobs as they are designed to make them
7 handle their jobs more effectively as opposed to training them for another job or a new or
8 additional skill.

9 18. During the applicable recovery period, Soliant has also had a policy and/or
10 practice of not paying its non-exempt employees for all their worked or all their on-call hours.
11 For instance, During his assignment at Kern Medical Center, Soliant promised to pay Plaintiff
12 \$5 an hour for his on-call time and 1 ½ times his regular rate of pay (i.e. \$110 an hour) for his
13 "call-back" time, which was when Plaintiff reported back to work during his on-call shifts.
14 However, Soliant did not pay Plaintiff for all his call-back or all his on-call time. For instance,
15 for the workweek spanning from January 28, 2019 to February 2, 2019, on his timesheet for that
16 workweek Plaintiff stated that he had worked 16.85 on-call hours and another 7.15 call-back
17 hours. Yet, Soliant only paid him 15.60 hours for his on-call time and 5.90 hours for call-back
18 time. Soliant also shorted Plaintiff's pay during his other assignments, including at Eisenhower
19 Medical Center. Upon information and belief, during the applicable recovery period Soliant
20 failed to pay its other non-exempt employees for all their worked hours and/or all their promised
21 wages for their on-call time.
22

23 **III. Soliant's Failure to Pay Earned Non-Discretionary Bonuses or Take Them**
24 **into Account in Determining Overtime Pay**

25 19. During the applicable recovery period, Soliant has had a policy and/or practice of
26 not including earned non-discretionary bonuses as part of its employees' regular rates of pay in
27 determining their overtime or double-time pay. For instance, for his assignment at Kern Medical
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1 Center spanning from April 13, 2019 to July 7, 2019, pursuant to its employment agreement with
2 Plaintiff, Soliant promised to pay Plaintiff a \$1,000 extension bonus if he agreed to his extend
3 his assignment at that facility. While, Soliant paid this non-discretionary bonus to Plaintiff, it
4 failed to include it in his regular rate of pay in order to determine his proper overtime and double-
5 time pay. Upon information and belief, during the applicable recovery period, Soliant also failed
6 to include non-discretionary bonuses earned by its other non-exempt employees in their regular
7 rates of pay in order to determine their lawful overtime or double-time rates.

8 20. During the applicable recovery period, Soliant has had a policy and/or practice of
9 not even paying the promised non-discretionary bonuses earned by their non-exempt employees.
10 For example, in its employment agreement with Plaintiff for the assignment at Kern Medical
11 Center spanning from October 13, 2018 to April 12, 2019, Soliant promised to pay him a \$1,000
12 extension bonus. However, Soliant never paid said bonus, despite the fact that Plaintiff continued
13 to work the assignment and had thus earned it. Given that Soliant never paid this earned non-
14 discretionary bonus to Plaintiff, it also failed to include it in his regular rate of pay in determining
15 his overtime or double-time rates. Upon information and belief, during the applicable recovery
16 period, Soliant also failed to pay its other non-exempt employees the non-discretionary bonuses
17 earned by them and failed to include those earned, but unpaid, non-discretionary bonuses in their
18 regular rates of pay to determine their lawful overtime or double-time rates.

19 **IV. Soliant's Failure to Provide Reporting Time Pay**

20 21. Pursuant to the Subsection 5(A) of the Applicable Wage Orders, an employee is
21 entitled to reporting time pay if that employee is required to report to work and does report but
22 is not put to work or is furnished less than half of said employee's usual or schedule workday.
23 The amount of reporting time that must be paid "is half the usual or scheduled day's work, but
24 in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular
25 rate of pay..." Id.

26 22. During the applicable recovery period, the facilities that Soliant assigned its non-
27 exempt employees to work have had a policy and/or practice of calling their employees off work
28 by notifying them in a short period of time prior to the start of their upcoming shift (i.e. no earlier

1 than the night before their scheduled shift) that they are not needed for that shift due to, among
2 other reasons, “low census” caused by fluctuations in patient volumes. Soliant does not provide
3 any reporting time pay to its called-off employees despite the fact that, under the threat of
4 discipline up to and including termination, it requires its non-exempt employees to be available
5 prior to the start of their scheduled shift so that their assigned facilities can establish contact with
6 them, and further mandates that its non-exempt employees be at work at the start of their
7 scheduled shift if their assigned facilities do not call them off work.

8 23. Soliant’s non-exempt employees are required to report to work by making
9 themselves available so that their assigned facilities can establish contact with them, by phone or
10 other means, and let them know that they are being called off work. By requiring them to be
11 available for such contacts prior to the start of their scheduled shifts, these employees are
12 prevented from engaging in activities that are incompatible with responding to those contacts,
13 such as sleeping, showering, watching a movie, taking a class, working another job, or being in
14 an area without phone service. Moreover, if their assigned facilities attempt to call Soliant’s non-
15 exempt employees off work but they do not respond to the calls and thus (mistakenly) show up
16 to work, their assigned facilities turn them away and do not allow them to work that shift. Thus,
17 their assigned facilities further compel Soliant’s non-exempt employees to be available for
18 contact because if they fail to respond to their call-off notifications, they will waste time getting
19 ready for and commuting to work when they are not needed—and will not get paid—for that shift.

20 24. The consequences of this call-off practice, include at a bare minimum: (1)
21 inhibiting the employees’ ability to look for or obtain other employment; (2) requiring employees
22 who are parents to arrange child care for their children even though they might ultimately not
23 have to work or only work part of the workday; and (3) inhibiting employees’ ability to plan
24 activities on days they are not working or only partially working, such as committing to social
25 plans.

26 25. The reporting time provision of the Applicable Wage Orders were meant to
27 safeguard against unpredictable work schedules that understandably take a toll on affected
28 employees. Without the security of definite work schedules, employees are forced to make

1 childcare arrangements, eldercare arrangements, encounter obstacles in pursuing their education,
2 experience adverse financial effects, and deal with the stress and strain on their family life. The
3 call-off practice also interferes with employees' ability to obtain other employment in order to
4 ensure financial security for their families.

5 26. During his time at Ridgecrest Regional Hospital, Plaintiff was subject to this call-
6 off practice without any reporting time pay. As way of example, on February 26, 2018 and March
7 2, 2018, Ridgecrest Regional Hospital called Plaintiff off work a few hours period to start of his
8 scheduled shift informing him that he was not needed for those shifts due to "low census". On
9 both of these occasions, Soliant did not provide Plaintiff any reporting time pay under the
10 Applicable Wage Orders. Upon information and belief, during the applicable recovery period
11 Soliant also failed to provide its other non-exempt employees reporting time pay when they were
12 called off by their assigned facilities shortly prior to the start of their scheduled shifts.

13 **V. Soliant's Failure to Take "Stipend" Payments into Account in Determining**
14 **Overtime Rates**

15 27. Under Labor Code § 200, "wages" consist of "all amounts for labor performed
16 by employees of every description, whether the amount is fixed or ascertained by the standard of
17 time, task, piece, commission basis, or other method of calculation." In California, overtime is
18 computed based on the regular rate of pay. The regular rate of pay includes many different kinds
19 of remuneration, including hourly earnings, salary, piece work earnings, commissions, certain
20 bonuses, and the value of meals and housing.

21 28. During the applicable recovery period, Soliant has a had policy and/or practice of
22 adjusting "stipend" payments it promises to its traveling non-exempt employees, including
23 housing, meal and/or incidental payments, based on number of hours or shifts they work in a
24 given workweek, even when these employees are able and ready to work their assigned shifts but
25 are called off work by their assigned facility due to, among other reasons, low patient volume
26 (i.e. "low census"). In particular, when Soliant's traveling employees do no work the minimum
27 number of hours or shifts per workweek that Soliant requires of them, Soliant deducts from their
28 pay a portion of their promised "stipend" payments. Thus, Soliant's promised "stipend"

1 payments are not intended to actually or reasonably reimburse its traveling non-exempt
2 employees for their housing, meal and/or incidental expenses, but are, in fact, a form of disguised
3 wages.

4 29. When Plaintiff worked traveling assignments at Eisenhower Medical Center and
5 Ridgecrest Regional Hospital, Soliant paid him an hourly rate and “stipend” payments to
6 allegedly reimburse him for the cost of his housing, meal and incidental expenses, but deducted
7 said “stipend” payments when he worked less than his weekly minimum hours. For instance,
8 while working at Ridgecrest Regional Center in late 2017/early 2018, according to its
9 employment agreement with Plaintiff, Soliant required him to work a minimum of 40 hours per
10 week. Soliant promised to pay Plaintiff \$44 an hour for his regular work hours, \$68 an hour for
11 his overtime hours, \$620.32 per week to allegedly reimburse him for his housing costs, and
12 another \$404.16 per week to allegedly reimburse him for his meals and incidentals costs. In the
13 same agreement, Soliant stated: “All stipends will be pro-rated based on hours worked.”

14 30. During the workweek spanning February 12, 2018 to February 18, 2018, Plaintiff
15 worked approximately 32 hours (and was on-call for about another 50 hours), and, according to
16 his timesheet, was called-off for one-shift due to “low census”. Soliant reduced Plaintiff’s
17 housing “stipend” payment from the promised \$620.32 to \$558.29 for that workweek, and his
18 meals and incidentals “stipend” payment from the promised \$404.16 to \$363.74. Soliant made
19 similar deductions from Plaintiff’s promised “stipend” payments for the workweek spanning
20 June 4, 2018 to June 10, 2018, even though on his timesheet Plaintiff again stated that he was
21 called-off work due to “low census”. Because these so-called “stipend” payments are actually a
22 form of disguised wages, Soliant was required to include them in Plaintiff’s regular rate of pay
23 in order to determine his lawful overtime and double-time rates of pay. Upon information and
24 belief, during the applicable recovery period, Soliant has also adjusted the “stipend” payments
25 of its other non-exempt employees based on number of hours and/or shifts worked and failed to
26 include these payments in these employees’ regular rates of pay to determine their lawful
27 overtime and double-time rates of pay.

1 **Overtime Class**

2 37. All non-exempt employees of Soliant who worked overtime or double-time inside
3 California during the Class Period but were not paid their legal overtime or double-time rates of
4 pay.

5 **Unpaid Bonus Class**

6 38. All non-exempt employees of Soliant who were not paid their earned non-
7 discretionary bonuses while working inside California during the Class Period.

8 **Unpaid Time Class**

9 39. All non-exempt employees of Soliant who were not paid for all hours worked
10 and/or all on-call pay promised while working inside California during the Class Period, and.

11 **Reporting Pay Class**

12 40. All non-exempt employees of Soliant who worked inside California during the
13 Class Period, and who (a) reported to work; (b) were not put to work or were furnished less than
14 half of their usual or scheduled workday; and (c) were not paid for half their usual or scheduled
15 workday.

16 **Stipend Class**

17 41. All non-exempt employees of Soliant who worked inside California during the
18 Class Period, and whose “stipend” payments, whether paid in cash or in kind, were adjusted
19 based on hours and/or shifts worked.

20 **Meal Break Class**

21 42. All non-exempt employees of Soliant who worked in California during the Class
22 Period, and who were not authorized and/or permitted lawful meal breaks.

23 **Rest Break Class**

24 43. All non-exempt employees of Soliant who worked in California during the Class
25 Period, and who were not authorized and/or permitted lawful rest breaks.

26 44. Unless otherwise specified, the Overtime Class, the Unpaid Bonus Class, the
27 Unpaid Time Class, the Reporting Pay Class, the Stipend Class, the Meal Break Class, and the
28 Rest Break Class will be referred to collectively as the “Classes”.

1 45. **Numerosity:** Pursuant to Code of Civil Procedure § 382, the members of the
2 Classes are so numerous that their individual joinder is impracticable. The precise number of
3 class members and their addresses will be known to Plaintiff through discovery. Class members
4 may be notified of the pendency of this action by mail, electronic mail, the internet, or published
5 notice.

6 46. **Common Questions Predominate:** Common questions of law and fact exist as
7 to all members of the Classes and predominate over any questions that affect only individual
8 members of those Classes. The predominant common questions of law and fact, among other
9 things, include:

- 10 a. Whether Soliant failed and continues to fail to comply with the reporting time pay
11 under the Applicable Wage Orders;
- 12 b. Whether Soliant failed and continues to fail to pay for all hours worked in
13 violation in violation of Labor Code §§ 200, 223, 226, 500, 1197 and 1198 and
14 the Applicable Wage Orders;
- 15 c. Whether Soliant failed and continues to fail to pay overtime for all overtime hours
16 worked in violation of Labor Code §§ 510 and 1194 and the Applicable Wage
17 Orders;
- 18 d. Whether Soliant failed and continues to fail to pay minimum wage for all hours
19 worked in violation of Labor Code §§ 1194 & 1197 and the Applicable IWC Wage
20 Orders;
- 21 e. Whether Soliant failed and continues to fail to authorize and/or permit lawful meal
22 breaks in violation of Labor Code §§ 226.7 and 512 and the Applicable Wage
23 Orders;
- 24 f. Whether Soliant failed and continues to fail to authorize and/or permit lawful rest
25 breaks in violation of Labor Code § 226.7 and the Applicable Wage Orders;
- 26 g. Whether Soliant failed and continues to fail to timely furnish complete and
27 accurate itemized wage statements in violation of Labor Code § 226 and the
28 Applicable Wage Orders;

1 h. Whether Soliant willfully failed to pay, without abatement or reduction, all final
2 wages owed in accordance with Labor Code §§ 201 or 202 and in violation of
3 Labor Code § 203; and

4 i. Whether Soliant committed and continues to commit unfair business practices in
5 violation of Business & Professions Code §17200, et seq.

6 47. **Typicality:** Plaintiff's claims are typical of the claims of the members of the
7 Classes he seeks to represent because Plaintiff, as an employee of Soliant, was exposed and
8 subjected to the same unlawful business practices as the other members of the Classes. Plaintiff
9 and the members of the Classes he seeks to represent sustained the same types of damages and
10 losses.

11 48. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the Classes.
12 Plaintiff's attorneys have experience in employment and class action matters and may adequately
13 represent the class in this matter. Plaintiff has no adverse interests to those in the Classes.

14 49. **Superiority:** A class action is superior to other available means for the fair and
15 efficient adjudication of this controversy. Because individual joinder of all members of each of
16 the Classes is impractical, class action treatment will permit a large number of similarly situated
17 persons to prosecute their common claims in a single forum simultaneously, efficiently and
18 without the unnecessary duplication of effort and expense that numerous individual actions
19 would engender. The relatively minor amount of individual damages in question coupled with
20 the expenses and burdens of individual litigation would make it difficult or impossible for
21 individual members of the Classes to redress the wrongs done to them, while important public
22 interests will be served by addressing the matter as a class action. The cost to and burden on the
23 court system of adjudication of individualized litigation would be substantial and substantially
24 more than the costs and burdens of a class action. Individualized litigation would also present the
25 potential for inconsistent or contradictory judgments.
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FIRST CAUSE OF ACTION

[FAILURE TO PROVIDE REPORTING TIME PAY]

(Plaintiff and the Reporting Time Class Against Soliant and Does 1-20)

50. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as though fully set forth herein.

51. The Applicable Wage Orders provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

52. At all times relevant hereto, Soliant required Plaintiff and the Reporting Pay Class to report to work a short period of time prior to the start of their upcoming shift (i.e. no earlier than the night before their scheduled shift) by making themselves available so that their assigned facilities could establish contact with them and notify them about getting called off work. If Plaintiff and the Reporting Pay Class were called off worked because, among other reasons, their assigned facilities had a "low census" during their regular shift, then Soliant did not provide the reporting time pay to Plaintiff or the Reporting Pay Class.

53. As a direct and proximate result of Soliant's unlawful actions as set forth herein, Plaintiff and the California Reporting Pay Class have been damaged in that they have not been paid the reporting time pay required under the Applicable Wage Orders.

SECOND CAUSE OF ACTION

[FAILURE TO PAY FOR ALL HOURS WORKED]

(Plaintiff and the Unpaid Time Class Against Soliant and Does 1-20)

54. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as though fully set forth herein.

55. At all times relevant hereto, Soliant was required to compensate their non-exempt employees for all hours worked and all pay promised pursuant to the Applicable Wage Orders and Labor Code §§ 200, 223, 226, 500, 510, 1197 and 1198.

1 56. At all times relevant hereto, Soliant failed to compensate Plaintiff and the Unpaid
2 Time Class for all their worked hours and all their on-call time.

3 57. Under the Applicable Wage Orders, statutes, and regulations, Plaintiff and the
4 Unpaid Time Class are entitled to recover compensation for all unpaid worked hours and all their
5 unpaid on-call time during the applicable recovery period, plus reasonable attorneys' fees and
6 costs of suit pursuant to Labor Code § 218.5, and penalties pursuant to Labor Code §§ 203 and
7 226.

8 58. In violation of California law, Soliant has knowingly and willfully refused to
9 perform its obligations to compensate Plaintiff and the Unpaid Time Class for all wages earned
10 and all worked hours and all their on-call time. As a direct result, they have suffered, and continue
11 to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such
12 unpaid wages, incurred expenses and attorneys' fees in seeking to compel Soliant to fully perform
13 their obligations under California law, all to their respective damage in amounts according to
14 proof at time of trial, but in amounts in excess of the jurisdiction of this Court.

15 59. Soliant's conduct described herein violates Labor Code §§ 200, 223, 226, 500,
16 1197 and 1198, and the Applicable Wage Orders. Therefore, pursuant to Labor Code §§ 203,
17 218.5, 226, 558, 1194 and 1194.2, Plaintiff and the Unpaid Time Class are entitled to recover
18 damages for the nonpayment of wages of all their worked hours and all their on-call time in
19 addition to penalties, reasonable attorneys' fees, expenses, and costs of suit.

20 **THIRD CAUSE OF ACTION**

21 **[FAILURE TO PAY OVERTIME]**

22 **(Plaintiff and the Overtime Class Against Soliant and Does 1-20)**

23 60. Plaintiff hereby incorporates by reference all other allegations contained in this
24 Complaint as though fully set forth herein.

25 61. Pursuant to Labor Code §§ 200, 226, 500, 510 and 1198 and the Applicable Wage
26 Orders at all times relevant hereto, Soliant was required to compensate Plaintiff, the Overtime
27 Class for all worked overtime hours, which is calculated at one and one-half times the regular
28 rate of pay for all hours worked in excess of 8 hours per day and/or 40 hours per week. Soliant

1 was also required to compensate Plaintiff and the Overtime Class for all hours worked in excess
2 of 12 hours in any workday at double their regular rate of pay. In addition, under California law,
3 Soliant was required to include the so-called “stipend” payments made to Plaintiff and the
4 Stipend Class in their regular rates of pay in order to determine their lawful overtime and double-
5 time pay.

6 62. Plaintiff, the Overtime Class and the Stipend Class are non-exempt employees
7 entitled to the protections of the Applicable Wage Orders, and Labor Code §§ 200, 226, 500, 510,
8 and 1198.

9 63. Throughout their employment with Soliant, Plaintiff and the Overtime Class
10 worked in excess of 8 hours in a workday, 12 hours in a workday, and/or 40 hours in a workweek
11 However, Soliant failed to properly compensate them for all their overtime and/or double-time
12 hours worked as required under the aforementioned laws.

13 64. Throughout their employment with Soliant, Plaintiff and the Stipend Class also
14 worked in excess of 8 hours in a workday, 12 hours in a workday, and/or 40 hours in a workweek.
15 However, Soliant failed to include the value of the stipend payments, including, but not limited
16 to, housing, meals and incidentals payments, whether paid in cash or in kind, in the regular rates
17 of pay for Plaintiff and the Stipend Class for purposes of calculating their overtime and double-
18 time pay.

19 65. As a direct result of aforementioned violations, Plaintiff, the Overtime Class and
20 the Stipend Class have suffered, and continue to suffer, substantial losses related to the use and
21 enjoyment of such wages, lost interest on such wages, and expenses and attorney's fees in seeking
22 to compel Soliant to fully perform their obligations under state law, all to these employees’
23 respective damage in amounts according to proof at time of trial, but in amounts in excess of the
24 jurisdiction of this Court.

25 66. Pursuant to Labor Code § 200, 203, 218.5, 226, 558, and 1194, Plaintiff, the
26 Overtime Class and the Stipend Class are entitled to recover owed overtime and double-time
27 compensation from Soliant and civil penalties, plus interest penalties, attorney's fees, expenses,
28 and costs of suit.

FOURTH CAUSE OF ACTION

[FAILURE TO PAY MINIMUM WAGE]

(Plaintiff and the Unpaid Time Class Against Soliant and Does 1-20)

67. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as though fully set forth herein.

68. Pursuant to Labor Code §§ 1194, 1194.2, and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the Applicable Wage Orders.

69. Pursuant to the Applicable Wage Orders “hours worked” include “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

70. At all times relevant hereto, Plaintiff and the Unpaid Time Class suffered, were permitted, and required to perform work for which they received no pay. As a direct and proximate result of Soliant’s failure to pay Plaintiff and the Unpaid Time Class, they have been damaged in the amount of the owed minimum wages.

71. Pursuant to Labor Code §§ 1194 and 1194.2, Plaintiff and the Unpaid Time Class are entitled to recover the full amount of unpaid minimum wages, liquidated damages in an equal amount, interest and attorney's fees, all in a total amount subject to proof at time of trial.

72. The aforementioned acts by Soliant were undertaken with the intention of depriving Plaintiff and the Unpaid Time Class of their property and/or legal rights and causing injury to them.

FIFTH CAUSE OF ACTION

[FAILURE TO AUTHORIZE AND/OR PERMIT MEAL BREAKS]

(Plaintiff and the Meal Break Class Against Soliant and Does 1-20)

73. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as though fully set forth herein.

1 74. Labor Code § 226.7(a) provides, "No employer shall require any employee to
2 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
3 Commission."

4 75. Labor Code § 512(a) provides, in relevant part, that: "An employer may not
5 employ an employee for a work period of more than five hours per day without providing the
6 employee with a meal period of not less than 30 minutes, except that if the total work period per
7 day of the employee is no more than six hours, the meal period may be waived by mutual consent
8 of both the employer and employee. An employer may not employ an employee for a work period
9 of more than 10 hours per day without providing the employee with a second meal period of not
10 less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second
11 meal period may be waived by mutual consent of the employer and the employee only if the first
12 meal period was not waived."

13 76. Throughout their employment with Soliant, Plaintiff and the Meal Break Class
14 regularly worked in excess of 5-hour work periods without being authorize and/or permitted to
15 take a lawful meal break, as required by Labor Code §§ 226.7, 512, and the Applicable Wage
16 Orders.

17 77. Throughout their employment with Soliant, Soliant failed to pay Plaintiff and the
18 Meal Break Class premium wages mandated by Labor Code § 226.7(b) for these unlawful meal
19 breaks. As a result of violations of Labor Code §§ 226.7 and 512 and the Applicable Wage Orders,
20 Soliant is liable for civil penalties pursuant to Labor Code §§ 558 and 2698 et seq.

21 78. Plaintiff and the Meal Break Class are entitled to recover one additional hour of
22 pay at their regular rate of compensation for each workday that a meal period was not authorized
23 and/or permitted. Plaintiff and the Meal Break Class are also entitled to their costs and reasonable
24 attorneys' fees, according to proof and to interest on all due and unpaid wages at the legal rate of
25 interest.

SIXTH CAUSE OF ACTION

[FAILURE TO AUTHORIZE AND/OR PERMIT REST BREAKS]

(Plaintiff and the Rest Break Class Against Soliant and Does 1-20)

79. Plaintiff hereby incorporates by reference all other allegations contained in this Complaint as though fully set forth herein

80. California Labor Code § 226.7(a) provides, "No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission."

81. The Applicable Wage Orders require that employers authorize or permit non-exempt employees to take a rest break that must, insofar as practicable, be taken in the middle of each work period. The rest break is based on the total hours worked daily and must be at the minimum rate of a net ten consecutive minutes for each four-hour work period, or major fraction thereof.

82. Pursuant to Labor Code § 226.7, if an employer fails to authorize or permit an employee a rest break in accordance with the Applicable Wage Orders, the employer shall pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the rest break is not provided. The provisions of the Applicable Wage Orders state that the rest break is defined as a "net" ten minutes, which means that the rest break begins when the employee reaches an area away from the work area that is appropriate for rest.

83. Throughout their employment with Soliant, Soliant did not authorize or permit pay Plaintiff and the Rest Break Class to take lawful rest breaks and failed to pay premium wages mandated by Labor Code § 226.7(b) to this group of employees. As a result of violations of Labor Code §§ 226.7 and the Applicable Wage Orders, Soliant is liable for civil penalties pursuant to Labor Code §§ 558 and 2698 et seq.

84. Plaintiff and the Rest Break Class are entitled to recover one additional hour of pay at their regular rate of compensation for each work day that a rest break was not authorized and/or permitted. Plaintiff and the Rest Break Class are also entitled to their costs and reasonable

1 attorneys' fees, according to proof and to interest on all due and unpaid wages at the legal rate of
2 interest.

3 **SEVENTH CAUSE OF ACTION**

4 **[FAILURE TO FURNISH ACCURATE WAGE STATEMENTS]**

5 **(Plaintiff and the Classes Against Soliant and Does 1-20)**

6 85. Plaintiff hereby incorporate by reference all other allegations contained in this
7 Complaint as though fully set forth herein.

8 86. This claim is brought under Labor Code § 226(a), which sets forth reporting
9 requirements for employers when paying wages, including that every employer shall furnish each
10 of his or her employees an itemized statement in writing showing, among other things, (1) gross
11 wages earned, (2) total hours worked by the employee, (3) net wages earned, (4) all applicable
12 hourly rates in effect during the pay period, (5) the corresponding number of hours worked at
13 each hourly rate, and (6) the name and address of the legal entity that is the employer.

14 87. Labor Code § 226(e) provides that an employee suffering injury as a result of a
15 knowing and intentional failure by an employer to comply with subdivision (a) is entitled to
16 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
17 a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent
18 pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled
19 to an award of costs and reasonable attorney's fees.

20 88. Soliant knowingly and intentionally failed to provide Plaintiff and the Classes
21 with paycheck deduction statements accurately displaying the information required by Labor
22 Code § 226(a).

23 89. As a direct and proximate result of Soliant's conduct as alleged above, Plaintiff
24 and the Classes are each entitled to a civil penalty of \$50 for the initial pay period and \$100 for
25 each subsequent pay period in which Soliant violated the reporting requirements of Labor Code
26 § 226, up to a maximum of \$4,000. Additionally, under Labor Code § 226.3, Soliant is subject
27 to a civil penalty in the amount of \$250 per employee per violation in an initial citation and
28 \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to

1 provide the employee a wage deduction statement or fails to keep the records required under
2 Labor Code § 226(a).

3 **EIGHTH CAUSE OF ACTION**

4 **[WAITING TIME PENALTIES]**

5 **(Plaintiff and the Classes Against Soliant and Does 1-20)**

6 90. Plaintiff hereby incorporates by reference all other allegations contained in this
7 Complaint as though fully set forth herein.

8 91. Labor Code §§ 201 and 202 require that an employer pay all wages due to an
9 employee after said employee is discharged or quits.

10 92. Labor Code § 203 provides a penalty for the willful failure to pay all wages due
11 to an employee who is discharged or quits. This penalty consists of an amount equal to the sum
12 of the employee's wages at the employee's prior rate of pay, until the unpaid wages are paid, in
13 an amount not to exceed the equivalent of 30 days' pay.

14 93. At all relevant times hereto, Plaintiff and numerous members in the Classes
15 employed have separated from Soliant as a result of being discharged or having voluntarily
16 resigned their employment.

17 94. While employed by Soliant, these employees were entitled to compensation for
18 the violations set forth in this Complaint. Soliant failed to pay all wages due to the Plaintiff and
19 the members of the Classes who separated from Soliant, by failing to pay for, among other things,
20 reporting time, all hours worked, overtime and double-time, and premium wages for unlawful
21 meal breaks. Soliant is required to compensate these employees for all their unpaid wages earned
22 and an additional penalty equal to the daily earnings of such employees up to an amount equal to
23 those owed for 30 days of work.

24 **NINTH CAUSE OF ACTION**

25 **[BREACH OF CONTRACT]**

26 **(Plaintiff and the Unpaid Bonus Class Against Soliant and Does 1-20)**

27 95. Plaintiff hereby incorporates by reference all other allegations contained in this
28 Complaint as though fully set forth herein.

1 96. At all relevant times hereto, Soliant agreed to pay Plaintiff and the Unpaid Bonus
2 Class non-discretionary bonuses if they fulfilled certain terms and conditions. Plaintiff performed
3 all said terms and conditions, and upon information and belief, so did the members of the Unpaid
4 Bonus Class, except from those terms and conditions from which they were excused from
5 performing. However, Soliant failed to pay the non-discretionary bonuses earned by Plaintiff and
6 the Unpaid Bonus Class and in doing so breach their agreement to this group of employees.

7 97. As a proximate result of Soliant's breach of contracts, Plaintiff and the Unpaid
8 Bonus Class sustained damages by not receiving their earned non-discretionary bonuses, all of
9 which will be determined in a sum according to proof at trial. Plaintiff and the Unpaid Bonus
10 Class are also entitled to recover lost interest on the amount of their earned, but unpaid, non-
11 discretionary bonuses.

12 **TENTH CAUSE OF ACTION**

13 **[NEGLIGENT MISREPRESENTATION]**

14 **(By Plaintiff and the Unpaid Bonus Class Against Soliant and Does 1-20)**

15 98. Plaintiff hereby incorporates by reference all other allegations contained in this
16 Complaint as though fully set forth herein.

17 99. As alleged above, Soliant promised Plaintiff and the Unpaid Bonus Class non-
18 discretionary bonuses. Despite such promise, it negligently failed to this group of employees their
19 earned non-discretionary bonuses.

20 100. Soliant negligently made the foregoing misrepresentations with the intention of
21 inducing Plaintiff and the Unpaid Bonus Class to work for them, or with the expectation that this
22 group of employees would do so.

23 101. As a proximate result of the foregoing negligent misrepresentations by Soliant,
24 Plaintiff and the Unpaid Bonus Class were induced to work for them, and thereby sustained
25 damages by not receiving their earned non-discretionary bonuses, all of which will be determined
26 in a sum according to proof at trial. Plaintiff and the Unpaid Bonus Class are also entitled to
27 recover lost interest on the amount of the earned, but unpaid, non-discretionary bonuses.
28

1 **ELEVENTH CAUSE OF ACTION**

2 **[UNFAIR BUSINESS PRACTICES]**

3 **(Plaintiff and the Classes Against Soliant and Does 1-20)**

4 102. Plaintiff hereby incorporates by reference all other allegations contained in this
5 Complaint as though fully set forth herein.

6 103. Soliant has engaged in unfair business practices in California by practicing,
7 employing and utilizing the employment practices outlined in this Complaint by requiring its
8 non-exempt employees to perform the labor complained of herein without proper compensation.
9 Soliant's utilization of such unfair business practices constitutes unfair competition and provides
10 an unfair advantage over their competitors.

11 104. Plaintiff and the Classes seek full restitution and disgorgement of monies, as
12 necessary and according to proof, to restore any and all monies withheld, acquired and/or
13 converted by Soliant by means of the unfair practices complained of herein.

14 105. Plaintiff and the Classes seek, on their own behalf and on behalf of the general
15 public, the appointment of a receiver, as necessary. The acts complained of herein occurred, at
16 least in part, within the last four (4) years preceding the filing of the original complaint in this
17 action.

18 106. Upon information and belief, Plaintiff alleges that at all times herein mentioned
19 Soliant has engaged in unlawful, deceptive and unfair business practices, as proscribed by
20 Business and Professions Code § 17200 et seq., including those set forth in the Complaint herein,
21 thereby depriving Plaintiff and the Classes, and other members of the general public the
22 minimum working condition standards and conditions due to them under the California labor
23 laws and the applicable Wage Orders as specifically described herein.

24 107. Plaintiff and the Classes are further entitled to and do seek both a declaration that
25 the above-described business practices are unfair, unlawful and/or fraudulent and injunctive
26 relief restraining Soliant from engaging in any of such business practices in the future. Such
27 misconduct unless and until enjoined and restrained by order of this Court, will cause great and
28 irreparable injury in that Soliant will continue to violate these California laws, represented by

1 labor statutes and the wage orders, unless specifically ordered to comply with same. This
2 expectation of future violations will require current and future employees to repeatedly and
3 continuously seek legal redress in order to gain compensation to which they are entitled under
4 California law. Plaintiff and the Classes have no other adequate remedy at law to ensure future
5 compliance with the California labor laws and the Applicable Wage Orders alleged to have been
6 violated herein.

7 **TWELFTH CAUSE OF ACTION**

8 **[PAGA VIOLATIONS]**

9 **(By Plaintiff and Aggrieved Employees Against Soliant and Does 1-20)**

10 108. Plaintiff hereby incorporates by reference all other allegations contained in this
11 Complaint as though fully set forth herein.

12 109. Plaintiff and those employees in the Classes who have worked during the recovery
13 period applicable under the Private Attorney General Act (“PAGA”) are aggrieved employees as
14 defined under Labor Code § 2699(a) (“Aggrieved Employees”). Plaintiff and the Aggrieved
15 Employees bring this cause on behalf of themselves as affected by the labor law violations
16 alleged in this Complaint.

17 110. Soliant has committed violations of the Labor Code against Plaintiff and the
18 Aggrieved Employees, as alleged in this Complaint, including, but not limited to, the following:

- 19 a. Failure to pay reporting time pay in violation of the Applicable Wage Orders.
 - 20 b. Failure to pay for all hours worked, and all pay promised, in violation of the
21 Applicable Wage Orders and Labor Code §§ 200, 226, 500, 510, 1197 1197.1 and
22 1198.
 - 23 c. Failure to pay minimum wage in violation the Applicable Wage Orders and Labor
24 Code §§ 1194, 1194.2 and 1197.
 - 25 d. Failure to include travel stipends, and non-discretionary bonuses in the regular
26 rates of pay to determine the overtime rates of pay in violation of the Applicable
27 Wage Orders and Labor Code §§ 510, 558, 1194 and 1197.1
- 28

- 1 e. Failure to pay for all overtime hours worked in violation of the Applicable Wage
2 Orders and Labor Code §§ 510, 558, 1194 and 1197.1.
- 3 f. Failure to authorize or permit lawful meal periods in violation of the Applicable
4 Wage Orders and Labor Code §§ 226.7 and 512.
- 5 g. Failure to provide accurate wage statements in violation of Labor Code § 226.
- 6 h. Failure to pay all wages due on the date of employees' involuntary termination or
7 within 72 hours of receipt of notice of employees' voluntary termination in
8 violation of Labor Code §§ 201 and 202, resulting in penalties owed under Labor
9 Code § 203.

10 111. Additionally, during the applicable recovery period, Soliant has a had policy
11 and/or practice of failing to include the uncontrolled on-call (i.e. standby) time stipends it pays
12 to Aggrieved Employees, including Plaintiff, from their regular rates of pay in order to determine
13 their overtime rates of pay. For instance, in its employment agreement with Plaintiff for the
14 assignment at Kern Medical Center spanning from October 13, 2018 to April 12, 2019, Soliant
15 agreed to pay Plaintiff \$71 an hour for his regular hours \$106.5 an hour for his overtime hours.
16 Soliant also agreed to pay Plaintiff \$5 an hour for his on-call hours. During the pay period
17 spanning from October 22, 2018 to October 28, 2018, Plaintiff worked 26.5 on-call hours and at
18 \$5 an hour, Soliant paid him \$133 for his on-call hours for that pay period. Yet, Soliant did not
19 include this amount in Plaintiff's regular rate of pay in determining his legal overtime rate for
20 that pay period. Under California law, stipends paid for uncontrolled on-call time must be
21 included in the regular rates of pay for calculating the legal overtime rates of pay, and Aggrieved
22 Employees, including Plaintiff, are entitled to recover civil penalties under PAGA for each of
23 these violations.

24 112. On August 21, 2019, Plaintiff sent a written notice to Soliant and the Labor and
25 Workforce Development Agency ("LWDA") notifying them of the specific violations and the
26 facts and theories supporting those violations. More than 60 days have passed since the date the
27 notice was mailed to Soliant and LWDA. A true and correct copy of Plaintiff's written notice to
28 Soliant and the LWDA is attached hereto as "Exhibit A", which Plaintiff incorporates by

1 reference as though fully set forth herein, except for the allegations against RightSourcing, Inc.,
2 which has been voluntarily dismissed from this action. (Dkt. 19).

3 113. Plaintiff and the Aggrieved Employees seek to recover all civil penalties and all
4 underpaid wages allowed under Labor Code §§ 558, 2698, 2699, 2699.3 and 2699.5 for which
5 Soliant is liable as a result of their violations of the Labor Code during the applicable recovery
6 period, all in an amount to be proven at trial. These include, but are not limited to, penalties
7 pursuant to Labor Code § 210 for violations of Labor Code §§ 201, 202, 203 and 204; penalties
8 pursuant to Labor Code § 226.3 for violations Labor Code § 226 and the Applicable Wage
9 Orders; penalties and underpaid wages pursuant to Labor Code § 558, including an amount
10 sufficient to recover underpaid wages due for violations of the Labor Code §§ 226.7 and 558 and
11 the Applicable Wage Orders; and penalties pursuant to Labor Code § 1197.1 for violations Labor
12 Code §§ 1182, 1182.12, and 1198 and the Applicable California Wage Orders.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, pray for
15 relief and judgment against Defendants as follows:

- 16 1. Certification of this action as a class action on behalf of each of the classes alleged
17 in this Complaint;
- 18 2. For general damages, according to proof, on each cause of action for which such
19 damages are available;
- 20 3. For compensatory damages, according to proof, on each cause of action for which
21 such damages are available;
- 22 4. For consequential damages, according to proof, on each cause of action for which
23 such damages are available;
- 24 5. For restoration and restitution of lost wages, statutory penalties, and all other
25 remedies afforded under the Labor Code on all causes of action for violation of the Labor Code;
- 26 6. For declaratory and injunctive relief as requested herein;
- 27 7. For prejudgment and post-judgment interest according to law;
- 28

1 8. For reasonable attorneys' fees incurred in this action on those causes of action for
2 which such fees are recoverable under the law;

3 9. For costs of suit incurred in this action;

4 10. Disgorgement of all gains unjustly gained by Defendants;

5 11. For all civil penalties recoverable under PAGA; and

6 12. Any other remedies, whether in law or equity, that the Court deems properly.

7
8 Dated: December 4, 2019

Respectfully submitted,
SHAKOURI LAW FIRM
KOUL LAW FIRM

9
10 By: Ashkan Shakouri
11 Ashkan Shakouri
12 Nazo Koulloukian
13 Attorneys for Plaintiff and the Proposed
14 Classes

15
16 **DEMAND FOR JURY TRIAL**

17 Plaintiff demands a jury trial on issues triable to a jury.

18
19 Dated: December 4, 2019

Respectfully submitted,
SHAKOURI LAW FIRM
KOUL LAW FIRM

20
21 By: Ashkan Shakouri
22 Ashkan Shakouri
23 Nazo Koulloukian
24 Attorneys for Plaintiff and the Proposed
25 Classes