

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

VENUS ET FLEUR LLC, a New Jersey Limited Liability Company; and
DOES 1-50, Inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

VERONICA A. MARAVILLA, an individual, on behalf of herself and on
behalf of all persons similarly situated,

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Los Angeles Superior Court, Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, CA 90012

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Shani O. Zakay, Esq. SBN:2277924 Tel: (619) 255-9047 Fax: (858) 404-9203
Zakay Law Group, APLC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE: 02/16/2022
(Fecha) Clerk, by Sherri R. Carter Executive Officer / Clerk of Court, Deputy
(Secretario) J. Covarrubias *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
- ☐ as an individual defendant.
 - ☐ as the person sued under the fictitious name of *(specify)*:
 - ☐ on behalf of *(specify)*:
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*:
 - ☐ by personal delivery on *(date)*:

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)

Eduardo Garcia (State Bar #290572)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619) 599-8292

Facsimile: (619) 599-8291

jlapyade@jcl-lawfirm.comegarcia@jcl-lawfirm.com**ZAKAY LAW GROUP, APLC**

Shani O. Zakay (State Bar #277924)

Jackland K. Hom (State Bar #327243)

Julieann Alvarado (State Bar #334727)

5440 Morehouse Dr., Ste 3600

San Diego, CA 92121

Telephone: (619)255-9047

Facsimile: (858) 404-9203

shani@zakaylaw.comjackland@zakaylaw.comjulieann@zakaylaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA**IN AND FOR THE COUNTY OF LOS ANGELES**

VERONICA A. MARAVILLA, an individual,
on behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

v.

VENUS ET FLEUR LLC, a New Jersey
Limited Liability Company; and DOES 1-50,
Inclusive,

Defendants.

Case No: **22STCV05864****CLASS ACTION COMPLAINT FOR:**

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510 *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN

DUE IN VIOLATION OF CAL. LAB.
CODE §§ 201, 202 AND 203;
8) FAILURE TO REIMBURSE
EMPLOYEES FOR REQUIRED
EXPENSES IN VIOLATION OF
CALIFORNIA LABOR CODE §2802.
9) VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT [LABOR
CODE §§ 2698 ET SEQ.]

DEMAND FOR A JURY TRIAL

Plaintiff VERONICA A MARAVILLA (“PLAINTIFF”), an individual, on behalf of herself and all other similarly situated current and former employees, alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

THE PARTIES

1. Defendant VENUS ET FLEUR LLC (“DEFENDANT”) is a New Jersey limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California, county of Los Angeles, owns, operates, and/or manages floral arrangements stores.

2. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, (hereinafter collectively “DEFENDANTS” and/or “DEFENDANT”) are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

3. The agents, servants, and/or employees of the Defendants and each of them acting on behalf of the DEFENDANTS acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein.

1 Consequently, the acts of each Defendant are legally attributable to the other Defendants and all
2 Defendants are jointly and severally liable to PLAINTIFF and the other members of the
3 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
4 Defendants' agents, servants and/or employees.

5 4. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
6 PLAINTIFF's employer, within the meaning of California Labor Code § 558, who violated or
7 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
8 regulating hours and days of work in any order of the Industrial Welfare Commission and, as
9 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,
10 at all relevant times.

11 5. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
12 PLAINTIFF's employer either individually or as an officer, agent, or employee of another person,
13 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
14 employee a wage less than the minimum fixed by California state law, and as such, are subject to
15 civil penalties for each underpaid employee

16 6. PLAINTIFF was employed by DEFENDANT in California from November of
17 2020 to May of 2021 and was at all times classified by DEFENDANT as a non-exempt employee,
18 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of
19 minimum and overtime wages due for all time worked.

20 7. PLAINTIFF brings this Class Action on behalf of herself and a California class,
21 defined as all persons who are or previously were employed by DEFENDANT in California and
22 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period
23 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
24 by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate claim of the
25 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

26 8. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
27 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
28 the CLASS PERIOD caused by DEFENDANT's uniform policy and practice which failed to
lawfully compensate these employees. DEFENDANT's uniform policy and practice alleged
herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained

1 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA
2 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
3 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
4 other members of the CALIFORNIA CLASS who have been economically injured by
5 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable
6 relief.

7 9. DEFENDANTS' uniform policies and practices alleged herein were unlawful,
8 unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain
9 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

10 10. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an
11 injunction enjoining such conduct by DEFENDANTS in the future, relief for the named
12 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically
13 injured by DEFENDANTS's past and current unlawful conduct, and all other appropriate legal
14 and equitable relief.

15 **JURISDICTION AND VENUE**

16 11. This has jurisdiction over this Action pursuant to California Code of Civil
17 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
18 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
19 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

20 12. Venue is proper in this Court pursuant to California Code of Civil Procedure,
21 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
22 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities
23 in this County and/or conducts substantial business in this County, and (ii) committed the
24 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

25 **THE CONDUCT**

26 13. In violation of the applicable sections of the California Labor Code and the
27 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
28 matter of company policy, practice and procedure, intentionally, knowingly and systematically
failed to provide legally compliant meal and rest periods, failed to accurately compensate

1 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
2 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
3 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF
4 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,
5 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest
6 premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS
7 Members for business expenses, and failed to issue to PLAINTIFF and the members of the
8 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, the
9 accurate total hours worked and all applicable hourly rates in effect during the pay periods and
10 the corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies
11 and practices are intended to purposefully avoid the accurate and full payment for all time worked
12 as required by California law which allows DEFENDANTS to illegally profit and gain an unfair
13 advantage over competitors who comply with the law. To the extent equitable tolling operates to
14 toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should
15 be adjusted accordingly.

16 **A. Meal Period Violations**

17 14. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
18 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
19 meaning the time during which an employee is subject to the control of an employer, including
20 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
21 PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work
22 without paying them for all the time they were under DEFENDANTS' control. Specifically, as a
23 result of PLAINTIFF's demanding work requirements, being required to produce flower
24 arrangements to fulfill customer orders, and DEFENDANT'S understaffing, DEFENDANTS
25 required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's
26 off-duty meal break. PLAINTIFF was from time to time interrupted by work assignments while
27 clocked out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were
28 many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF

1 and other CALIFORNIA CLASS Members forfeited minimum wage and overtime wages by
2 regularly working without their time being accurately recorded and without compensation at the
3 applicable minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not
4 to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked is evidenced
5 by DEFENDANTS' business records.

6 15. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
7 requirements, being required to produce flower arrangements to fulfill customer orders, and
8 DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA CLASS
9 Members were from time to time unable to take thirty (30) minute off-duty meal breaks and were
10 not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS
11 Members were required from time to time to perform work as ordered by DEFENDANTS for
12 more than five (5) hours during some shifts without receiving a meal break. Further,
13 DEFENDANTS from time to time failed to provide PLAINTIFF and CALIFORNIA CLASS
14 Members with a second off-duty meal period for some workdays in which these employees were
15 required by DEFENDANTS to work ten (10) hours of work from time to time. The nature of the
16 work performed by PLAINTIFF and other CALIFORNIA CLASS Members does not qualify for
17 limited and narrowly construed "on-duty" meal period exception. When they were provided with
18 meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time,
19 required to remain on duty and on call. PLAINTIFF and other CALIFORNIA CLASS Members
20 therefore forfeited meal breaks without additional compensation and in accordance with
21 DEFENDANTS' strict corporate policy and practice.

22 **B. Rest Period Violations**

23 16. From time-to-time during the CLASS PERIOD, PLAINTIFF and other
24 CALIFORNIA CLASS members were also required from time to time to work in excess of four
25 (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work
26 requirements, being required to produce flower arrangements to fulfill customer orders, and
27 DEFENDANTS' inadequate staffing. Further, for the same reasons these employees were denied
28 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four

(4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time, required to remain on duty, on call, and/or on the premises. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and DEFENDANTS' inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

C. Regular Rate Violation – Overtime, Double Time, Sick Pay and Meal and Rest Period

Premiums

17. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and continue to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS Members for their overtime and double time hours worked, meal and rest period premiums, and sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members forfeited wages due them for working overtime without compensation at the correct overtime, double time, meal and rest period premiums, and sick pay rates. DEFENDANTS' uniform policy and practice to not pay the PLAINTIFF and the CALIFORNIA CLASS the correct overtime rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by DEFENDANTS' business records.

18. State law provides that employees must be paid overtime at one-and-one half times their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance.

19. The second component of PLAINTIFF's and other CALIFORNIA CLASS Member's compensation was DEFENDANTS' non-discretionary incentive program that paid PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their performance for DEFENDANTS. The non-discretionary bonus program provided all employees

1 paid on an hourly basis with bonus, and/or commission compensation when the employees met
2 the various performance goals set by DEFENDANTS. Additionally, DEFENDANT gave
3 PLAINTIFF and the CALIFORNIA CLASS received bonuses when the employees met various
4 performance goals set by DEFENDANT.

5 20. However, from-time-to-time, when calculating the regular rate of pay, in those pay
6 periods where PLAINTIFF and the CALIFORNIA CLASS Members worked overtime and
7 earned this non-discretionary bonus, commission, or incentive DEFENDANTS failed to
8 accurately include the non-discretionary bonus compensation and/or commission and/or incentive
9 paid as part of the employees' "regular rate of pay" and/or calculated all hours worked rather than
10 just all non-overtime/double time hours worked. Further, when calculating the regular rate of pay
11 in order to pay sick pay to PLAINTIFF and the CALIFORNIA CLASS, DEFENDANTS failed
12 to include the incentive compensation as part of the employees' "regular rate of pay" for purposes
13 of calculating sick pay. Management and supervisors described the incentive/bonus program to
14 potential and new employees as part of the compensation package. As a matter of law, the
15 incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS Members
16 must be included in the "regular rate of pay." The failure to do so has resulted in a systematic
17 underpayment of overtime and/or sick pay compensation to PLAINTIFF and other CALIFORNIA
18 CLASS Members by DEFENDANTS.

19 21. As a matter of law, the incentive and commission compensation received by
20 PLAINTIFFS and other CALIFORNIA CLASS members must be included and correctly
21 calculated into the "regular rate of pay" for purposes of overtime and double time compensation,
22 meal and rest period premiums, and sick pay. DEFENDANTS' failure to do so has resulted in
23 DEFENDANTS' systematic underpayment of overtime and double time compensation, meal and
24 rest period premiums, and sick pay to PLAINTIFF and other CALIFORNIA CLASS members.
25 Specifically, California Labor Code Section 246 mandates that paid sick time for non-employees
26 shall be calculated in the same manner as the regular rate of pay for the workweek in which the
27 non-exempt employee uses paid sick time, whether or not the employee actually works overtime
28 in that workweek. DEFENDANT'S conduct, as articulated herein, by failing to include the

1 incentive compensation as part of the “regular rate of pay” for purposes of sick pay compensation
2 was in violation of Cal. Lab. Code § 246.

3 22. In violation of the applicable sections of the California Labor Code and the
4 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
5 matter of company policy, practice, and procedure, intentionally, and knowingly failed to
6 compensate PLAINTIFF and the CALIFORNIA CLASS at the correct rate of pay for all overtime,
7 double time, meal and rest period premiums, and/or sick pay compensation. This uniform policy
8 and practice of DEFENDANTS is intended to purposefully avoid the payment of the correct
9 overtime, double time, meal and rest period premiums, and/or sick pay compensation as required
10 by California law which allowed DEFENDANTS to illegally profit and gain an unfair advantage
11 over competitors who complied with the law. To the extent equitable tolling operates to toll
12 claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be
13 adjusted accordingly.

14 **D. Unreimbursed Business Expenses**

15 23. DEFENDANTS as a matter of corporate policy, practice, and procedure,
16 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF
17 and the CALIFORNIA CLASS for required business expenses incurred by the PLAINTIFF and
18 other CALIFORNIA CLASS Members in direct consequence of discharging their duties on behalf
19 of DEFENDANTS. Under California Labor Code Section 2802, employers are required to
20 indemnify employees for all expenses incurred in the course and scope of their employment. Cal.
21 Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all
22 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
23 of his or her duties, or of his or her obedience to the directions of the employer, even though
24 unlawful, unless the employee, at the time of obeying the directions, believed them to be
25 unlawful."

26 24. In the course of their employment, DEFENDANTS required PLAINTIFF and
27 other CALIFORNIA CLASS Members to use their personal cell phone to photograph floral
28 arrangement designs and for work-related communications as a result of and in furtherance of

1 their job duties as employees for DEFENDANT. But for the use of their own personal cell phones,
2 PLAINTIFF and the CALIFORNIA CLASS Members could not complete their essential job
3 duties. However, DEFENDANTS unlawfully failed to reimburse PLAINTIFF and other
4 CALIFORNIA CLASS Members for their use of their personal cell phones. As a result, in the
5 course of their employment with DEFENDANTS, the PLAINTIFF and other CALIFORNIA
6 CLASS Members incurred unreimbursed business expenses, but were not limited to, costs related
7 to the use of their personal cellular phones, all on behalf of and for the benefit of DEFENDANT.

8 **E. Wage Statement Violations**

9 25. California Labor Code Section 226 requires an employer to furnish its employees
10 an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked,
11 (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net
12 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name
13 of the employee and only the last four digits of the employee's social security number or an
14 employee identification number other than a social security number, (8) the name and address of
15 the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay
16 period and the corresponding number of hours worked at each hourly rate by the employee.

17 26. From time to time during the CLASS PERIOD, when PLAINTIFF and other
18 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed
19 meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed
20 to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate
21 wage statements which failed to show, among other things, the total hours worked and all
22 applicable hourly rates in effect during the pay period and the corresponding amount of time
23 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
24 periods.

25 27. Further, from time to time, DEFENDANTS included Holiday, Vacation,
26 Bereavement and Meal Penalty hours into the computation of total hours worked for purposes of
27 Cal. Lab. Code § 226(a)(2), notwithstanding the fact that Holiday, Vacation, Bereavement and
28 Meal Penalty hours are not considered hours worked. DEFENDANTS' inclusion of Holiday,

1 Vacation, Bereavement and Meal Penalty hours into the total hours worked in itemized wage
2 statements issued to PLAINTIFF and other CALIFORNIA CLASS Members violates Cal. Lab.
3 Code § 226(a)(2).

4 28. In addition to the violations described above, DEFENDANTS, from time to time,
5 failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements
6 that comply with Cal. Lab. Code § 226.

7 29. As a result, DEFENDANTS issued PLAINTIFF and the other members of the
8 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
9 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an
10 unintentional payroll error due to clerical or inadvertent mistake.

11 **F. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

12 30. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
13 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
14 CLASS for all hours worked. Specifically, DEFENDANT from time-to-time required
15 PLAINTIFF and the other members of the CALIFORNIA CLASS to perform off-the-clock pre-
16 shift and post-shift work. Specifically, as a condition of employment, required these employees
17 from time to time to wait and submit to Covid-19 health screenings before clocking in at the
18 beginning of each scheduled shift, for which DEFENDANT did not provide compensation for the
19 time spent waiting for and submitting to DEFENDANT's Covid-19 health screenings while off
20 the clock. Notwithstanding, from time-to-time DEFENDANTS failed to pay PLAINTIFF and
21 other members of the CALIFORNIA CLASS necessary wages for attending for performing work
22 at DEFENDANTS' direction, request and benefit, while off-the clock.

23 31. DEFENDANTS directed and directly benefited from the uncompensated off-the-
24 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

25 32. DEFENDANTS controlled the work schedules, duties, protocols, applications,
26 assignments, and employment conditions of PLAINTIFF and the other members of the
27 CALIFORNIA CLASS.

1 33. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
2 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
3 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
4 wages earned and owed for all the work they performed, including pre-shift, post shift and during
5 meal period off-the-clock work.

6 34. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
7 exempt employees, subject to the requirements of the California Labor Code.

8 35. DEFENDANTS' policies and practices deprived PLAINTIFF and the other
9 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
10 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
11 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
12 hours per day, DEFENDANTS' policies and practices also deprived them of overtime pay.

13 36. DEFENDANTS knew or should have known that PLAINTIFF and the other
14 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

15 37. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
16 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
17 for the time spent opening the jewelry store while off-the-clock. DEFENDANTS' uniform policy
18 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
19 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business
20 records.

21 **G. CLASS ACTION ALLEGATIONS**

22 38. PLAINTIFF brings the First through Eighth Causes of Action as a class action
23 pursuant to California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current
24 and former non-exempt California employees ("CALIFORNIA CLASS") during the period
25 beginning four years prior to the filing of the Complaint and ending on a date determined by the
26 Court ("CLASS PERIOD").

27 39. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
28 deprived of wages and penalties from unpaid wages earned and due, including but not limited to

1 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
2 illegal meal and rest period policies, failure to reimburse for business expenses, failure to
3 compensate for off-the-clock work, failure to provide accurate itemized wage statements, failure
4 to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and
5 expenses.

6 40. The members of the class are so numerous that joinder of all class members is
7 impractical.

8 41. Common questions of law and fact regarding DEFENDANTS' conduct, including
9 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to
10 accurately calculate the regular rate of pay for overtime compensation, failure to accurately
11 calculate the regular rate of compensation for missed meal and rest period premiums, failing to
12 provide legally compliant meal and rest periods, failed to reimburse for business expenses, failure
13 to provide accurate itemized wage statements accurate, and failure to ensure they are paid at least
14 minimum wage and overtime, exist as to all members of the class and predominate over any
15 questions affecting solely any individual members of the class. Among the questions of law and
16 fact common to the class are:

- 17 a. Whether DEFENDANTS maintained legally compliant meal period policies and
18 practices;
- 19 b. Whether DEFENDANTS maintained legally compliant rest period policies and
20 practices;
- 21 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
22 CLASS Members accurate premium payments for missed meal and rest periods;
- 23 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
24 CLASS Members accurate overtime wages;
- 25 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
26 CLASS Members at least minimum wage for all hours worked;
- 27 f. Whether Defendants failed to compensate PLAINTIFF and the CALIFORNIA
28 CLASS Members for required business expenses;

- 1 g. Whether DEFENDANTS issued legally compliant wage statements;
- 2 h. Whether DEFENDANTS failed to pay PLAINTIFF and other CALIFORNIA
- 3 CLASS Members accurate reporting time wages;
- 4 i. Whether DEFENDANTS committed an act of unfair competition by
- 5 systematically failing to record and pay PLAINTIFF and the other members of the
- 6 CALIFORNIA CLASS for all time worked;
- 7 j. Whether DEFENDANTS committed an act of unfair competition by
- 8 systematically failing to record all meal and rest breaks missed by PLAINTIFF
- 9 and other CALIFORNIA CLASS Members, even though DEFENDANTS enjoyed
- 10 the benefit of this work, required employees to perform this work and permits or
- 11 suffers to permit this work;
- 12 k. Whether DEFENDANTS committed an act of unfair competition in violation of
- 13 the UCL, by failing to provide the PLAINTIFF and the other members of the
- 14 CALIFORNIA CLASS with the legally required meal and rest periods.

15 42. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as

16 a result of DEFENDANTS' conduct and actions alleged herein.

17 43. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has

18 the same interests as the other members of the class.

19 44. PLAINTIFF will fairly and adequately represent and protect the interests of the

20 CALIFORNIA CLASS Members.

21 45. 40. PLAINTIFF retained able class counsel with extensive experience in class

22 action litigation.

23 46. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the

24 interests of the other CALIFORNIA CLASS Members.

25 47. 42. There is a strong community of interest among PLAINTIFF and the

26 members of the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of

27 DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA

28 CLASS for the injuries sustained.

48. The questions of law and fact common to the CALIFORNIA CLASS Members predominate over any questions affecting only individual members, including legal and factual issues relating to liability and damages.

49. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all class members is impractical. Moreover, since the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation makes it practically impossible for the members of the class individually to redress the wrongs done to them. Without class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will create the risk of:

- a. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA CLASS; and/or,
- b. Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impeded their ability to protect their interests.

50. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANTS.

FIRST CAUSE OF ACTION

Unlawful Business Practices

(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)

(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

51. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 52. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
2 Code § 17021.

3 53. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
4 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
5 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition
6 as follows:

7 Any person who engages, has engaged, or proposes to engage in unfair competition may
8 be enjoined in any court of competent jurisdiction. The court may make such orders or
9 judgments, including the appointment of a receiver, as may be necessary to prevent the
10 use or employment by any person of any practice which constitutes unfair competition, as
11 defined in this chapter, or as may be necessary to restore to any person in interest any
12 money or property, real or personal, which may have been acquired by means of such
13 unfair competition. (Cal. Bus. & Prof. Code § 17203).
14

15 54. By the conduct alleged herein, DEFENDANT has engaged and continues to
16 engage in a business practice which violates California law, including but not limited to, the
17 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
18 including Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802,
19 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &
20 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
21 unfair competition, including restitution of wages wrongfully withheld.

22 55. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair
23 in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous
24 or substantially injurious to employees, and were without valid justification or utility for which
25 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
26 Business & Professions Code, including restitution of wages wrongfully withheld.

27 56. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
28 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally

1 mandated meal and rest periods and the required amount of compensation for missed meal and
2 rest periods and, due to a systematic business practice that cannot be justified, pursuant to the
3 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.
4 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief,
5 pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

6 57. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
7 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
8 other members of the CALIFORNIA CLASS to be underpaid during their employment with
9 DEFENDANT.

10 58. By the conduct alleged herein, DEFENDANT's practices were also unfair and
11 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
12 legally required meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members
13 as required by Cal. Lab. Code §§ 226.7 and 512.

14 59. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
15 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
16 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
17 each workday in which a second off-duty meal period was not timely provided for each ten (10)
18 hours of work.

19 60. PLAINTIFF further demands on behalf of herself and on behalf of each
20 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
21 not timely provided as required by law.

22 61. By and through the unlawful and unfair business practices described herein,
23 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
24 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
25 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
26 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
27 to unfairly compete against competitors who comply with the law.
28

62. All the acts described herein as violations of, among other things, the Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

63. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and do, seek such relief as may be necessary to restore to them the money and property which DEFENDANT has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair business practices, including earned but unpaid wages for all time worked.

64. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to, and do, seek a declaration that the described business practices are unlawful, unfair, and deceptive, and that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful and unfair business practices in the future.

65. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm unless DEFENDANT is restrained from continuing to engage in these unlawful and unfair business practices.

SECOND CAUSE OF ACTION

Failure To Pay Minimum Wages

(Cal. Lab. Code §§ 1194, 1197 and 1197.1.)

(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

66. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 67. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
2 for DEFENDANT’S willful and intentional violations of the California Labor Code and the
3 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate
4 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

5 68. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
6 policy, an employer must timely pay its employees for all hours worked.

7 69. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
8 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than
9 the minimum so fixed is unlawful.

10 70. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages,
11 including minimum wage compensation and interest thereon, together with the costs of suit.

12 71. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
13 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
14 worked. As set forth herein, DEFENDANT’S uniform policy and practice was to unlawfully and
15 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
16 CALIFORNIA CLASS.

17 72. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,
18 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
19 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
20 and the other members of the CALIFORNIA CLASS in regards to minimum wage pay.

21 73. In committing these violations of the California Labor Code, DEFENDANT
22 inaccurately calculated the amount of time worked and consequently underpaid the actual time
23 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted
24 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
25 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
26 laws and regulations.

1 74. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,
2 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
3 minimum wage compensation for their time worked for DEFENDANT.

4 75. During the CLASS PERIOD, PLAINTIFF and the other members of the
5 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a
6 failure to pay all earned wages.

7 76. By virtue of DEFENDANT’S unlawful failure to accurately pay all earned
8 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
9 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have
10 suffered and will continue to suffer an economic injury in amounts which are presently unknown
11 to them, and which will be ascertained according to proof at trial.

12 77. DEFENDANT knew or should have known that PLAINTIFF and the other
13 members of the CALIFORNIA CLASS are under-compensated for their time worked.
14 DEFENDANT systematically elected, either through intentional malfeasance or gross
15 nonfeasance, to not pay employees for their labor as a matter of uniform corporate policy, practice
16 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
17 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
18 for their time worked.

19 78. In performing the acts and practices herein alleged in violation of California labor
20 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
21 and provide them with the requisite compensation, DEFENDANT acted and continues to act
22 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
23 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
24 consequences to them, and with the despicable intent of depriving them of their property and legal
25 rights, and otherwise causing them injury in order to increase company profits at the expense of
26 these employees.

27 79. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore
28 request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the

1 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
2 California Labor Code and/or other applicable statutes. To the extent minimum wage
3 compensation is determined to be owed to the CALIFORNIA CLASS Members who have
4 terminated their employment, DEFENDANT'S conduct also violates Labor Code §§ 201 and/or
5 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
6 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS
7 Members. DEFENDANT'S conduct as alleged herein was willful, intentional and not in good
8 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and
9 recover statutory costs.

10 **THIRD CAUSE OF ACTION**

11 **Failure To Pay Overtime Compensation**

12 **(Cal. Lab. Code §§ 510, 1194 and 1198)**

13 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

14 80. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
15 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
16 Complaint.

17 81. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
18 for DEFENDANT's willful and intentional violations of the California Labor Code and the
19 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees
20 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
21 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

22 82. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
23 public policy, an employer must timely pay its employees for all hours worked.

24 83. Cal. Lab. Code § 510 further provides that employees in California shall not be
25 employed more than eight (8) hours per workday and more than forty (40) hours per workweek
26 unless they receive additional compensation beyond their regular wages in amounts specified by
27 law.

1 84. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
2 including minimum wage and overtime compensation and interest thereon, together with the costs
3 of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
4 than those fixed by the Industrial Welfare Commission is unlawful.

5 85. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
6 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
7 they worked, including overtime work.

8 86. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
9 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
10 implementing a uniform policy and practice that failed to accurately record overtime worked by
11 PLAINTIFF and other CALIFORNIA CLASS Members and denied accurate compensation to
12 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,
13 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
14 (12) hours in a workday, and/or forty (40) hours in any workweek.

15 87. In committing these violations of the California Labor Code, DEFENDANT
16 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
17 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
18 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
19 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
20 regulations.

21 88. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
22 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full
23 compensation for overtime worked.

24 89. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
25 from the overtime requirements of the law. None of these exemptions are applicable to the
26 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
27 other members of the CALIFORNIA CLASS were not subject to a valid collective bargaining
28 agreement that would preclude the causes of action contained herein this Complaint. Rather,

1 PLAINTIFF brings this Action on behalf of herself and the CALIFORNIA CLASS based on
2 DEFENDANT's violations of non- negotiable, non-waivable rights provided by the State of
3 California.

4 90. During the CLASS PERIOD, PLAINTIFF and the other members of the
5 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,
6 constituting a failure to pay all earned wages.

7 91. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of
8 the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
9 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
10 though PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work,
11 and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay as
12 evidenced by DEFENDANT's business records and witnessed by employees.

13 92. By virtue of DEFENDANT'S unlawful failure to accurately pay all earned
14 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for all
15 overtime worked by these employees, PLAINTIFF and the other members of the CALIFORNIA
16 CLASS have suffered and will continue to suffer an economic injury in amounts which are
17 presently unknown to them, and which will be ascertained according to proof at trial.

18 93. DEFENDANTS knew or should have known that PLAINTIFF and the other
19 members of the CALIFORNIA CLASS were under compensated for all overtime worked.
20 DEFENDANT systematically elected, either through intentional malfeasance or gross
21 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
22 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
23 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked.

24 94. In performing the acts and practices herein alleged in violation of California labor
25 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all overtime
26 worked and provide them with the requisite overtime compensation, DEFENDANT acted and
27 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other
28 members of the CALIFORNIA CLASS with a conscious and utter disregard for their legal rights,

1 or the consequences to them, and with the despicable intent of depriving them of their property
2 and legal rights, and otherwise causing them injury in order to increase company profits at the
3 expense of these employees.

4 95. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore
5 request recovery of all unpaid wages, including overtime wages, according to proof, interest,
6 statutory costs, as well as the assessment of any statutory penalties against DEFENDANT, in a
7 sum as provided by the California Labor Code and/or other applicable statutes. To the extent
8 minimum and/or overtime compensation is determined to be owed to the CALIFORNIA CLASS
9 Members who have terminated their employment, DEFENDANT's conduct also violates Labor
10 Code §§ 201 and/or 202, and therefore these employees would also be entitled to waiting time
11 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these
12 CALIFORNIA CLASS Members. DEFENDANT's conduct as alleged herein was willful,
13 intentional, and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS
14 Members are entitled to seek and recover statutory costs.

15 **FOURTH CAUSE OF ACTION**

16 **Failure To Provide Required Meal Periods**

17 **(Cal. Lab. Code §§ 226.7 & 512)**

18 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

19 96. PLAINTIFF and the other members of the CALIFORNIA CLASS, reallege and
20 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
21 Complaint.

22 97. During the CLASS PERIOD, DEFENDANT failed to provide all the legally
23 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as
24 required by the applicable Wage Order and Labor Code. The nature of the work performed by
25 PLAINTIFF and CALIFORNIA CLASS MEMBERS did not prevent these employees from being
26 relieved of all of their duties for the legally required off-duty meal periods. As a result of their
27 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often not
28 fully relieved of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's

1 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required
2 meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's business
3 records. Further, DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS
4 Members with a second off-duty meal period in some workdays in which these employees were
5 required by DEFENDANT to work ten (10) hours of work. As a result, PLAINTIFF and other
6 members of the CALIFORNIA CLASS forfeited meal breaks without additional compensation
7 and in accordance with DEFENDANT's strict corporate policy and practice.

8 98. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
9 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members
10 who were not provided a meal period, in accordance with the applicable Wage Order, one
11 additional hour of compensation at each employee's regular rate of pay for each workday that a
12 meal period was not provided.

13 99. As a proximate result of the aforementioned violations, PLAINTIFF and
14 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
15 and seek all wages earned and due, interest, penalties, expenses and costs of suit.

16 **FIFTH CAUSE OF ACTION**

17 **Failure To Provide Required Rest Periods**

18 **(Cal. Lab. Code §§ 226.7 & 512)**

19 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

20 100. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
21 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
22 Complaint.

23 101. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
24 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
25 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
26 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)
27 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and
28 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.

1 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
2 wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
3 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
4 DEFENDANT and DEFENDANT's managers. In addition, because of DEFENDANT's pay plan
5 for PLAINTIFF and CALIFORNIA CLASS Members (being paid a flat rate only),
6 DEFENDANT failed to compensate PLAINTIFF and CALIFORNIA CLASS Members for their
7 rest periods as required by the applicable Wage Order and Labor Code. DEFENDANT did not
8 have a policy or practice which paid for off-duty rest periods to PLAINTIFF and the other
9 CALIFORNIA CLASS Members when they worked as non-exempt sales employees. As a result,
10 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
11 all the legally required paid rest periods is evidenced by DEFENDANT's business records.

12 102. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
13 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members
14 who were not provided a rest period, in accordance with the applicable Wage Order, one
15 additional hour of compensation at each employee's regular rate of pay for each workday that rest
16 period was not provided.

17 103. As a proximate result of the aforementioned violations, PLAINTIFF and
18 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
19 and seek all wages earned and due, interest, penalties, expenses and costs of suit.

20 **SIXTH CAUSE OF ACTION**

21 **Failure To Provide Accurate Itemized Statements**

22 **(Cal. Lab. Code §§ 226)**

23 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

24 104. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
25 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
26 Complaint.

27 105. Cal. Labor Code § 226 provides that an employer must furnish employees with an
28 "accurate itemized" statement in writing showing:

- a. Gross wages earned,
- b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,
- c. the number of piecerate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

106. When DEFENDANT did not accurately record PLAINTIFF's and other CALIFORNIA CLASS Members' wages, and missed meal and rest breaks, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide an accurate wage statement in writing that properly and accurately itemizes all wages, missed meal and rest periods, and all hours worked to PLAINTIFF and the other members of the CALIFORNIA CLASS and thereby also failed to set forth the correct wages earned by the employees. Further, from time to time, DEFENDANTS included Holiday, Vacation, Bereavement and Meal Penalty hours into the computation of total hours worked for purposes of Cal. Lab. Code § 226(a)(2), notwithstanding the fact that Holiday, Vacation, Bereavement and Meal Penalty hours are not considered hours worked. DEFENDANTS' inclusion of Holiday,

1 Vacation, Bereavement and Meal Penalty hours into the total hours worked in itemized wage
2 statements issued to PLAINTIFF and other CALIFORNIA CLASS Members violates Cal. Lab.
3 Code § 226(a)(2).

4 107. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
5 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
6 CLASS. These damages include, but are not limited to, costs expended calculating the correct
7 wages for all missed meal and rest breaks and the amount of employment taxes which were not
8 properly paid to state and federal tax authorities. These damages are difficult to estimate.
9 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover
10 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation
11 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
12 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
13 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
14 of the CALIFORNIA CLASS herein).

15 **SEVENTH CAUSE OF ACTION**

16 **Failure To Pay Wages When Due**

17 **(Cal. Lab. Code §§ 203)**

18 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

19 108. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
20 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
21 Complaint.

22 109. Cal. Lab. Code § 200 provides that:

23 As used in this article:

- 24 (d) "Wages" includes all amounts for labor performed by employees of every
25 description, whether the amount is fixed or ascertained by the standard of time,
26 task, piece, Commission basis, or other method of calculation.
27 (e) "Labor" includes labor, work, or service whether rendered or performed under
28 contract, subcontract, partnership, station plan, or other agreement if the to be
paid for is performed personally by the person demanding payment.

1 110. Cal. Lab. Code § 201 provides, in relevant part, that “If an employer discharges
2 an employee, the wages earned and unpaid at the time of discharge are due and payable
3 immediately.”

4 111. Cal. Lab. Code § 202 provides, in relevant part, that:

5 If an employee not having a written contract for a definite period quits his or her
6 employment, his or her wages shall become due and payable not later than 72 hours
7 thereafter, unless the employee has given 72 hours previous notice of his or her intention
8 to quit, in which case the employee is entitled to his or her wages at the time of quitting.
9 Notwithstanding any other provision of law, an employee who quits without providing a
72-hour notice shall be entitled to receive payment by mail if he or she so requests and
designates a mailing address. The date of the mailing shall constitute the date of payment
for purposes of the requirement to provide payment within 72 hours of the notice of
quitting.

10 112. There was no definite term in PLAINTIFF’s or any CALIFORNIA CLASS
11 Members’ employment contract.

12 113. Cal. Lab. Code § 203 provides:

13 If an employer willfully fails to pay, without abatement or reduction, in accordance with
14 Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who
15 quits, the wages of the employee shall continue as a penalty from the due date thereof at
the same rate until paid or until an action therefor is commenced; but the wages shall not
continue for more than 30 days.

16 114. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
17 terminated, and DEFENDANT has not tendered payment of wages to these employees who were
18 underpaid for minimum wage and/or overtime wage, and/or missed meal and rest breaks, as
19 required by law.

20 115. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the
21 members of the CALIFORNIA CLASS whose employment has terminated, PLAINTIFF demand
22 up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all
23 employees who terminated employment during the CLASS PERIOD and demand an accounting
24 and payment of all wages due, plus interest and statutory costs as allowed by law.

25
26
27
28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **Failure To Reimburse Employees For Required Expenses**

3 **(Cal. Lab. Code §§ 2802)**

4 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

5 116. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
7 Complaint.

8 117. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

13 118. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal.
14 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the
15 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
16 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of
17 the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to
18 using their personal cellular phone all on behalf of and for the benefit of DEFENDANTS.
19 Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by
20 DEFENDANTS to use their personal cell phones to execute their essential job duties on behalf of
21 DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse
22 PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using
23 their personal cellular phones for DEFENDANTS within the course and scope of their
24 employment for DEFENDANTS. These expenses were necessary to complete their principal job
25 duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of their
26 expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the
27 members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse
28 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer
is required to do under the laws and regulations of California.

119. PLAINTIFF therefore demands reimbursement on behalf of the members of the CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on behalf of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

NINTH CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT

(Cal. Lab. Code §§2698 et seq.)

(Alleged by PLAINTIFF against all Defendants)

120. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

121. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who does so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

122. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, bring this Representative Action on behalf of the State of California with respect to themselves and all individuals who are or previously were employed by DEFENDANT and classified as non-exempt employees in California during the time period of December 13, 2020 until the present (the "AGGRIEVED EMPLOYEES").

123. On December 13, 2021, PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development Agency (the "Agency") and the employer of the specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting period

1 for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant to Section
2 2699.3, Plaintiff may now commence a representative civil action under PAGA pursuant to Section
3 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as
4 herein defined.

5 124. The policies, acts and practices heretofore described were and are an unlawful
6 business act or practice because DEFENDANTS (a) failed to properly record and pay PLAINTIFF
7 and the other AGGRIEVED EMPLOYEES for all of the hours they worked, including overtime
8 hours in violation of the Wage Order, (b) failed to provide accurate itemized wage statements, (c)
9 failed to provide mandatory meal breaks and rest breaks, (d) failed to pay meal and rest break
10 premiums at the correct rate, and (e) failed to timely pay wages at the correct rate, all in violation
11 of the applicable Labor Code sections listed in Labor Code §2699.5, including but not limited to
12 Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510,
13 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and the applicable
14 Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result of such conduct.
15 PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code Private
16 Attorney General Act of 2004 as the representative of the State of California for the illegal conduct
17 perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, PLAINTIFF prays for a judgment against each Defendant, jointly and
20 severally, as follows:

21 1. On behalf of the CALIFORNIA CLASS:

- 22 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
23 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
24 b. An order temporarily, preliminarily and permanently enjoining and restraining
25 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
26 c. An order requiring DEFENDANT to pay all overtime wages and all sums
27 unlawfully withheld from compensation due to PLAINTIFF and the other members
28 of the CALIFORNIA CLASS; and

1 d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
2 for restitution of the sums incidental to DEFENDANT's violations due to
3 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

4 2. On behalf of the CALIFORNIA CLASS:

5 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
6 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
7 to Cal. Code of Civ. Proc. § 382;

8 b. Compensatory damages, according to proof at trial, including compensatory
9 damages for overtime compensation, due to PLAINTIFF and the other members of
10 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
11 thereon at the statutory rate;

12 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
13 the applicable IWC Wage Order;

14 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
15 which a violation occurs and one hundred dollars (\$100) per each member of the
16 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding
17 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for
18 violation of Cal. Lab. Code § 226

19 e. The wages of all terminated employees from the CALIFORNIA CLASS as a
20 penalty from the due date thereof at the same rate until paid or until an action
21 therefore is commenced, in accordance with Cal. Lab. Code § 203.

22 3. On behalf of the State of California and with respect to all AGGRIEVED
23 EMPLOYEES: Recovery of civil penalties as prescribed by the Labor Code Private
24 Attorneys General Act of 2004;

25 //

26
27 //
28

1 4. On all claims:

- 2 a. An award of interest, including prejudgment interest at the legal rate;
3 b. Such other and further relief as the Court deems just and equitable; and
4 c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.
5

6 DATED: February 16, 2022

7 **ZAKAY LAW GROUP, APLC**

8
9 By: 
10 Shani O. Zakay
11 Attorney for PLAINTIFF

12 **DEMAND FOR A JURY TRIAL**

13 PLAINTIFF demands a jury trial on issues triable to a jury.

14 DATED: February 16, 2022

15 **ZAKAY LAW GROUP, APLC**

16
17 By: 
18 Shani O. Zakay
19 Attorney for PLAINTIFF
20
21
22
23
24
25
26
27
28

EXHIBIT 1



Client #44401

December 13, 2021

Via Online Filing to LWDA and Certified Mail to Defendant
Labor and Workforce Development Agency
Online Filing

VENUS ET FLEUR LLC

c/o AMAR CHADHA

9115 Dice Road

Santa Fe Springs, CA 90670

Sent Via Certified Mail & Return Receipt No. 7021 2720 0000 9972 5085

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff VERONICA A. MARAVILLA (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendant VENUS ET FLEUR LLC (“Defendant”). Plaintiff was employed by Defendant in California from November of 2020 to May of 2021 and was entitled to payment of all wages and the legally required meal and rest breaks. Plaintiff was paid on an hourly basis and entitled to legally required meal and rest periods. At all times during her employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all wages owed and legally mandated off-duty meal and rest periods.

As a consequence, Plaintiff contends that Defendant failed to fully compensate her and other similarly situated and aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and accurate wage statements. Accordingly, Plaintiff contends that Defendant’s conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant during the relevant claim period.

A true and correct copy of the proposed Complaint is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged

violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiff continues her investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

If the agency needs any further information, please do not hesitate to ask. The representative action lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the PAGA wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a stylized flourish at the end.

Shani O. Zakay
Attorney for Plaintiff

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Eduardo Garcia (State Bar #290572)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

VERONICA A. MARAVILLA, an individual,
on behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

v.

VENUS ET FLEUR LLC, a New Jersey
Limited Liability Company; and DOES 1-50,
Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510 *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) FAILURE TO REIMBURSE

DEMAND FOR A JURY TRIAL

Plaintiff VERONICA A MARAVILLA (“PLAINTIFF”), an individual, on behalf of herself and all other similarly situated current and former employees, alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

THE PARTIES

1. Defendant VENUS ET FLEUR LLC (“DEFENDANT”) is a New Jersey limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California, county of Los Angeles, owns, operates, and/or manages floral arrangements stores.

2. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, (hereinafter collectively “DEFENDANTS” and/or “DEFENDANT”) are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

3. The agents, servants, and/or employees of the Defendants and each of them acting on behalf of the DEFENDANTS acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally liable to PLAINTIFF and the other members of the CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the Defendants’ agents, servants and/or employees.

1 4. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
2 PLAINTIFF's employer, within the meaning of California Labor Code § 558, who violated or
3 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
4 regulating hours and days of work in any order of the Industrial Welfare Commission and, as
5 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,
6 at all relevant times.

7 5. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
8 PLAINTIFF's employer either individually or as an officer, agent, or employee of another person,
9 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
10 employee a wage less than the minimum fixed by California state law, and as such, are subject to
11 civil penalties for each underpaid employee

12 6. PLAINTIFF was employed by DEFENDANT in California from November of
13 2020 to May of 2021 and was at all times classified by DEFENDANT as a non-exempt employee,
14 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of
15 minimum and overtime wages due for all time worked.

16 7. PLAINTIFF brings this Class Action on behalf of herself and a California class,
17 defined as all persons who are or previously were employed by DEFENDANT in California and
18 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period
19 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
20 by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate claim of the
21 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

22 8. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
23 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
24 the CLASS PERIOD caused by DEFENDANT's uniform policy and practice which failed to
25 lawfully compensate these employees. DEFENDANT's uniform policy and practice alleged
26 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained
27 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA
28 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
other members of the CALIFORNIA CLASS who have been economically injured by

1 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable
2 relief.

3 9. DEFENDANTS' uniform policies and practices alleged herein were unlawful,
4 unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain
5 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

6 10. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an
7 injunction enjoining such conduct by DEFENDANTS in the future, relief for the named
8 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically
9 injured by DEFENDANTS's past and current unlawful conduct, and all other appropriate legal
10 and equitable relief.

11 **JURISDICTION AND VENUE**

12 11. This has jurisdiction over this Action pursuant to California Code of Civil
13 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
14 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
15 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

16 12. Venue is proper in this Court pursuant to California Code of Civil Procedure,
17 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
18 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities
19 in this County and/or conducts substantial business in this County, and (ii) committed the
20 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

21 **THE CONDUCT**

22 13. In violation of the applicable sections of the California Labor Code and the
23 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
24 matter of company policy, practice and procedure, intentionally, knowingly and systematically
25 failed to provide legally compliant meal and rest periods, failed to accurately compensate
26 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
27 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
28 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF

1 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,
2 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest
3 premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS
4 Members for business expenses, and failed to issue to PLAINTIFF and the members of the
5 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, the
6 accurate total hours worked and all applicable hourly rates in effect during the pay periods and
7 the corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies
8 and practices are intended to purposefully avoid the accurate and full payment for all time worked
9 as required by California law which allows DEFENDANTS to illegally profit and gain an unfair
10 advantage over competitors who comply with the law. To the extent equitable tolling operates to
11 toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should
12 be adjusted accordingly.

13 **A. Meal Period Violations**

14 14. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
15 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
16 meaning the time during which an employee is subject to the control of an employer, including
17 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
18 PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work
19 without paying them for all the time they were under DEFENDANTS' control. Specifically, as a
20 result of PLAINTIFF's demanding work requirements, being required to produce flower
21 arrangements to fulfill customer orders, and DEFENDANT'S understaffing, DEFENDANTS
22 required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's
23 off-duty meal break. PLAINTIFF was from time to time interrupted by work assignments while
24 clocked out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were
25 many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF
26 and other CALIFORNIA CLASS Members forfeited minimum wage and overtime wages by
27 regularly working without their time being accurately recorded and without compensation at the
28 applicable minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not

1 to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked is evidenced
2 by DEFENDANTS' business records.

3 15. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
4 requirements, being required to produce flower arrangements to fulfill customer orders, and
5 DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA CLASS
6 Members were from time to time unable to take thirty (30) minute off-duty meal breaks and were
7 not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS
8 Members were required from time to time to perform work as ordered by DEFENDANTS for
9 more than five (5) hours during some shifts without receiving a meal break. Further,
10 DEFENDANTS from time to time failed to provide PLAINTIFF and CALIFORNIA CLASS
11 Members with a second off-duty meal period for some workdays in which these employees were
12 required by DEFENDANTS to work ten (10) hours of work from time to time. The nature of the
13 work performed by PLAINTIFF and other CALIFORNIA CLASS Members does not qualify for
14 limited and narrowly construed "on-duty" meal period exception. When they were provided with
15 meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time,
16 required to remain on duty and on call. PLAINTIFF and other CALIFORNIA CLASS Members
17 therefore forfeited meal breaks without additional compensation and in accordance with
18 DEFENDANTS' strict corporate policy and practice.

19 **B. Rest Period Violations**

20 16. From time-to-time during the CLASS PERIOD, PLAINTIFF and other
21 CALIFORNIA CLASS members were also required from time to time to work in excess of four
22 (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work
23 requirements, being required to produce flower arrangements to fulfill customer orders, and
24 DEFENDANTS' inadequate staffing. Further, for the same reasons these employees were denied
25 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
26 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
27 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
28 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from

1 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA
2 CLASS Members were, from time to time, required to remain on duty, on call, and/or on the
3 premises. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with
4 one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and DEFENDANTS’
5 inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members were from time to
6 time denied their proper rest periods by DEFENDANTS and DEFENDANTS’ managers.

7 **C. Regular Rate Violation – Overtime, Double Time, Sick Pay and Meal and Rest Period**

8 **Premiums**

9 17. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and
10 continue to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
11 Members for their overtime and double time hours worked, meal and rest period premiums, and
12 sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members forfeited wages
13 due them for working overtime without compensation at the correct overtime, double time, meal
14 and rest period premiums, and sick pay rates. DEFENDANTS’ uniform policy and practice to not
15 pay the PLAINTIFF and the CALIFORNIA CLASS the correct overtime rate for all overtime and
16 double time worked, meal and rest period premiums, and sick pay in accordance with applicable
17 law is evidenced by DEFENDANTS’ business records.

18 18. State law provides that employees must be paid overtime at one-and-one half times
19 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS Members were
20 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
21 employee’s performance.

22 19. The second component of PLAINTIFF’s and other CALIFORNIA CLASS
23 Member’s compensation was DEFENDANTS’ non-discretionary incentive program that paid
24 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
25 performance for DEFENDANTS. The non-discretionary bonus program provided all employees
26 paid on an hourly basis with bonus, and/or commission compensation when the employees met
27 the various performance goals set by DEFENDANTS. Additionally, DEFENDANT gave
28

1 PLAINTIFF and the CALIFORNIA CLASS received bonuses when the employees met various
2 performance goals set by DEFENDANT.

3 20. However, from-time-to-time, when calculating the regular rate of pay, in those pay
4 periods where PLAINTIFF and the CALIFORNIA CLASS Members worked overtime and
5 earned this non-discretionary bonus, commission, or incentive DEFENDANTS failed to
6 accurately include the non-discretionary bonus compensation and/or commission and/or incentive
7 paid as part of the employees' "regular rate of pay" and/or calculated all hours worked rather than
8 just all non-overtime/double time hours worked. Further, when calculating the regular rate of pay
9 in order to pay sick pay to PLAINTIFF and the CALIFORNIA CLASS, DEFENDANTS failed
10 to include the incentive compensation as part of the employees' "regular rate of pay" for purposes
11 of calculating sick pay. Management and supervisors described the incentive/bonus program to
12 potential and new employees as part of the compensation package. As a matter of law, the
13 incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS Members
14 must be included in the "regular rate of pay." The failure to do so has resulted in a systematic
15 underpayment of overtime and/or sick pay compensation to PLAINTIFF and other CALIFORNIA
16 CLASS Members by DEFENDANTS.

17 21. As a matter of law, the incentive and commission compensation received by
18 PLAINTIFFS and other CALIFORNIA CLASS members must be included and correctly
19 calculated into the "regular rate of pay" for purposes of overtime and double time compensation,
20 meal and rest period premiums, and sick pay. DEFENDANTS' failure to do so has resulted in
21 DEFENDANTS' systematic underpayment of overtime and double time compensation, meal and
22 rest period premiums, and sick pay to PLAINTIFF and other CALIFORNIA CLASS members.
23 Specifically, California Labor Code Section 246 mandates that paid sick time for non-employees
24 shall be calculated in the same manner as the regular rate of pay for the workweek in which the
25 non-exempt employee uses paid sick time, whether or not the employee actually works overtime
26 in that workweek. DEFENDANT'S conduct, as articulated herein, by failing to include the
27 incentive compensation as part of the "regular rate of pay" for purposes of sick pay compensation
28 was in violation of Cal. Lab. Code § 246.

1 22. In violation of the applicable sections of the California Labor Code and the
2 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
3 matter of company policy, practice, and procedure, intentionally, and knowingly failed to
4 compensate PLAINTIFF and the CALIFORNIA CLASS at the correct rate of pay for all overtime,
5 double time, meal and rest period premiums, and/or sick pay compensation. This uniform policy
6 and practice of DEFENDANTS is intended to purposefully avoid the payment of the correct
7 overtime, double time, meal and rest period premiums, and/or sick pay compensation as required
8 by California law which allowed DEFENDANTS to illegally profit and gain an unfair advantage
9 over competitors who complied with the law. To the extent equitable tolling operates to toll
10 claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be
11 adjusted accordingly.

12 **D. Unreimbursed Business Expenses**

13 23. DEFENDANTS as a matter of corporate policy, practice, and procedure,
14 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF
15 and the CALIFORNIA CLASS for required business expenses incurred by the PLAINTIFF and
16 other CALIFORNIA CLASS Members in direct consequence of discharging their duties on behalf
17 of DEFENDANTS. Under California Labor Code Section 2802, employers are required to
18 indemnify employees for all expenses incurred in the course and scope of their employment. Cal.
19 Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all
20 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
21 of his or her duties, or of his or her obedience to the directions of the employer, even though
22 unlawful, unless the employee, at the time of obeying the directions, believed them to be
23 unlawful."

24 24. In the course of their employment, DEFENDANTS required PLAINTIFF and
25 other CALIFORNIA CLASS Members to use their personal cell phone to photograph floral
26 arrangement designs and for work-related communications as a result of and in furtherance of
27 their job duties as employees for DEFENDANT. But for the use of their own personal cell phones,
28 PLAINTIFF and the CALIFORNIA CLASS Members could not complete their essential job

1 duties. However, DEFENDANTS unlawfully failed to reimburse PLAINTIFF and other
2 CALIFORNIA CLASS Members for their use of their personal cell phones. As a result, in the
3 course of their employment with DEFENDANTS, the PLAINTIFF and other CALIFORNIA
4 CLASS Members incurred unreimbursed business expenses, but were not limited to, costs related
5 to the use of their personal cellular phones, all on behalf of and for the benefit of DEFENDANT.

6 **E. Wage Statement Violations**

7 25. California Labor Code Section 226 requires an employer to furnish its employees
8 an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked,
9 (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net
10 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name
11 of the employee and only the last four digits of the employee's social security number or an
12 employee identification number other than a social security number, (8) the name and address of
13 the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay
14 period and the corresponding number of hours worked at each hourly rate by the employee.

15 26. From time to time during the CLASS PERIOD, when PLAINTIFF and other
16 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed
17 meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed
18 to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate
19 wage statements which failed to show, among other things, the total hours worked and all
20 applicable hourly rates in effect during the pay period and the corresponding amount of time
21 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
22 periods.

23 27. Further, from time to time, DEFENDANTS included Holiday, Vacation,
24 Bereavement and Meal Penalty hours into the computation of total hours worked for purposes of
25 Cal. Lab. Code § 226(a)(2), notwithstanding the fact that Holiday, Vacation, Bereavement and
26 Meal Penalty hours are not considered hours worked. DEFENDANTS' inclusion of Holiday,
27 Vacation, Bereavement and Meal Penalty hours into the total hours worked in itemized wage
28

1 statements issued to PLAINTIFF and other CALIFORNIA CLASS Members violates Cal. Lab.
2 Code § 226(a)(2).

3 28. In addition to the violations described above, DEFENDANTS, from time to time,
4 failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements
5 that comply with Cal. Lab. Code § 226.

6 29. As a result, DEFENDANTS issued PLAINTIFF and the other members of the
7 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
8 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an
9 unintentional payroll error due to clerical or inadvertent mistake.

10 **F. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

11 30. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
12 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
13 CLASS for all hours worked. Specifically, DEFENDANT from time-to-time required
14 PLAINTIFF and the other members of the CALIFORNIA CLASS to perform off-the-clock pre-
15 shift and post-shift work. Specifically, as a condition of employment, required these employees
16 from time to time to wait and submit to Covid-19 health screenings before clocking in at the
17 beginning of each scheduled shift, for which DEFENDANT did not provide compensation for the
18 time spent waiting for and submitting to DEFENDANT's Covid-19 health screenings while off
19 the clock. Notwithstanding, from time-to-time DEFENDANTS failed to pay PLAINTIFF and
20 other members of the CALIFORNIA CLASS necessary wages for attending for performing work
21 at DEFENDANTS' direction, request and benefit, while off-the clock.

22 31. DEFENDANTS directed and directly benefited from the uncompensated off-the-
23 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

24 32. DEFENDANTS controlled the work schedules, duties, protocols, applications,
25 assignments, and employment conditions of PLAINTIFF and the other members of the
26 CALIFORNIA CLASS.

27 33. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
28 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to

1 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
2 wages earned and owed for all the work they performed, including pre-shift, post shift and during
3 meal period off-the-clock work.

4 34. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
5 exempt employees, subject to the requirements of the California Labor Code.

6 35. DEFENDANTS' policies and practices deprived PLAINTIFF and the other
7 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
8 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
9 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
10 hours per day, DEFENDANTS' policies and practices also deprived them of overtime pay.

11 36. DEFENDANTS knew or should have known that PLAINTIFF and the other
12 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

13 37. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
14 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
15 for the time spent opening the jewelry store while off-the-clock. DEFENDANTS' uniform policy
16 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
17 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business
18 records.

19 **G. CLASS ACTION ALLEGATIONS**

20 38. PLAINTIFF brings the First through Eighth Causes of Action as a class action
21 pursuant to California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current
22 and former non-exempt California employees ("CALIFORNIA CLASS") during the period
23 beginning four years prior to the filing of the Complaint and ending on a date determined by the
24 Court ("CLASS PERIOD").

25 39. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
26 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
27 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
28 illegal meal and rest period policies, failure to reimburse for business expenses, failure to

1 compensate for off-the-clock work, failure to provide accurate itemized wage statements, failure
2 to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and
3 expenses.

4 40. The members of the class are so numerous that joinder of all class members is
5 impractical.

6 41. Common questions of law and fact regarding DEFENDANTS' conduct, including
7 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to
8 accurately calculate the regular rate of pay for overtime compensation, failure to accurately
9 calculate the regular rate of compensation for missed meal and rest period premiums, failing to
10 provide legally compliant meal and rest periods, failed to reimburse for business expenses, failure
11 to provide accurate itemized wage statements accurate, and failure to ensure they are paid at least
12 minimum wage and overtime, exist as to all members of the class and predominate over any
13 questions affecting solely any individual members of the class. Among the questions of law and
14 fact common to the class are:

- 15 a. Whether DEFENDANTS maintained legally compliant meal period policies and
16 practices;
- 17 b. Whether DEFENDANTS maintained legally compliant rest period policies and
18 practices;
- 19 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
20 CLASS Members accurate premium payments for missed meal and rest periods;
- 21 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
22 CLASS Members accurate overtime wages;
- 23 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
24 CLASS Members at least minimum wage for all hours worked;
- 25 f. Whether Defendants failed to compensate PLAINTIFF and the CALIFORNIA
26 CLASS Members for required business expenses;
- 27 g. Whether DEFENDANTS issued legally compliant wage statements;
- 28

- 1 h. Whether DEFENDANTS failed to pay PLAINTIFF and other CALIFORNIA
2 CLASS Members accurate reporting time wages;
- 3 i. Whether DEFENDANTS committed an act of unfair competition by
4 systematically failing to record and pay PLAINTIFF and the other members of the
5 CALIFORNIA CLASS for all time worked;
- 6 j. Whether DEFENDANTS committed an act of unfair competition by
7 systematically failing to record all meal and rest breaks missed by PLAINTIFF
8 and other CALIFORNIA CLASS Members, even though DEFENDANTS enjoyed
9 the benefit of this work, required employees to perform this work and permits or
10 suffers to permit this work;
- 11 k. Whether DEFENDANTS committed an act of unfair competition in violation of
12 the UCL, by failing to provide the PLAINTIFF and the other members of the
13 CALIFORNIA CLASS with the legally required meal and rest periods.
- 14 42. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as
15 a result of DEFENDANTS’ conduct and actions alleged herein.
- 16 43. PLAINTIFF’s claims are typical of the claims of the class, and PLAINTIFF has
17 the same interests as the other members of the class.
- 18 44. PLAINTIFF will fairly and adequately represent and protect the interests of the
19 CALIFORNIA CLASS Members.
- 20 45. 40. PLAINTIFF retained able class counsel with extensive experience in class
21 action litigation.
- 22 46. Further, PLAINTIFF’s interests are coincident with, and not antagonistic to, the
23 interests of the other CALIFORNIA CLASS Members.
- 24 47. 42. There is a strong community of interest among PLAINTIFF and the
25 members of the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of
26 DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA
27 CLASS for the injuries sustained.
- 28

48. The questions of law and fact common to the CALIFORNIA CLASS Members predominate over any questions affecting only individual members, including legal and factual issues relating to liability and damages.

49. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all class members is impractical. Moreover, since the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation makes it practically impossible for the members of the class individually to redress the wrongs done to them. Without class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will create the risk of:

- a. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA CLASS; and/or,
- b. Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impeded their ability to protect their interests.

50. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANTS.

FIRST CAUSE OF ACTION

Unlawful Business Practices

(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)

(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

51. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 52. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
2 Code § 17021.

3 53. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
4 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
5 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition
6 as follows:

7 Any person who engages, has engaged, or proposes to engage in unfair competition may
8 be enjoined in any court of competent jurisdiction. The court may make such orders or
9 judgments, including the appointment of a receiver, as may be necessary to prevent the
10 use or employment by any person of any practice which constitutes unfair competition, as
11 defined in this chapter, or as may be necessary to restore to any person in interest any
12 money or property, real or personal, which may have been acquired by means of such
13 unfair competition. (Cal. Bus. & Prof. Code § 17203).

14
15 54. By the conduct alleged herein, DEFENDANT has engaged and continues to
16 engage in a business practice which violates California law, including but not limited to, the
17 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
18 including Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802,
19 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &
20 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
21 unfair competition, including restitution of wages wrongfully withheld.

22 55. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair
23 in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous
24 or substantially injurious to employees, and were without valid justification or utility for which
25 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
26 Business & Professions Code, including restitution of wages wrongfully withheld.

27 56. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
28 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally

1 mandated meal and rest periods and the required amount of compensation for missed meal and
2 rest periods and, due to a systematic business practice that cannot be justified, pursuant to the
3 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.
4 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief,
5 pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

6 57. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
7 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
8 other members of the CALIFORNIA CLASS to be underpaid during their employment with
9 DEFENDANT.

10 58. By the conduct alleged herein, DEFENDANT's practices were also unfair and
11 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
12 legally required meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members
13 as required by Cal. Lab. Code §§ 226.7 and 512.

14 59. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
15 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
16 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
17 each workday in which a second off-duty meal period was not timely provided for each ten (10)
18 hours of work.

19 60. PLAINTIFF further demands on behalf of herself and on behalf of each
20 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
21 not timely provided as required by law.

22 61. By and through the unlawful and unfair business practices described herein,
23 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
24 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
25 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
26 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
27 to unfairly compete against competitors who comply with the law.
28

62. All the acts described herein as violations of, among other things, the Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

63. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and do, seek such relief as may be necessary to restore to them the money and property which DEFENDANT has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair business practices, including earned but unpaid wages for all time worked.

64. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to, and do, seek a declaration that the described business practices are unlawful, unfair, and deceptive, and that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful and unfair business practices in the future.

65. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm unless DEFENDANT is restrained from continuing to engage in these unlawful and unfair business practices.

SECOND CAUSE OF ACTION

Failure To Pay Minimum Wages

(Cal. Lab. Code §§ 1194, 1197 and 1197.1.)

(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

66. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 67. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
2 for DEFENDANT’S willful and intentional violations of the California Labor Code and the
3 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate
4 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

5 68. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
6 policy, an employer must timely pay its employees for all hours worked.

7 69. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
8 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than
9 the minimum so fixed is unlawful.

10 70. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages,
11 including minimum wage compensation and interest thereon, together with the costs of suit.

12 71. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
13 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
14 worked. As set forth herein, DEFENDANT’S uniform policy and practice was to unlawfully and
15 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
16 CALIFORNIA CLASS.

17 72. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,
18 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
19 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
20 and the other members of the CALIFORNIA CLASS in regards to minimum wage pay.

21 73. In committing these violations of the California Labor Code, DEFENDANT
22 inaccurately calculated the amount of time worked and consequently underpaid the actual time
23 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted
24 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
25 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
26 laws and regulations.

1 74. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,
2 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
3 minimum wage compensation for their time worked for DEFENDANT.

4 75. During the CLASS PERIOD, PLAINTIFF and the other members of the
5 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a
6 failure to pay all earned wages.

7 76. By virtue of DEFENDANT’S unlawful failure to accurately pay all earned
8 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
9 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have
10 suffered and will continue to suffer an economic injury in amounts which are presently unknown
11 to them, and which will be ascertained according to proof at trial.

12 77. DEFENDANT knew or should have known that PLAINTIFF and the other
13 members of the CALIFORNIA CLASS are under-compensated for their time worked.
14 DEFENDANT systematically elected, either through intentional malfeasance or gross
15 nonfeasance, to not pay employees for their labor as a matter of uniform corporate policy, practice
16 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
17 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
18 for their time worked.

19 78. In performing the acts and practices herein alleged in violation of California labor
20 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
21 and provide them with the requisite compensation, DEFENDANT acted and continues to act
22 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
23 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
24 consequences to them, and with the despicable intent of depriving them of their property and legal
25 rights, and otherwise causing them injury in order to increase company profits at the expense of
26 these employees.

27 79. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore
28 request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the

1 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
2 California Labor Code and/or other applicable statutes. To the extent minimum wage
3 compensation is determined to be owed to the CALIFORNIA CLASS Members who have
4 terminated their employment, DEFENDANT'S conduct also violates Labor Code §§ 201 and/or
5 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
6 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS
7 Members. DEFENDANT'S conduct as alleged herein was willful, intentional and not in good
8 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and
9 recover statutory costs.

10 **THIRD CAUSE OF ACTION**

11 **Failure To Pay Overtime Compensation**

12 **(Cal. Lab. Code §§ 510, 1194 and 1198)**

13 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

14 80. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
15 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
16 Complaint.

17 81. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
18 for DEFENDANT's willful and intentional violations of the California Labor Code and the
19 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees
20 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
21 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

22 82. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
23 public policy, an employer must timely pay its employees for all hours worked.

24 83. Cal. Lab. Code § 510 further provides that employees in California shall not be
25 employed more than eight (8) hours per workday and more than forty (40) hours per workweek
26 unless they receive additional compensation beyond their regular wages in amounts specified by
27 law.

1 84. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
2 including minimum wage and overtime compensation and interest thereon, together with the costs
3 of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
4 than those fixed by the Industrial Welfare Commission is unlawful.

5 85. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
6 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
7 they worked, including overtime work.

8 86. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
9 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
10 implementing a uniform policy and practice that failed to accurately record overtime worked by
11 PLAINTIFF and other CALIFORNIA CLASS Members and denied accurate compensation to
12 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,
13 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
14 (12) hours in a workday, and/or forty (40) hours in any workweek.

15 87. In committing these violations of the California Labor Code, DEFENDANT
16 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
17 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
18 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
19 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
20 regulations.

21 88. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
22 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full
23 compensation for overtime worked.

24 89. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
25 from the overtime requirements of the law. None of these exemptions are applicable to the
26 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
27 other members of the CALIFORNIA CLASS were not subject to a valid collective bargaining
28 agreement that would preclude the causes of action contained herein this Complaint. Rather,

1 PLAINTIFF brings this Action on behalf of herself and the CALIFORNIA CLASS based on
2 DEFENDANT's violations of non- negotiable, non-waivable rights provided by the State of
3 California.

4 90. During the CLASS PERIOD, PLAINTIFF and the other members of the
5 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,
6 constituting a failure to pay all earned wages.

7 91. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of
8 the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
9 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
10 though PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work,
11 and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay as
12 evidenced by DEFENDANT's business records and witnessed by employees.

13 92. By virtue of DEFENDANT'S unlawful failure to accurately pay all earned
14 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for all
15 overtime worked by these employees, PLAINTIFF and the other members of the CALIFORNIA
16 CLASS have suffered and will continue to suffer an economic injury in amounts which are
17 presently unknown to them, and which will be ascertained according to proof at trial.

18 93. DEFENDANTS knew or should have known that PLAINTIFF and the other
19 members of the CALIFORNIA CLASS were under compensated for all overtime worked.
20 DEFENDANT systematically elected, either through intentional malfeasance or gross
21 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
22 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
23 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked.

24 94. In performing the acts and practices herein alleged in violation of California labor
25 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all overtime
26 worked and provide them with the requisite overtime compensation, DEFENDANT acted and
27 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other
28 members of the CALIFORNIA CLASS with a conscious and utter disregard for their legal rights,

1 or the consequences to them, and with the despicable intent of depriving them of their property
2 and legal rights, and otherwise causing them injury in order to increase company profits at the
3 expense of these employees.

4 95. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore
5 request recovery of all unpaid wages, including overtime wages, according to proof, interest,
6 statutory costs, as well as the assessment of any statutory penalties against DEFENDANT, in a
7 sum as provided by the California Labor Code and/or other applicable statutes. To the extent
8 minimum and/or overtime compensation is determined to be owed to the CALIFORNIA CLASS
9 Members who have terminated their employment, DEFENDANT's conduct also violates Labor
10 Code §§ 201 and/or 202, and therefore these employees would also be entitled to waiting time
11 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these
12 CALIFORNIA CLASS Members. DEFENDANT's conduct as alleged herein was willful,
13 intentional, and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS
14 Members are entitled to seek and recover statutory costs.

15 **FOURTH CAUSE OF ACTION**

16 **Failure To Provide Required Meal Periods**

17 **(Cal. Lab. Code §§ 226.7 & 512)**

18 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

19 96. PLAINTIFF and the other members of the CALIFORNIA CLASS, reallege and
20 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
21 Complaint.

22 97. During the CLASS PERIOD, DEFENDANT failed to provide all the legally
23 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as
24 required by the applicable Wage Order and Labor Code. The nature of the work performed by
25 PLAINTIFF and CALIFORNIA CLASS MEMBERS did not prevent these employees from being
26 relieved of all of their duties for the legally required off-duty meal periods. As a result of their
27 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often not
28 fully relieved of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's

1 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required
2 meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's business
3 records. Further, DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS
4 Members with a second off-duty meal period in some workdays in which these employees were
5 required by DEFENDANT to work ten (10) hours of work. As a result, PLAINTIFF and other
6 members of the CALIFORNIA CLASS forfeited meal breaks without additional compensation
7 and in accordance with DEFENDANT's strict corporate policy and practice.

8 98. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
9 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members
10 who were not provided a meal period, in accordance with the applicable Wage Order, one
11 additional hour of compensation at each employee's regular rate of pay for each workday that a
12 meal period was not provided.

13 99. As a proximate result of the aforementioned violations, PLAINTIFF and
14 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
15 and seek all wages earned and due, interest, penalties, expenses and costs of suit.

16 **FIFTH CAUSE OF ACTION**

17 **Failure To Provide Required Rest Periods**

18 **(Cal. Lab. Code §§ 226.7 & 512)**

19 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

20 100. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
21 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
22 Complaint.

23 101. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
24 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
25 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
26 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)
27 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and
28 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.

1 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
2 wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
3 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
4 DEFENDANT and DEFENDANT's managers. In addition, because of DEFENDANT's pay plan
5 for PLAINTIFF and CALIFORNIA CLASS Members (being paid a flat rate only),
6 DEFENDANT failed to compensate PLAINTIFF and CALIFORNIA CLASS Members for their
7 rest periods as required by the applicable Wage Order and Labor Code. DEFENDANT did not
8 have a policy or practice which paid for off-duty rest periods to PLAINTIFF and the other
9 CALIFORNIA CLASS Members when they worked as non-exempt sales employees. As a result,
10 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
11 all the legally required paid rest periods is evidenced by DEFENDANT's business records.

12 102. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
13 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members
14 who were not provided a rest period, in accordance with the applicable Wage Order, one
15 additional hour of compensation at each employee's regular rate of pay for each workday that rest
16 period was not provided.

17 103. As a proximate result of the aforementioned violations, PLAINTIFF and
18 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
19 and seek all wages earned and due, interest, penalties, expenses and costs of suit.

20 **SIXTH CAUSE OF ACTION**

21 **Failure To Provide Accurate Itemized Statements**

22 **(Cal. Lab. Code §§ 226)**

23 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

24 104. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
25 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
26 Complaint.

27 105. Cal. Labor Code § 226 provides that an employer must furnish employees with an
28 "accurate itemized" statement in writing showing:

- a. Gross wages earned,
- b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,
- c. the number of piecerate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

106. When DEFENDANT did not accurately record PLAINTIFF's and other CALIFORNIA CLASS Members' wages, and missed meal and rest breaks, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide an accurate wage statement in writing that properly and accurately itemizes all wages, missed meal and rest periods, and all hours worked to PLAINTIFF and the other members of the CALIFORNIA CLASS and thereby also failed to set forth the correct wages earned by the employees. Further, from time to time, DEFENDANTS included Holiday, Vacation, Bereavement and Meal Penalty hours into the computation of total hours worked for purposes of Cal. Lab. Code § 226(a)(2), notwithstanding the fact that Holiday, Vacation, Bereavement and Meal Penalty hours are not considered hours worked. DEFENDANTS' inclusion of Holiday,

1 Vacation, Bereavement and Meal Penalty hours into the total hours worked in itemized wage
2 statements issued to PLAINTIFF and other CALIFORNIA CLASS Members violates Cal. Lab.
3 Code § 226(a)(2).

4 107. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
5 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
6 CLASS. These damages include, but are not limited to, costs expended calculating the correct
7 wages for all missed meal and rest breaks and the amount of employment taxes which were not
8 properly paid to state and federal tax authorities. These damages are difficult to estimate.
9 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover
10 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation
11 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
12 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
13 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
14 of the CALIFORNIA CLASS herein).

15 **SEVENTH CAUSE OF ACTION**

16 **Failure To Pay Wages When Due**

17 **(Cal. Lab. Code §§ 203)**

18 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

19 108. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
20 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
21 Complaint.

22 109. Cal. Lab. Code § 200 provides that:

23 As used in this article:

- 24 (d) "Wages" includes all amounts for labor performed by employees of every
25 description, whether the amount is fixed or ascertained by the standard of time,
26 task, piece, Commission basis, or other method of calculation.
27 (e) "Labor" includes labor, work, or service whether rendered or performed under
28 contract, subcontract, partnership, station plan, or other agreement if the to be
paid for is performed personally by the person demanding payment.

110. Cal. Lab. Code § 201 provides, in relevant part, that “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

111. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

112. There was no definite term in PLAINTIFF’s or any CALIFORNIA CLASS Members’ employment contract.

113. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

114. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated, and DEFENDANT has not tendered payment of wages to these employees who were underpaid for minimum wage and/or overtime wage, and/or missed meal and rest breaks, as required by law.

115. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the members of the CALIFORNIA CLASS whose employment has terminated, PLAINTIFF demand up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CLASS PERIOD and demand an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

EIGHTH CAUSE OF ACTION

Failure To Reimburse Employees For Required Expenses

(Cal. Lab. Code §§ 2802)

(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

1 116. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
2 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
3 Complaint.

4 117. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

9 118. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal.
10 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the
11 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
12 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of
13 the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to
14 using their personal cellular phone all on behalf of and for the benefit of DEFENDANTS.
15 Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by
16 DEFENDANTS to use their personal cell phones to execute their essential job duties on behalf of
17 DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse
18 PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using
19 their personal cellular phones for DEFENDANTS within the course and scope of their
20 employment for DEFENDANTS. These expenses were necessary to complete their principal job
21 duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of their
22 expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the
23 members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse
24 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer
25 is required to do under the laws and regulations of California.

26 119. PLAINTIFF therefore demands reimbursement on behalf of the members of the
27 CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and
28 on behalf of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with
interest at the statutory rate and costs under Cal. Lab. Code § 2802.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for a judgment against each Defendant, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- c. An order requiring DEFENDANT to pay all overtime wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and
- d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

2. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation, due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for

violation of Cal. Lab. Code § 226

e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

3. On all claims:

- a. An award of interest, including prejudgment interest at the legal rate;
- b. Such other and further relief as the Court deems just and equitable; and
- c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

DATED: December 13, 2021

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

DATED: December 13, 2021

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

VENUS ET FLEUR, LLC
40 Amar Chadha
9115 Dico Road
Santa Fe Springs, CA 90670



9590 9402 7020 1225 2856 55

2. Article Number (Transfer from service label)

7021 2720 0000 9972 5085

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Carter Guillermo* ☐ Agent
☐ Addressee

B. Received by (Printed Name)

not C10C19

C. Date of Delivery

*12/14/21*D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No*Maravilla 12.13.21*

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☐ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collect on Delivery Restricted Delivery | |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (ID) | |

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt