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jsroufe
By _____, Deputy
Case Number:
34-2020-00278596

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

ARIANA CAMACHO, and FATIMA G.
SANCHEZ, on behalf of themselves and all
others similarly situated, and as a private
attorney general,

Plaintiff,

v.

TWENTY4SEVEN HOTELS
CORPORATION, a California Corporation;
T4S MANAGEMENT CA LLC, a
California Limited Liability Company;
DAVID WANI, an Individual; and DOES 1
through 50, Inclusive

Defendants.

Case No.: 34-2020-00278596

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

- (1) FAILURE TO PAY OVERTIME
WAGES;**
- (2) FAILURE TO PAY MINIMUM WAGES;**
- (3) FAILURE TO PROVIDE MEAL
PERIODS;**
- (4) FAILURE TO PROVIDE REST
PERIODS;**
- (5) FAILURE TO PAY ALL WAGES UPON
TERMINATION;**
- (6) FAILURE TO PROVIDE ACCURATE
WAGE STATEMENTS;**
- (7) UNFAIR COMPETITION**
- (8) CIVIL PENALTIES LABOR CODE §2699**

DEMAND FOR JURY TRIAL

FILED BY FAX

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Attorneys for Plaintiff,
FATIMA G. SANCHEZ, on behalf
of herself and all others similarly situated

COME NOW plaintiffs ARIANA CAMACHO (“Ms. Camacho”) and FATIMA G. SANCHEZ (“Ms. Sanchez”) (hereinafter, collectively referred to as “Plaintiffs”) on behalf of themselves and all others similarly situated, and allege as follows:

INTRODUCTION

1. This is a Class Action, pursuant to California Code Civil Procedure § 382, on behalf of Plaintiffs and all other current and former similarly situated employees employed by or formerly employed by TWENTY4SEVEN HOTELS CORPORATION (“Twenty4Seven”), T4S MANAGEMENT CA, LLC (“T4S Management”) and DAVID WANI (“Mr. Wani”) (hereinafter, collectively referred to as “Defendants”), within the State of California.

2. For at least four (4) years prior to the filing of this action and through to the present, Defendants have had a consistent policy of failing to pay overtime wages and/or prevailing minimum wages to Plaintiffs and other non-exempt employees in the State of California in violation of California state wage and hour laws as a result of, including but not limited to, rounding employees’ time.

3. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiffs and other similarly situated employees or former employees within the State of California a thirty (30) minute uninterrupted meal period for days on which the employees worked more than five (5) hours in a workday and a second thirty (30) minute uninterrupted meal periods for days on which the employees worked in excess of ten (10) hours in a work day, and failing to provide compensation for such unprovided meal periods as required by California wage and hour laws.

4. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiffs and similarly situated employees or former employees within the State of California rest periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and failing to provide compensation for such unprovided rest periods as required by California wage and hour laws.

1 5. Plaintiffs, on behalf of themselves and all other similarly situated employees, brings
2 this action pursuant to, including but not limited to, California Labor Code §§ 200, 201, 202, 203,
3 226, 226.7, 510, 512, 1194, 1194.2, 1197 and California Code of Regulations, Title 8, §11070,
4 seeking unpaid wages, premium wages for missed meal and rest periods, penalties, and reasonable
5 attorney's fees and costs.

6 6. Plaintiffs, on behalf of themselves and all other similarly situated employees,
7 pursuant to California Business & Professions Code §§ 17200-17208 also seeks all monies owed
8 but withheld and retained by Defendants to which Plaintiffs and members of the Class are entitled.

9 **JURISDICTION AND VENUE**

10 7. This Court has jurisdiction over Defendants because, upon information and belief,
11 Defendants are citizens of California, and/or Defendants have sufficient minimum contacts in
12 California, or otherwise intentionally avail themselves to the State of California so as to render the
13 exercise of jurisdiction over them by California courts consistent with the traditional notions of
14 fair play and substantial justice.

15 8. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as most of the acts and omission complained of herein occurred in
17 the County of Sacramento. Defendants own, maintain offices, transact business, have an agent or
18 agents within the County of Sacramento, and/or otherwise are found within the County of
19 Sacramento, and Defendants are within the jurisdiction of this Court for purposes of service of
20 process.

21 **PARTIES**

22 **A. Plaintiffs**

23 9. Plaintiff, Ms. Sanchez, is a resident of California. At all times relevant herein, she
24 has been employed by Defendants as a non-exempt employee in California, as a waitress and
25 bartender.

26 10. Plaintiff, Ms. Camacho, is a resident of California. At all times relevant herein, she
27 has been employed by Defendants as a non-exempt employee in California, as a banquet server.
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1 **B. Defendants**

2 11. Defendant, Twenty4Seven Hotels Corporation (“Twenty4Seven”), is a California
3 corporation with its local place of business in Newport Beach, California. Plaintiffs are informed
4 and believe, and based thereon allege, that for at least four (4) years prior to the filing of this action
5 and continuing to the present, Defendant Twenty4Seven did (and continues to do) business by
6 providing, amongst other things, hotel industry management, investment and development service,
7 and employed Plaintiffs and other similarly situated employees within the State of California and,
8 therefore, were (and are) doing business in Sacramento County and the State of California.

9 12. Defendant, T4S Management CA LLC (“T4S Management”), is a California
10 limited liability company with its local place of business in Newport Beach, California. Plaintiffs
11 are informed and believe, and based thereon allege, that for at least four (4) years prior to the filing
12 of this action and continuing to the present, Defendant T4S Management did (and continues to do)
13 business by providing hotel industry management, investment and development service, and
14 employed Plaintiffs and other similarly situated employees within the State of California and,
15 therefore, were (and are) doing business in Sacramento County and the State of California.

16 13. Defendant, Mr. Wani, is and was at all times relevant hereto, an individual residing
17 in the State of California. Plaintiff, Ms. Sanchez, is further informed and believes, and based
18 thereon alleges, that Mr. Wani is and was the CEO, president, manager, and member of T4S
19 Management.

20 14. The true names and capacities, whether individual, corporate, associate, or
21 otherwise, of defendants sued herein as DOES 1 through 50, inclusive, are currently unknown to
22 Plaintiffs, who therefore sues defendants by such fictitious names under Code of Civil Procedure
23 § 474. Plaintiffs are informed and believe, and based thereon allege, that each of the defendants
24 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred
25 to herein. Plaintiffs will seek leave of the court to amend this Complaint to reflect the true names
26 and capacities of the defendants designated hereinafter as DOES when such identities are known.

1 15. Plaintiffs are informed and believe, and based thereon allege, that each defendant
2 acted in all respect pertinent to this action as the agent of the other defendant, carried out a joint
3 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
4 legally attributable to the other defendants.

5 16. To the extent that T4S Management claims to be a California Limited Liability
6 Company, it is an alter ego of Mr. Wani. Plaintiff, Ms. Sanchez, is informed and believes, and
7 based thereon alleges, that at all times mentioned herein, there was such a unity of interest between
8 Mr. Wani on the one hand, and T4S Management on the other hand, that the separate entity of T4S
9 Management should be disregarded, and T4S Management and Mr. Wani should be treated merely
10 as the alter-egos of each other. Adherence to the fiction of separate existence of T4S Management
11 as an entity distinct from Mr. Wani would permit an abuse of the corporation provisions, would
12 sanction fraud and injustice in that Mr. Wani could evade personal liability for his wrongdoing
13 alleged in this Complaint, and could and would continue in the entity name to perpetuate the
14 fraudulent plan, scheme, and devise alleged in this Complaint. Plaintiff, Ms. Sanchez, is further
15 informed and believes that Mr. Wani and T4S Management failed to adhere T4S Management's
16 separate identities, among other ways, as follows:

- 17 a. T4S Management failed to comply with corporate formalities;
- 18 b. T4S Management's funds were withdrawn for personal use without
19 treating such withdrawals as salaries or dividends;
- 20 c. Mr. Wani commingled his funds with those of T4S Management and vice
21 versa;
- 22 d. Mr. Wani guarantied the debts of T4S Management and vice versa;
- 23 e. Mr. Wani at all times herein mentioned, completely controlled, dominated,
24 managed, and operated T4S Management;
- 25 f. T4S Management was created, and is being continued, pursuant to a
26 fraudulent scheme, and devised, conceived, and operated by Mr. Wani to
27 defraud Plaintiff, Ms. Sanchez and the public in general; and
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1 g. T4S Management is a mere shell, instrumentality, and conduit, without
2 adequate capital, through which Mr. Wani carries on the business in the
3 company name.

4 17. Defendant, Mr. Wani, is, on information and belief, an owner, director, officer or
5 managing agent of T4S Management, who violated or caused to be violated Labor Code Sections
6 203, 226, 226.7, and 1194, in direct violation of Labor Code Section 558.1, and thereby Mr. Wani
7 may be held personally liable as the employer for such violation.

8 **COMMON FACTUAL ALLEGATIONS**

9 18. Plaintiffs and other similarly situated employees have not been paid, during the
10 relevant liability periods, wages, as a result of, including but not limited, rounding non-exempt
11 employees' time.

12 19. Defendants have had a consistent policy of failing to provide Plaintiffs and other
13 similarly situated employees or former employees within the State of California a thirty (30)
14 minute uninterrupted meal period for days on which the employee worked in excess of ten (10)
15 hours in a workday, and failing to provide compensation for such unprovided meal periods.

16 20. Plaintiffs and other similarly situated employees were also not relinquished of all
17 control during their meal periods due to Defendants' meal period policies and practices which
18 required and/or pressed Plaintiffs and other similarly situated employees to take meal periods on
19 work premises in designated breakrooms, and not off premises. Defendants' rest period policy is
20 further invalid insofar as it fails to state the timing by which Plaintiffs and other similarly situated
21 employees are to take their respective ten-minute rest periods.

22 21. Defendants have had a consistent policy of failing to provide Plaintiffs and
23 similarly situated employees or former employees within the State of California rest periods of at
24 least ten (10) minutes per four (4) hours worked or major fraction thereof and failing to provide
25 compensation for such unprovided rest periods as required by California wage and hour laws.

26 22. Defendants also have failed to maintain a mechanism for the payment of rest and
27 meal period premium payments as required by Labor Code § 226.7.
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1 23. Plaintiffs and other similarly situated employees or former employees at all times
2 pertinent hereto were not exempt from the overtime, meal break and rest break provisions of
3 California law, and the implementing rules and regulations of the IWC California Wage Orders.

4 24. In light of Defendants' failure to provide Plaintiffs and other similarly situated
5 employees with legally compliant meal and rest periods or compensation in lieu thereof,
6 Defendants intentionally failed to comply with Labor Code § 226(a) by not providing itemized
7 wage statements accurately reflecting the correct amount of gross wages earned, net wages earned,
8 or the applicable hourly rates in effect during the pay period and premium wages due for missed
9 meal and rest periods.

10 25. As a further result of Defendants' failure to pay all meal and rest period premium
11 wages, Defendants also failed to pay Plaintiffs and other similarly situated employees all wages
12 owed at their time of separation from employment with Defendants in violation of Labor Code §§
13 201-203 and applicable Wage Orders.

14 26. Furthermore, Defendants have had a consistent policy of failing to pay all minimum
15 and overtime wages to Plaintiff Ariana Camacho and the Aggrieved Employees in violation of
16 California state wage and hour laws as a result of, including but not limited to, unfairly rounding
17 Aggrieved Employees' time entries.

18 27. At all relevant times, Twenty4Seven's rounding time policy was not neutral on its
19 face as Plaintiff Ariana Camacho and other Aggrieved Employees are subject to discipline,
20 including termination for being tardy in reporting to work, or returning late from a meal or rest
21 period. Moreover, because Defendants are capable of tracking the time worked by Aggrieved
22 Employees who are trying to report their time on timecards or otherwise, but for Defendants'
23 benefit.

24 28. As a result, the policy is not neutral on its face, and over a period of time, Plaintiff
25 Ariana Camacho and other Aggrieved Employees were not properly paid for all hours worked in
26 violation of Labor Code §§ 204, 510, 1194, 1197.1, 1199, and applicable Wage Orders. As a
27 further result of the unlawful rounding policy/practice, Plaintiff Ariana Camacho and other
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Aggrieved Employees were not properly paid at the correct overtime rate for hours worked in excess of eight hours per shift (Labor Code § 510).

29. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission, a civil penalty, restitution of wages, and liquidated damages as follows: (1) for an initial violation intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid, and (2) for each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid, regardless of whether the initial violation is intentionally committed.

CLASS ACTION ALLEGATIONS

30. Plaintiffs brings this action on behalf of themselves, and all others similarly situated, as a class action pursuant to California Code of Civil Procedure § 382. Plaintiffs seek to represent five Classes composed of and defined as follows:

Non-Exempt Employee Class

All current and former employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiffs' complaint up until the time that notice of the class action is provided to the class (collectively referred to as "Non-Exempt Employee Class").

Meal Period Class

All current and former employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiffs' complaint up until the time that notice of the class action is provided to the class, who worked shifts of 5 hours or more (collectively referred to as "Meal Period Class").

Rest Period Class

All current and former employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiffs' complaint up until the time that notice of the class action is provided to the class, who worked shifts of 4 hours or more (collectively referred to as "Rest Period Class").

Late Pay Class

All former employees of Defendants within the State of California at any time commencing three (3) years preceding the filing of Plaintiffs' complaint up until

1 the time that notice of the class action is provided to the class, who did not receive
2 all their wages upon termination and or resignation of their employment
(collectively referred to as “Late Pay Class”).

3 **Wage Statement Class**

4 All current and former employees of Defendants within the State of California, to
5 whom, at any time commencing one (1) year preceding the filing of Plaintiffs’
6 complaint up until the time that notice of the class action is provided to the class,
7 were provided with wage statements (collectively referred to as “Wage Statement
Class”).

8 31. Plaintiffs reserve the right under California Rules of Court Rule 3.765(b), to amend
9 or modify the class description with greater specificity or further division into subclasses or
10 limitation to particular issues.

11 32. This action has been brought and may properly be maintained as a class action
12 under the provisions of California Code of Civil Procedure § 382 because there is a well-defined
13 community of interest in the litigation and the proposed Class is easily ascertainable.

14 **A. Numerosity**

15 33. The potential members of the Class as defined are so numerous that joiner of all the
16 members of the Class is impracticable. While the precise number of Class Members has not been
17 determined at this time, Plaintiffs are informed and believe that there are at least one hundred Class
18 Members employed by Defendants within the State of California.

19 34. Accounting for employee turnover during the relevant periods necessarily increases
20 this number substantially. Plaintiffs allege Defendants’ employment records would provide
21 information as to the number and location of all Class Members. Joinder of all members of the
22 proposed Class is not practicable.

23 **B. Commonality**

24 35. There are questions of law and fact common to Class Members. These common
25 questions include, but are not limited to:

- 26 (1) Did Defendants violate Labor Code § 1194 by not compensating Class
27 Members overtime wages and/or minimum wages?
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- 1 (2) Did Defendants violate Labor Code § 512 by not providing Class
2 Members with meal periods?
- 3 (3) Did Defendants violate Labor Code § 226.7 by not providing Class
4 Members additional wages for missed or interrupted meal periods?
- 5 (4) Did Defendants violate Labor Code § 226.7 by not providing Class
6 Members additional wages for missed rest periods?
- 7 (5) Did Defendants violate Labor Code §§ 201 and 202 by failing to pay Class
8 Members upon termination or resignation all wages earned?
- 9 (6) Are Defendants liable to Class Members for penalty wages under Labor
10 Code § 203?
- 11 (7) Did Defendants violate Labor Code § 226(a) by not furnishing
12 Class Members with accurate wage statements?
- 13 (8) Did Defendants violate the Unfair Competition Law, Business and
14 Professions Code § 17200, *et seq.*, by its unlawful practices as alleged
15 herein?
- 16 (9) Are Class Members entitled to restitution of penalty wages under Business
17 and Professions Code § 17203?
- 18 (10) Are Class Members entitled to costs and attorneys' fees?
- 19 (11) Are Class Members entitled to interest?
- 20 (12) Are Defendants liable to Class Members for civil penalties under Labor
21 Code §§ 2699, *et seq.*?

22 **C. Typicality**

23 36. The claims of Plaintiffs herein alleged are typical of those claims which could be
24 alleged by any member of the classes, and the relief sought is typical of the relief which would be
25 sought by each of the members of the classes in separate actions. Plaintiffs and all members of the
26 Classes sustained injuries and damages arising out of and caused by Defendants' common course
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of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged herein.

D. Adequacy of Representation

37. Plaintiffs will fairly and adequately represent and protect the interests of the members of the Classes. Counsel representing Plaintiffs are competent and experienced in litigating wage and hour class actions.

E. Superiority of Class Action

38. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of, but not limited to, Defendants' illegal policy and/or practice of failing to pay wages, failing to provide meal and rest breaks or compensation in lieu thereof, failing to provide accurate itemized wage statements, and failing to pay all wages upon termination and/or resignation.

39. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

FIRST CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(By Plaintiffs and the Class Against All Defendants)

40. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein

41. At all times relevant to this Complaint, California Labor Code § 510 was in effect and provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of forty hours in any one workweek . . . shall be

1 compensated at the rate of no less than one and one-half times the regular rate of pay for an
2 employee.”

3 42. At all times herein mentioned, Plaintiffs and the Non-Exempt Employee Class
4 worked for Defendants during shifts that consisted of more than eight hours in a work day and/or
5 more than forty hours in a work week and were not paid overtime wages for all hours worked as a
6 result of, including but not limited to, Defendants’ pattern and practice of unevenly rounding time
7 worked by its employees.

8 43. Accordingly, by requiring Plaintiffs and the Non-Exempt Employee Class to work
9 in excess of eight hours per day and/or forty hours per week and without properly compensating
10 overtime wages, as described above, Defendants willfully violated the provisions of Labor Code
11 § 1194.

12 44. As a result of the unlawful acts of Defendants, Plaintiffs and the Non-Exempt
13 Employee Class have been deprived of overtime wages in an amount to be determined at trial, and
14 are entitled to recovery of such amounts, plus interest and penalties thereon, attorney's fees, and
15 costs, pursuant to Labor Code §§ 1194, 1199; Code of Civil Procedure § 1021.5; and Civil Code
16 § 3287.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY MINIMUM WAGES**

19 **(By Plaintiffs and the Class Against All Defendants)**

20 45. Plaintiffs reallege and incorporate by reference all of the allegations contained in
21 the preceding paragraphs of this Complaint as though fully set forth herein.

22 46. At all relevant times, Plaintiffs and the members of the Non-Exempt Employee
23 Class were employees of Defendants covered by Labor Code § 1197 and applicable Wage Orders.

24 47. Pursuant to Labor Code § 1197 and applicable Wage Orders, Plaintiffs and the
25 members of the Non-Exempt Employee Class were entitled to receive minimum wages for all
26 hours worked.

1 48. At all times herein mentioned, to the extent that Plaintiffs and the Non-Exempt
2 Employee Class worked for Defendants during shifts that were less than eight hours in a workday
3 and/or less than forty hours in a work week, on multiple occasions these employees have not been
4 paid minimum wage, such that in the aggregate employees are underpaid wages as a result of
5 Defendants' pattern and practice of unevenly rounding time worked by its employees. Defendants'
6 failure to pay Plaintiffs and members of the Non-Exempt Employee Class minimum wages for all
7 hours worked, as described herein, is in violation of Labor Code § 1197 and applicable Wage
8 Orders. As a result of Defendants' pattern and practice, Plaintiffs and members of the Non-Exempt
9 Employee Class have suffered damages in an amount, subject to proof, to the extent they were not
10 paid minimum wages for all hours worked.

11 49. Pursuant to Labor Code §§ 1194 and 1194.2, Plaintiffs and members of the Non-
12 Exempt Employee Class are entitled to recover the full amount of unpaid minimum wages,
13 penalties, prejudgment interest, liquidated damages, reasonable attorney's fees, and costs of suit.

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO PROVIDE MEAL PERIODS**

16 **(By Plaintiffs and the Class Against All Defendants)**

17 50. Plaintiffs reallege and incorporate by reference all of the allegations contained in
18 the preceding paragraphs of this Complaint as though fully set forth herein.

19 51. Pursuant to Labor Code § 512, no employer shall employ an employee for a work
20 period of more than five (5) hours without a meal break of not less than thirty (30) minutes in
21 which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ
22 an employee for a work period of more than ten (10) hours per day without providing the employee
23 with a second meal period of not less than thirty (30) minutes in which the employee is relieved
24 of all of his or her duties. Plaintiffs and other members of the Meal Period Class were not provided
25 with requisite meal periods as contemplated under the law.

26 52. Pursuant to Labor Code § 226.7, if an employer fails to provide an employee with
27 a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
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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 period or rest period is not provided.

53. By their failure to provide Plaintiffs and members of the Meal Period Class with the meal periods contemplated by California law, and failing to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully violated the provisions of Labor Code § 512 and applicable Wage Orders.

54. As a result of Defendants' unlawful conduct, Plaintiffs and the other members of the Meal Period Class have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed meal periods.

55. Plaintiffs and the other members of the Meal Period Class are entitled to recover the full amount of their unpaid additional pay for missed meal periods. Pursuant to Code of Civil Procedure § 1021.5, Plaintiffs and the other members of the Meal Period Class are entitled to recover reasonable attorney's fees and costs of suit.

56. Pursuant to Civil Code § 3287(a), Plaintiffs and other members of the Meal Period Class are entitled to recover prejudgment interest on the additional pay owed for missed meal periods.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(By Plaintiffs and the Class Against All Defendants)

57. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

58. California law and applicable Wage Orders require that employers "authorize and permit" employees to take paid 10-minute rest periods in about the middle of each 4-hour work period "or major fraction thereof." Accordingly, employees who work shifts of 3 ½ to 6 hours must be provided 10 minutes of paid rest period, employees who work shifts of more than 6 and up to 10 hours must be provided with 20 minutes of paid rest period, and employees who work shifts of more than 10 hours must be provided 30 minutes of paid rest period.

1 59. Moreover, in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269,
2 the court concluded that “during rest periods employers must relieve employees of all duties and
3 relinquish control over how employees spend their time.” In doing so, the court expressly rejected
4 the employer’s assertion that it could provide an on-duty rest period to employees who worked as
5 security guards and further explained “that employers [must] relinquish any control over how
6 employees spend their break time, and relieve their employees of all duties.” (*Id.* at 273).
7 Defendants’ rest period policies and practices, therefore, fail to provide Plaintiffs and other
8 members of the Rest Period Class with the requisite rest periods as contemplated under the law.

9 60. Pursuant to Labor Code § 226.7, if an employer fails to provide an employee with
10 a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
11 Commission, the employer shall pay the employee one additional hour of pay at the employee's
12 regular rate of compensation for each workday that the meal period or rest period is not provided.

13 61. By their failure to provide Plaintiffs and other members of the Rest Period Class
14 with the rest periods contemplated by California law, and failing to provide compensation for such
15 unprovided rest periods, as alleged above, Defendants willfully violated the provisions of Labor
16 Code § 226.7 and applicable Wage Orders.

17 62. As a result of Defendants’ unlawful conduct, Plaintiffs and the other members of
18 the Rest Period Class have suffered damages in an amount, subject to proof, to the extent they
19 were not paid additional pay owed for missed rest periods.

20 63. Plaintiffs and the other members of the Rest Period Class are entitled to recover the
21 full amount of their unpaid additional pay for missed rest periods. Pursuant to Code of Civil
22 Procedure § 1021.5, Plaintiffs and the other members of the Rest Period Class are entitled to
23 recover reasonable attorney’s fees and costs of suit.

24 64. Pursuant to Civil Code § 3287(a), Plaintiffs and other members of the Rest Period
25 Class are entitled to recover prejudgment interest on the additional pay owed for missed rest
26 periods.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES UPON TERMINATION**

3 **(By Plaintiffs and the Class Against All Defendants)**

4 65. Plaintiffs reallege and incorporate by reference all of the allegations contained in
5 the preceding paragraphs of this Complaint as though fully set forth herein

6 66. At all relevant times, Plaintiffs and other members of the Late Pay Class were
7 employees of Defendants covered by Labor Code §§ 201 and 202.

8 67. Pursuant to Labor Code §§ 201 or 202, Plaintiffs and other members of the Late
9 Pay Class were entitled upon termination to timely payment of all wages earned and unpaid prior
10 to termination. Discharged employers were entitled to payment of all wages earned and unpaid
11 prior to discharge immediately upon termination. Employees who resigned were entitled to
12 payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of
13 resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages
14 earned and unpaid at the time of resignation.

15 68. On the date of Plaintiff Sanchez's termination, Defendants failed to pay Ms.
16 Sanchez and other members of the Late Pay Class all wages earned and unpaid in accordance with
17 Labor Code §§ 201 or 202.

18 69. Defendants' failure to pay Plaintiff Sanchez and members of the Late Pay Class all
19 wages earned prior to termination in accordance with Labor Code §§ 201 and 202, was willful.
20 Defendants had the ability to pay all wages earned by Plaintiff Sanchez, and other members of the
21 Late Pay Class at the time of termination in accordance with Labor Code §§ 201 and 202, but
22 intentionally adopted policies or practices incompatible with the requirements of Labor Code §§
23 201 and 202.

24 70. Pursuant to Labor Code §§ 201 and 202, Plaintiffs and other members of the Late
25 Pay Class are entitled to all wages earned prior to termination that Defendants failed to pay them.
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71. Pursuant to Labor Code § 203, Plaintiffs and other members of the Late Pay Class are entitled to penalty wages from the date their earned and unpaid wages were due, upon termination, until paid, up to a maximum of 30 days.

72. As a result of Defendants' unlawful conduct, Plaintiffs and other members of the Late Pay Class have suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned upon termination.

73. As a result of Defendants' unlawful conduct, Plaintiffs and the other members of the Late Pay Class have suffered damages in an amount subject to proof, to the extent they were not paid all penalty wages owed under Labor Code § 203.

74. Pursuant to Labor Code §§ 218 and 218.5, Plaintiffs and the other members of the Late Pay Class are entitled to recover the full amount of their unpaid wages, and penalty wages under Labor Code § 203, reasonable attorney's fees, and costs of suit. Pursuant to Labor Code § 218.6 or Civil Code § 3287(a), Plaintiffs and the other members of the Late Pay Class are entitled to recover prejudgment interest on the amount of their unpaid wages and unpaid penalty wages.

SIXTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS

(By Plaintiffs and the Class Against All Defendants)

75. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

76. At all relevant times, Plaintiffs and the other members of the Wage Statement Class were employees of Defendants covered by Labor Code § 226.

77. Pursuant to Labor Code § 226(a), Plaintiffs and the other members of the Wage Statement Class were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement showing gross wages earned, net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

1 78. Defendants failed to provide Plaintiffs and the other members of the Wage
2 Statement Class accurate itemized wage statements in accordance with Labor Code § 226(a).

3 79. Plaintiffs and the other members of the Wage Statement Class are informed and
4 believe, and thereon allege, that at all relevant times, Defendants maintained and continue to
5 maintain a policy and practice of issuing wage statements that do not show, including but not
6 limited to, pay due and owing for all time worked. Defendants' practices resulted and continue to
7 result in, the issuance of Wage Statements to Plaintiffs and other members of the Class that do not
8 comply with the itemization requirements.

9 80. Defendants' failure to provide Plaintiffs and other members of the Wage Statement
10 Class with accurate Wage Statements was knowing and intentional. Defendants had the ability to
11 provide Plaintiffs and the other members of the Wage Statement Class with accurate Wage
12 Statements, but intentionally provided wage statements that Defendants knew were not accurate.

13 81. As a result of Defendants' unlawful conduct, Plaintiffs and the other members of
14 the Wage Statement Class have suffered injury. The absence of accurate information on their wage
15 statements has delayed timely challenge to Defendants' unlawful pay practices, requires discovery
16 and mathematical computations to determine the amount of wages owed, causes difficulty and
17 expense in attempting to reconstruct time and pay records, and led to submission of inaccurate
18 information about wages and amounts deducted from wages to state and federal government
19 agencies.

20 82. Pursuant to Labor Code § 226(e), Plaintiffs and other members of the Wage
21 Statement Class are entitled to recover \$50 for the initial pay period during the period in which
22 violation of Labor Code § 226 occurred and \$100 for each violation of Labor Code § 226 in a
23 subsequent pay period, not to exceed an aggregate penalty of \$4,000 per employee.

24 83. Pursuant to Labor Code §§ 226(e) and 226(g), Plaintiffs and the other members of
25 the Wage Statement Class are entitled to recover the full amount of penalties due under Labor
26 Code § 226(e) reasonable attorney's fees and costs of suit.

1 **SEVENTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(By Plaintiffs and the Class Against All Defendants)**

4 84. Plaintiffs reallege and incorporate by reference all of the allegations contained in
5 the preceding paragraphs of this Complaint as though fully set forth herein.

6 85. The unlawful conduct of Defendants alleged herein constitutes unfair competition
7 within the meaning of Business & Professions Code § 17200. Due to their unlawful business
8 practices in violation of the Labor Code, Defendants have gained a competitive advantage over
9 other comparable companies doing business in the state of California that comply with their
10 obligations to compensate employees in accordance with the Labor Code.

11 86. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and
12 similarly situated Class Members have suffered injury in fact and lost money or property. Plaintiffs
13 and similarly situated Class Members have been deprived from not being compensated wages,
14 from not being provided with meal and rest breaks or compensation in lieu thereof, from not being
15 paid all wages due upon termination or resignation, and from being issued inaccurate wage
16 statements.

17 87. Pursuant to Business & Professions Code § 17203, Plaintiffs and similarly situated
18 Class Members are entitled to restitution of all wages and other monies owed to them under the
19 Labor Code, including interest thereon, in which they had a property interest which Defendants
20 failed to pay them but withheld and retained for themselves. Restitution of the money owed to
21 Plaintiffs and similarly situated Class Members is necessary to prevent Defendants from becoming
22 unjustly enriched by their failure to comply with the Labor Code.

23 88. Plaintiffs and similarly situated Class Members are entitled to recover reasonable
24 attorney's fees in connection with their unfair competition claims pursuant to Code of Civil
25 Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

26 **EIGHTH CAUSE OF ACTION**

27 **PRIVATE ATTORNEY GENERAL ACT**

**(By Plaintiffs and Similarly Aggrieved Employees Against Defendants T4S and
Twenty4Seven)**

89. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

90. During the period beginning one year period preceding the filing of the Complaint in this action (the “Civil Penalty Period”), Defendants T4S Management and Twenty4Seven violated, including but not limited to Labor Code sections 200, 201, 202, 203, 226, 226.7, 510, 512, 1174, 1194, 1194.2 and 1197.

91. Labor Code § 2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current and former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code § 2699.3.

92. Plaintiff, Ms. Sanchez, has complied with the procedures for bringing suit specified in Labor Code § 2699.3. On or about June 09, 2020, Plaintiff, Ms. Sanchez, gave written notice to the Labor and Workforce Development Agency (“LWDA”) and to T4S of the specified provisions of the Labor Code alleged to have been violated, and the LWDA has elected not to investigate.

93. Plaintiff, Ms. Camacho, has also complied with the procedures for bringing suit specified in Labor Code § 2699.3. On or about January 24, 2020, Plaintiff, Ms. Camacho, notified Defendants Twenty4Seven and T4S Management via certified mail and the LWDA via its website of the specified provisions of the Labor Code alleged to have been violated related to unlawful meal and rest period policies, and the LWDA has elected not investigate. Further, on or about February 3, 2022, Ms. Camacho notified Defendants Twenty4Seven and T4S Management via certified mail and the LWDA via its website of the specified provisions of the Labor Code alleged to have been violated related to unlawful rounding and resulting minimum/overtime wage violations, and the LWDA has elected not investigate.

94. Pursuant to Labor Code § 2699(a) and (f), Plaintiffs and the Class they seek to represent are entitled to recover civil penalties for Defendants’ violations of the specified Labor Code sections during the Civil Penalty Period in the amount of one hundred dollars (\$100) for each

employee per pay period for the initial violation and two hundred dollars (\$200) for each employee per pay period for each subsequent violation. Ms. Camacho and the Aggrieved Employees further seek to recover penalties under Labor Code §§ 1199 and 1197.1 in the amount of one hundred dollars (\$100) for each employee per pay period for the initial violation and two hundred fifty dollars (\$250) for each employee per pay period for each subsequent violation.

95. Pursuant to Labor Code § 2699(g), Plaintiffs and the Class they seek to represent are entitled to an award of reasonable attorney's fees and costs in connection with their claims for civil penalties.

PRAYER

WHEREFORE, on behalf of themselves and all others similarly situated, Plaintiffs pray for judgment against Defendants as follows:

A. An order certifying that Plaintiffs may pursue their claims against Defendants as a class action on behalf of the Class Members;

B. An order appointing Plaintiffs as Class representatives and appointing Plaintiffs' counsel as class counsel;

C. Penalties for inaccurate wage statements under Labor Code § 226(e);

D. Damages for unpaid wages under Labor Code §§ 201 or 202;

E. Damages for unpaid penalty wages under Labor Code § 203;

F. Damages for unpaid wages for missed meal periods under Labor Code § 226.7;

G. Damages for unpaid wages for missed rest periods under Labor Code § 226.7;

H. Damages for premium wages;

I. Damages for unpaid overtime wages;

J. Damages for unpaid minimum wages;

K. Liquidated damages;

L. Restitution under Business and Professions Code § 17203;

M. Pre-judgment interest;

N. Costs;

- 1 O. Reasonable attorney's fees;
- 2 P. For all penalties provided by Labor Code §§ 1197.1, 1199, and 2699(a)-(f); and
- 3 Q. Such other and further relief as the Court deems just and proper.
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1 DATED: November 23, 2022

LIBERTY MAN LAW, P.C.

2 FALAKASSA LAW, P.C.

3 By: /s/ Arash S. Khosrowshahi

4 Arash S. Khosrowshahi, Esq.

5 Joshua S. Falakassa, Esq.

6 Attorneys for Plaintiff, Ariana Camacho

7 THE NOURMAND LAW FIRM, APC

8 By: /s/ Michael Nourmand

9 Michael Nourmand, Esq.

10 James A. De Sario, Esq.

11 Attorneys for Plaintiff, Fatima G. Sanchez

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within entitled action; my business address is 8822 West Olympic
Boulevard, Beverly Hills, California 90211.

5 On February 9, 2023, I served the following document(s) described as:

6 **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT**

7 on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope,
8 with postage thereon fully prepaid, addressed as follows:

9 Arash S. Koshrowshah, Esq.
LIBERTY MAN LAW
1010 F Street, Ste. 300
10 Sacramento, California 95814

11 **Courtesy Copy via Email: ash@libertymanlaw.com**

12 Joshua S. Falakassa, Esq.
FALAKASSA LAW, P.C.
13 1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067

14 **Courtesy Copy via Email: josh@falakassalaw.com**

15 Allyson K. Thompson, Esq.
16 Amir D. Benakote, Esq.
KAUFMAN DOLOWICH & VOLUCK LLP
17 11755 Wilshire Boulevard, Suite 2400
Los Angeles, California 90025

18 **Courtesy Copy via Email: athompson@kdvlaw.com; abenakote@kdvlaw.com**

19
20 BY MAIL: As follows: I am readily familiar with our office's practice for collection
21 and processing of correspondence and other materials for mailing with the United States
Postal Service. On this date, I sealed the envelope(s) containing the above materials and
22 placed the envelope(s) for collection and mailing on this date at the address stated above,
following our office's ordinary business practices. The envelope(s) will be deposited with
the United States Postal Service on this date, in the ordinary course of business.

23
24 I declare under penalty of perjury under the laws of the State of California that the above is
true and correct and that this Proof of Service was executed on February 9, 2023, at Beverly Hills,
California.

25
26 /s/ Alejandra Beltran
Alejandra Beltran
27
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