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September 17, 2024

Original filed online via the LWDA's PAGA Claim Notice Portal

Labor & Workforce Development Agency
1515 Clay Street, Ste. 801
Oakland, CA 94612

Copy Sent via certified mail to:

GNC Holdings, LLC
c/o CT Corporation System
330 North Brand Blvd., Suite 700
Glendale, CA 91203

Re: ***Alondra Manzo Espinoza v. GNC Holdings, LLC***

To Whom it May Concern:

We represent Alondra Manzo Espinoza against defendant GNC Holdings, LLC (hereinafter referred to as "GNC" or "Defendant") in a lawsuit soon to be filed against Defendant in Los Angeles County Superior Court (the "Action"). A copy of the proposed Complaint to be filed in the Action is enclosed as **Exhibit A**.

Together with this correspondence, the enclosed Complaint serves as notice pursuant to Labor Code § 2699.3, *et seq*. that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf of those of Defendant's employees employed from one year prior to filing of this Notice through trial (the "Aggrieved Employees") for the Labor Code violations asserted in the Complaint. *See* Cal. Lab. Code §§ 2699, *et seq.*

As set forth in greater detail in the Complaint, Defendant violated their obligations under the California Labor Code by (1) failing to pay minimum wage for all hours worked; (2) failing to pay required overtime pursuant to Lab. Code §§ 510, 1198 (3-4) failing to provide rest and meal breaks

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pursuant to Lab. Code § 226.7(b); (5) failing to provide and maintain complete and accurate wage statements pursuant to Lab. Code § 1198 and 1199; (6) failing to pay reporting time wages pursuant to Lab. Code § 226. 226.3, and 1174; and (7) failing to reimburse employees for business expenditures pursuant to Lab. Code §2802.

Please feel free to contact us with any questions.

Sincerely,

Elliot J. Siegel

Elliot J. Siegel
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Exhibit A

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Attorneys for Plaintiff and Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Alondra Manzo Espinosa, individually and on behalf of all similarly situated individuals, Plaintiff, vs. **GNC Holdings, LLC**, a California Limited Liability Company; and **Does 1-10**, inclusive; Defendants.	CASE NO. **CLASS ACTION COMPLAINT FOR:** 1) **Failure to Pay Minimum Wages;** 2) **Failure to Pay Overtime Wages;** 3) **Failure to Provide Meal Periods;** 4) **Failure to Provide Rest Periods;** 5) **Failure to Pay Reporting Time Wages;** 6) **Failure to Provide and Maintain Complete and Accurate Wage Statements;** 7) **Failure to Reimburse Necessary Business Expenses; and** 8) **Violation of California Business & Professions Code §§ 17200, et seq.** **Jury Trial Requested**

Plaintiff hereby brings this action on behalf of herself and all other similarly situated current and former employees, by and through her counsel of record, alleges as follows:

PARTIES

1. At all relevant times for this Complaint, Plaintiff **Alondra Manzo Espinosa**, ("Plaintiff") was a resident of Red Bluff, California. Plaintiff began her employment with Defendants in or around June 2023 where she is currently employed as an hourly, non-exempt employee. Plaintiff is and was subject to the policies and practices described in this complaint at all times during her employment at Defendant.

2. Defendant **GNC Holdings, LLC** ("GNC" or "Defendant") is a California Limited Liability Company that owns and operates retail stores specializing in the sale of nutritional products throughout California. Their principal place of business is 300 Sixth Avenue Pittsburgh, PA 15222. On information and belief, it employs at least 500 hourly, non-exempt employees.

3. Plaintiff is not currently aware of the names and true identities of defendants Does 1-10. Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this information is available. Each Doe defendant is responsible for the damages alleged pursuant to each of the causes of action asserted, either through its own conduct, or vicariously through the conduct of others. All further references in this complaint to any of the named Defendants includes the fictitiously named defendants.

4. At all times alleged herein, each Defendant was an agent, servant, joint employer, employee, partner, and/or joint venture of every other Defendant and was acting within the scope of the Defendants' relationship. Moreover, the conduct of every Defendant was ratified by each other Defendant.

VENUE AND JURISDICTION

5. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI, § 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California statutes and law, including the Labor Code and the Business & Professions Code. Because putative class members were employed by Defendants, the policies and practices complained of herein were implemented in Los Angeles County, and Defendants transact business within Los Angeles County, Defendant is within the jurisdiction of the court for service of process. Moreover, Business & Professions

Code § 17204 provides that any person acting on their own behalf may bring an action in any court of competent jurisdiction.

6. Venue as to Defendant is proper in this Superior Court pursuant to California Code of Civil Procedure § 395. Defendants transact business and/or have offices in this county, employ putative class members in this County, and the acts and omissions alleged herein took place in this county. Moreover, this action is brought on behalf of the State of California as a private attorney general and has jurisdiction in this venue.

CLASS ACTION ALLEGATIONS

1. During the relevant time period, Defendants implemented a scheduling policy and practice whereby employees were either required to physically report in or to receive text messages from their supervisors the same day to learn if they would be required to show up for work any given shift. However, on multiple occasions, employees who reported in to work were dismissed without but were are not put to work or were furnished with less than half of their usual or scheduled day's work. Depending on operational needs, employees who were not scheduled for on-call shifts were similarly released from work at the beginning of a shift without working their full shift schedule.

2. Moreover, as a matter of uniform and systemic policy, Defendants failed to authorize and/or permit non-exempt employees to take bona fide meal and rest breaks pursuant to Labor Code § 226.7. Upon information and believe, Class Members, including Plaintiff, were required to skip or interrupt their meal and/or rest periods to service customers, otherwise cut short their meal and/or rest periods, or remain on duty and under Defendants' control during their meal and/or rest periods to perform other tasks at Defendants' directions due to Defendants' policies and practices. Defendants also required non-exempt employees to remain on-premises and under Defendants' control during their meal and rest periods due to Defendants' scheduling and staffing practices. These policies prohibited employees from using meal and rest periods in the manner of their choosing, free from their employer's dominion and control. Accordingly, Defendants failed to authorize and permit compliant meal and rest periods as required by law.

3. In failing to authorize and/or permit meal and rest periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods to its non-exempt

employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant meal and rest periods.

4. Defendants further failed to compensate employees for all time worked time when employees were forced to interrupt and/or work through their meal periods but were clocked out under Defendants' time keeping system (and therefore treated as not working). This resulted in employees being denied both straight time and overtime pay, where applicable, for the time during which they were on call or under Defendants' control despite being off the clock for timekeeping purposes.

5. Additionally, as a matter of uniform and systemic policy, Defendants required non-exempt employees to utilize their personal cell phones for work-related purposes, including answering texts and calls from their supervisors while at work or on a break and general administrative matters. Defendants however failed to compensate their non-exempt employees for reasonable costs associated with utilizing their personal cell phones for work-related purposes.

6. As a matter of uniform and systemic policy, Defendants failed to provide its non-exempt employees with accurate itemized wage statements in accordance with California's Labor Code. Upon information and believe, Defendants failed to furnish Plaintiff, or Class Members, either semimonthly or at the time of each payment of wages, either as a detachable part of the check or separately, an accurate, itemized statement in writing showing pick pay, gross wages earned, all deductions, and the net wages earned by Plaintiff for the inclusive dates for which the Plaintiff worked by virtue of the foregoing violations.

7. Plaintiff therefore brings this action on behalf of herself and as a class action on behalf of the following defined Class:

Non-Exempt Employee Class:

All persons who worked at least one 3.5-hour shift as a non-exempt employee of Defendants in the State of California from the period four years prior to the filing of the Action and the date of trial ("Class").

8. Common methods of proof exist for determining these issues on a class-wide basis, including but not limited to, Defendants' employment records, payroll records, timesheets, policies, and disciplinary records.

9. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least 500

Class Members have been employed as non-exempt employees by Defendants within the state of California. The number of Class Members is sufficiently numerous such that joinder of all members is impossible or impracticable.

10. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other Class Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of Class Members in all relevant respects.

11. **Adequacy.** There are no material conflicts between the claims of the representative Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands her obligation to inform the Court of any relationship, conflicts, or differences with any Class Member. Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in redressing Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement, and will vigorously assert the claims of all Class Members. Plaintiff have incurred, and will continue to incur, costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

12. **Existence and Predominance of Common Issues.** Common questions of law and fact exist as to all Class Members and predominate over issues affecting individual Class Members, including, but not limited to:

a. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of required minimum and overtime wages;

b. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required minimum and overtime wages;

c. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;

d. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;

e. Whether Defendants have a common policy and/or practice of failing to maintain accurate payroll records in the State of California;

f. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll records in the State of California;

g. Whether Defendants have a common policy and/or practice of failing to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

h. Whether Defendants have a common policy and/or practice of depriving Plaintiff and Class Members of reporting time pay;

i. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of their reporting time pay;

j. Whether Defendants unlawfully and/or willfully failed to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

k. Whether Defendants have a common policy and/or practice of failing to reimburse Plaintiff and Class Members for reasonable business expenses;

l. Whether Defendants unlawfully and/or willfully failed to reimburse Plaintiff and Class Members for reasonable business expenses;

m. Whether Plaintiff and Class Members sustained damages as a result of any of the aforementioned violations, and, if so, the proper measure of those damages, including interest, penalties, costs, attorneys' fees, and equitable relief; and

n. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq., by violating the above provisions of law.

13. **Superiority.** A class action is superior to other available means for the fair and efficient adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are small compared to the burden and expense of individual prosecution of the complex and expensive litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members sought redress. In addition, individualized litigation increases the delay and expense to all parties and to

the court system resulting from the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. By contrast, the class action device presents far fewer management difficulties; it allows the hearing of claims which might otherwise go unaddressed because of the relative expense of bringing individual lawsuits, and it provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court. Plaintiff contemplates providing individual notice to members of the class defined above as identified through Defendants' records.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198

Failure to Pay Minimum Wages for All Hours Worked

(Plaintiff and Class Against Defendants)

14. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

15. California law requires employers to compensate employees for all time that an employee is "suffered or permitted to work," which includes all time "when any employer 'directs, commands or restrains' an employee." *See, e.g.*, *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000), as modified (May 10, 2000); *see also* Code Regs. tit. 8, § 11070 ("'Hours worked' means the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.").

16. Defendants failed to compensate Plaintiff and the Class for all hours worked because Defendants had a policy and/or practice whereby they required and/or pressured Class Members to work under Defendants' control while off-the-clock, including but not limited to forcing or requiring Class Members to work while they were clocked out for their meal periods.

17. Defendants further failed to pay Plaintiff and Class Members any wages for time engaged in this off-the-clock work.

18. As a result of Defendants' failure and refusal to comply with California law, Plaintiff and Class Members are entitled to recover actual and liquidated damages for the unpaid time, plus injunctive

relief and reasonable attorney's fees and costs. Lab. Code §§ 1194, 1197.1.

SECOND CAUSE OF ACTION

California Labor Code §§ 510 and 1198

Unpaid Overtime

(Plaintiff and Class Against Defendants)

19. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

20. California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

21. Plaintiff and Class Members who work more than eight hours in a day or more than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty hours in a workweek. An employee's "regular rate of pay" includes all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

22. Throughout the Class Period, Plaintiff and other Class Members were not paid overtime premiums for all of the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of eight hours on the seventh consecutive day of work in a workweek, and in excess of forty hours in a week.

23. Defendants knew or should have known that Plaintiff and Class Members did not receive overtime compensation. Because Plaintiff and Class Members sometimes worked shifts of more than eight hours a day or forty hours a week, they should have been adequately compensated at their appropriate overtime rate of pay.

24. Defendant also failed to pay the class members at the correct overtime rate by failing to include all applicable forms of remuneration, including but not limited to said monthly and quarterly bonuses, as required by law. 29 U.S.C. §207(3); *Alvarado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

25. Accordingly, Defendants' failure to pay overtime compensation for overtime qualifying hours and/or at the correct regular rates resulted in Plaintiff and Class Members being deprived of earned overtime wages.

26. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

<u>THIRD CAUSE OF ACTION</u>

California Labor Code §§ 226.7, 512(a), and 1198

Meal Period Violations

(Plaintiff and Class Against Defendants)

27. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

28. At all times relevant to this complaint, Defendants knew they were obligated to provide legally-compliant meal breaks to its non-exempt employees pursuant to Labor Code §§ 512 and 226.7. Labor Code § 512(a) states in pertinent part: "[A]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

29. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC. "An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . .an employer's obligation is to provide an off-duty meal period: an uninterrupted 30–minute period during which the employee is relieved of all duty." *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

30. Defendants' policies and practices served to deprive the Class of a full 30-minute break period free of employer control or relieved of all duties. Upon information and belief, employees were required to skip breaks, interrupt their breaks, cut them short, take them after the fifth hour of work, work through them, or remain under Defendant's control or on premise during breaks due to Defendants' policies and practices.

31. Accordingly, Plaintiff and Class Members were uniformly denied meal periods as a result of Defendants' formal policies and practices. By failing to consistently provide uninterrupted, off-duty 30-minute meal periods, Defendants violated the Labor Code as to Plaintiff and Class Members.

32. Pursuant to Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift in which a required meal period was not provided.

FOURTH CAUSE OF ACTION

Labor Code §§ 226.7 and 1198

Failure to Provide Rest Periods or Premium Pay in Lieu Thereof

(Plaintiff and Class Against Defendants)

33. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

34. At all times relevant to this complaint, Defendants knew they were obligated to provide compliant rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

35. Labor Code § 226.7 provides:

> (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
>
> (b) If any employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

36. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC, including Wage Order No. 1. Employers must authorize and permit employees to be relieved of all duty during their rest and meal periods: "A rest period, in short, must be a period of rest." *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d 823, 834 (2016).

37. Employees must also be free to leave the employer's premises during their rest period. *See id.* at 270 ("In the context of a 10-minute break that employers must provide during the work period, a broad and intrusive degree of control exists when an employer requires employees to remain on call and

respond during breaks. An employee on call cannot take a brief walk—five minutes out, five minutes back—if at the farthest extent of the walk he or she is not in a position to respond. Employees similarly cannot use their 10 minutes to take care of other personal matters that require truly uninterrupted time."); *see also* Department of Industrial Relations, "Rest Periods," *available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm* ("Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.").

38. Defendants' policies and practices served to deprive the Class of the requisite number of compliant rest periods free of employer control based on their hours worked per shift. Upon information and belief, employees were required to skip breaks, interrupt their breaks, cut them short, work through them, or remain under Defendant's control or on-premise during breaks due to Defendants' policies and practices.

39. Pursuant to Wage Order No. 4 and Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift that a compliant rest period was not provided. Defendants were aware that their actions were a violation of applicable law but consistently refused to pay premium pay as required by law.

FIFTH CAUSE OF ACTION

California Labor Code § 1198, 1199, and IWC Wage Order 5-2001

Reporting Time Pay

(Plaintiffs and Reporting Time Pay Subclass Against Defendants)

40. Plaintiffs incorporate by reference all the allegations of this Complaint as though fully set forth herein.

41. Labor Code § 1199 prohibits an employer from causing any employee to work under conditions of labor prohibited by an order of the Industrial Welfare Commission (IWC) or from violating, refusing, or neglecting to comply with any order of the commission's orders regarding wages, hours, and working conditions. Labor Code § 1198 states that the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees and forbids the employment of any employee under conditions of labor prohibited by the commission's wage orders.

42. Wage Order 5-2001 requires that each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day′s work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee′s regular rate of pay, which shall not be less than the minimum wage.

43. Defendants failed to pay reporting time to employees who were required to report into work via phone or in person but were not put to work or were furnished less than half of their usual or scheduled shift. See Wage Order No. 5-2001, Section 5. Ward v. Tilly's, Inc., 31 Cal. App. 5th 1167, 1183 (2019), review denied (May 15, 2019).

44. As a result, Plaintiffs and the Reporting Time Pay Subclass are entitled to recover reporting time pay in amounts to be determined at trial.

SIXTH CAUSE OF ACTION

Labor Code §§ 226. 226.3, and 1174

Failure to Provide Complete and Accurate Wage Statements

(Plaintiff and Class Against Defendants)

45. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

46. Labor Code § 226 requires employers to furnish employees with an accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four digits of her or her social security number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

47. At all times relevant to this complaint, Defendants' failure to pay premium wages for missed meal and/or rest periods further ensured that Class Members' wage statements inaccurately reflected gross and net wages earned. Defendants' failure to compensate all hours worked, earned premium pay, and/or all required overtime hours and rates further left the wage statements they provided

to employees to be inaccurate.

48. Defendants have also failed to keep accurate payroll records for Plaintiff and Class Members in accordance with Labor Code § 1174. Defendants' failure to keep and maintain accurate payroll records reflecting hours worked and wages earned has impeded Plaintiff and Class Members' ability to calculate unpaid wages earned.

49. Injury. Defendants knowingly and intentionally failed to comply with Labor Code § 226, causing injury and damages to Plaintiff and Class Members. Plaintiff and all those similarly situated were injured by these failures because, among other things, they were confused about whether they were paid properly and/or they were misinformed about how much compensation was owed. These damages include, but are not limited to, costs incurred calculating the correct net wages for each pay period and the amount of employment taxes that were not paid to state and federal tax authorities.

50. Relief. Labor Code § 226(e)(1) provides that an employee suffering injury as a result of not being provided with an accurate itemized wage statement is entitled to recover the greater of all actual damages suffered or fifty ($50) dollars for the initial violation and one hundred ($100) dollars for each subsequent violation, up to $4,000. Pursuant to Labor Code §§ 226(e) and (g), Plaintiff and all others similarly situated are entitled to injunctive relief to ensure Defendant's compliance with Labor Code § 226, as well as attorney's fees and costs of suit.

SEVENTH CAUSE OF ACTION

California Labor Code § 2802

Failure to Reimburse Necessary Business Expenses

(Plaintiff and Class Against Defendants)

51. Plaintiff repeats, repleads, and incorporates by reference, as though fully set forth in this paragraph, all the allegations of this Complaint.

52. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her or her duties, or of her or her obedience to the directions of the employer." Lab. Code § 2802. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. Cochran v. Schwan's Home Service, Inc., 228 Cal. App.

4th 1137, 1144 (2014).

53. Defendants required Class Members to utilize their personal cell phones for work-related purposes, including answering texts and calls from their supervisors while at work or on a break, being assigned tasks, and general administrative matters.

54. Defendants further failed to reimburse a reasonable portion of the Class Members' cellphone related expenses despite requiring the use of the device and/or applications that required a data plan. *See Cochran v. Schwan's Home Serv., Inc.*, 228 Cal. App. 4th 1137, 1144 ("We hold that when employees must use their personal cell phones for work related calls, Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills."). Defendant further failed to reimburse Plaintiff and the Class Members for the purchase of work-related equipment.

55. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for a reasonable portion of the incurred expenses, to be determined upon trial, plus reasonable attorneys' fees and costs. Lab. Code § 2802.

EIGHTH CAUSE OF ACTION

California Business & Professions Code §§ 17200, et seq.

Unlawful Business Practices

(Plaintiff and Class Against Defendants)

56. Plaintiff repeats and incorporate by reference every allegation in this complaint as if fully set forth herein.

57. Defendants GNC is a "persons" as defined by California Business & Professions Code § 17201, as it is a natural person, corporations, firms, partnerships, joint stock companies, and/or associations.

58. Unlawful Business Practices. Defendants' knowing violations of the Labor Code constitutes an unlawful business practice as set forth in Business & Professions Code § 17200, et seq.

59. Defendants' failure to abide by the laws discussed herein provided Defendants an unfair advantage over their competitors at the expense of their workers. Instead, Defendants cuts corners in the name of higher profits and at the expense of employee well-being. Defendants' actions thereby constitute

an unfair, fraudulent, and/or unlawful business practice under Business & Professions Code § 17200, et seq.

60. Relief. Plaintiff brings this cause of action seeking equitable and injunctive relief to stop Defendant's willful and ongoing misconduct, and to seek restitution of the amounts Defendants acquired through the unfair, unlawful, and fraudulent business practices described herein. In addition, Plaintiff seeks an award of costs and attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

DEMAND FOR JURY TRIAL

Pursuant to California Code of Civil Procedure § 631, Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

A. For an Order:

   a. Certifying the Class;

   b. Appointing Plaintiff as representative of the Class;

   c. Appointing Plaintiff's counsel as Class Counsel;

B. For actual and liquidated damages according to proof at trial;

C. For statutory and civil penalties and special damages, according to proof at trial;

D. For pre- and post-judgment interest on monetary damages;

E. For preliminary and permanent injunctive relief;

F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and

G. For such other relief as this Court deems just and proper.

Dated: September 17, 2024

Respectfully submitted,

KING & SIEGEL LLP

By: Elliot J. Siegel

Elliot J. Siegel, Esq.
Attorneys for Plaintiff and Putative Class

Dated: September 17, 2024

BARAHMAND LAW GROUP

By: *__/s/ Navid Barahmand_________*
Navid Barahmand, Esq.
Attorneys for Plaintiff and Putative Class