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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN – METROPOLITAN DIVISION

ALICIA WILEY, Individually, and on Behalf
of Other Members of the Public Similarly
Situated,

Plaintiff,

vs.

SECOND AMENDMENT SPORTS, INC.,
and DOES 1 through 25, inclusive,

Defendants.

CASE NO: BCV-20-100349

Assigned for All Purposes to:

CLASS ACTION COMPLAINT FOR:

**(1) FAILURE TO PAY MINIMUM
WAGES OWED;**

**(2) FAILURE TO PAY OVERTIME
WAGES OWED;**

**(3) FAILURE TO PROVIDE TIMELY
REST PERIODS OR PAY PREMIUM
WAGES**

**(4) FAILURE TO PROVIDE TIMELY
MEAL PERIODS OR PAY PREMIUM
WAGES;**

(5) INACCURATE WAGE STATEMENTS

**(6) FAILURE TO PAY WAGES AT
TERMINATION; AND**

(7) UNFAIR COMPETITION

DEMAND FOR JURY TRIAL

Trial Date: None

Complaint filed:

1 Comes now ALICIA WILEY (“Plaintiff”), who individually and on behalf of other
2 members of the public similarly situated asserts claims against SECOND AMENDMENT
3 SPORTS, INC. and Does 1 through 25, inclusive, (collectively “Defendants”) as follows:

4 **JURISDICTION AND VENUE**

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

8 2. Plaintiff is filing an exhaustion letter with the California Labor and Workforce
9 Development Agency (“LWDA”) and Division of Occupational Safety and Health (“DOSH”)
10 providing notice of her intent to bring a private attorneys general action for recovery of penalties
11 under the California Labor Code Private Attorneys General Action of 2004, California Labor Code
12 §§ 2698, *et seq.* (“PAGA”). PAGA permits an “aggrieved employee” to bring a lawsuit for civil
13 penalties to address an employer’s violations of the California Labor Code committed against
14 them and other current and former employees. Upon the conclusion of the PAGA exhaustion
15 period, Plaintiff will amend her Complaint, as permitted by law, to seek penalties as a private
16 attorney general for the California Labor Code violations committed against her and Defendants’
17 other current and other former California employees.

18 3. This Court has jurisdiction over this action pursuant to the California Constitution,
19 Article VI, §10, which grants the California Superior Court original jurisdiction in all causes
20 except those given by statute to other courts. The statutes under which this action is brought do not
21 give jurisdiction to any other court.

22 4. This Court has jurisdiction over Defendants because, upon information and belief,
23 each defendant is either a resident of California, has sufficient minimum contacts in California, or
24 otherwise intentionally avails itself of the California labor market.

25 5. Venue is proper in this Court because this action arises from Plaintiff’s labor
26 contracted for and/or provided in the County of Kern.

27 **PARTIES**

28 6. Plaintiff is domiciled in, and at all times mentioned in this complaint was

1 domiciled in, Bakersfield, California.

2 7. Second Amendment Sports, Inc. is a California corporation and is headquartered in
3 Bakersfield, California. Plaintiff is informed and believes, and thereon alleges, that at all relevant
4 times mentioned herein Second Amendment Sports, Inc. was and is a corporation that was at all
5 times mentioned herein licensed and qualified to do business in California. On information and
6 belief, Plaintiff alleges that at all relevant times referenced herein Defendants did and continue to
7 transact business in California.

8 8. Whenever in this complaint reference is made to any act, deed, or conduct of
9 Second Amendment Sports, Inc., the allegation means that Second Amendment Sports, Inc.
10 engaged in the act, deed, or conduct by or through one or more of its officers, directors, agents,
11 employees, or representatives, who was actively engaged in the management, direction, control, or
12 transaction of the ordinary business and affairs of Second Amendment Sports, Inc..

13 9. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
14 associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and
15 therefore sues said defendants (the "Doe Defendants") by such fictitious names. Plaintiff will
16 amend this complaint to insert the true names and capacities of the Doe Defendants at such time as
17 the identities of the Doe Defendants have been ascertained.

18 10. Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants are
19 the partners, agents, or principals and co-conspirators of Second Amendment Sports, Inc., and of
20 each other; that Second Amendment Sports, Inc. and the Doe Defendants performed the acts and
21 conduct herein alleged directly, aided and abetted the performance thereof, or knowingly
22 acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of
23 the Doe Defendants is liable to the extent of the liability of Defendants as alleged herein.

24 11. Plaintiff is further informed and believes, and thereon alleges, that at all times
25 herein material, each Defendant was completely dominated and controlled by its co-Defendants
26 and each was the alter ego of the other. Whenever and wherever reference is made in this
27 complaint to any conduct by Second Amendment Sports, Inc. or Defendants, such allegations and
28 references shall also be deemed to mean the conduct of each of the Defendants, acting

1 individually, jointly, and severally. Whenever and wherever reference is made to individuals who
2 are not named as Defendants in this complaint, but were employees and/or agents of Defendants,
3 such individuals at all relevant times acted on behalf of Defendants named in this complaint within
4 the scope of their respective employments.

5 **CLASS ACTION ALLEGATIONS**

6 12. Plaintiff brings this action on her own behalf, as well as on behalf of each and all
7 other persons similarly situated, and thus, seeks class certification under California Code of Civil
8 Procedure § 382.

9 13. All claims alleged herein arise under California law for which Plaintiff seeks relief
10 as authorized by California law.

11 14. The proposed Class is comprised of and defined as:

12 Any and all persons who are or were employed as a non-exempt
13 employee by Second Amendment Sports, Inc. in the state of
14 California within four years prior to the filing of the original
15 complaint in this action until resolution of this lawsuit (hereinafter
16 collectively referred to as the “Class” or “Class Members”).

17 15. Alternative Workweek Subclass is comprised of and defined as:

18 All Class Members who were subject to an alternative workweek
19 agreement and who were required to work less than a regularly
20 scheduled time (hereinafter collectively referred to as the
21 “Alternative Workweek Subclass Members”).

22 16. The proposed Waiting Time Subclass is comprised of and defined as:

23 All Class Members whose employment with Second Amendment
24 Sports, Inc. was terminated at any time within the three year period
25 prior to the filing of the original complaint in this action until
26 resolution of this lawsuit (collectively, the “Waiting Time Subclass
27 Members”).

28 17. The proposed Paystub Subclass is comprised of and defined as:

All Class Members employed by Second Amendment Sports, Inc.
at any time within one year prior to the filing of the original
complaint in this action until resolution of this lawsuit (collectively,
the “Paystub Subclass Members”).

The Waiting Time Subclass Members and Paystub Subclass Members are collectively
referred to as the “Subclass” or “Subclass Members” where appropriate.

1 18. There is a well-defined community of interest in this litigation and the Class and
2 Subclass Members are easily ascertainable as set forth below:

3 a. **Numerosity:** The members of the Class and Subclasses are so numerous that
4 joinder of all Class Members and Subclass Members would be unfeasible and impractical. The
5 membership of the entire Class and Subclasses is unknown to Plaintiff at this time, however, the
6 Class is estimated to be greater than 200 individuals, the Alternative Workweek Subclass is
7 estimated to be greater than 100 individuals, the Waiting Time Subclass is estimated to be greater
8 than 100 individuals, and the Paystub Subclass is estimated to be greater than 50 individuals and
9 the identity of such membership is readily ascertainable by inspection of Defendants' employment
10 records.

11 b. **Typicality:** Plaintiff is qualified to, and will fairly and adequately protect the
12 interests of each Class Member and Subclass Member with whom she has a well-defined
13 community of interest. Plaintiff's claims herein alleged are typical of those claims which could be
14 alleged by any Class Member and/or Subclass Member, and the relief sought is typical of the relief
15 which would be sought by each of the Class Members and/or Subclass Members in separate
16 actions. All Class Members and Subclass Members have been similarly harmed by being denied
17 wages, including minimum, overtime, regular, and premium wages due to Defendants' policies
18 and companywide practices. Further, Defendants benefited from the same type of unfair and/or
19 wrongful acts as to each Class Member and Subclass Member.

20 c. **Adequacy:** Plaintiff is qualified to, and will fairly and adequately protect the
21 interests of each Class Member and Subclass Member with whom she has a well-defined
22 community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges she
23 has an obligation to make known to the Court any relationships, conflicts, or differences with any
24 Class Member and/or Subclass Member. Plaintiff's attorneys and the proposed Class and Subclass
25 counsel are versed in the rules governing class action discovery, certification, and settlement and
26 experienced in handling such matters.

27 d. **Superiority:** The nature of this action makes the use of class action adjudication
28 superior to other methods. A class action will achieve economies of time, effort, judicial resources,

1 and expense compared to separate lawsuits. The prosecution of separate actions by individual
2 members of the Class and/or Subclass would create a risk of inconsistent and/or varying
3 adjudications with respect to the individual Class Members and/or Subclass Members, establishing
4 incompatible standards of conduct for the Defendants and resulting in the impairment of the Class
5 Members' and/or Subclass Members' rights and the disposition of their interests through actions to
6 which they were not parties.

7 **e. Public Policy Considerations:** Employers in the state of California violate
8 employment and labor laws every day. Current employees are often afraid to assert their rights out
9 of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because
10 they believe their former employers may damage their future endeavors through negative
11 references and/or other means. The nature of this action allows for the protection of current and
12 former employees' rights without fear for retaliation or damage.

13 19. There are common questions of law and fact as to the Class and Subclass that
14 predominate over questions affecting only individual members including, but not limited to:

15 a. whether Defendants failed to pay Class Members legally required minimum wage for all
16 hours worked or whether Defendants' rounding practices failed to compensate Plaintiff and Class
17 Members for all of their hours worked;

18 b. whether Defendants' failure to pay Class Members legally required minimum wage for
19 all hours worked was willful;

20 c. whether Defendants kept accurate records of hours worked by Class Members;

21 d. whether Defendants failed to provide meal periods and rest breaks in accordance with
22 California Labor Code §§ 226.7, 512 and the applicable California Industrial Welfare Commission
23 ("IWC") Wage Order;

24 e. whether Defendants' alternative workweek scheduling practices resulted in a failure to
25 pay overtime wages due to Alternative Workweek Subclass Members;

26 f. whether Defendants failed to pay Plaintiff and Waiting Time Subclass Members all
27 wages earned either at the time of discharge, or within seventy-two hours of their voluntarily
28 leaving Defendants' employ;

1 g. whether Defendants complied with the wage reporting requirements of the California
2 Labor Code, including, but not limited to, California Labor Code §226;

3 h. whether Defendants failed to record meal periods in accordance with the applicable IWC
4 Wage Order;

5 i. whether Defendants' conduct was willful and/or reckless;

6 j. whether Defendants engaged in unfair competition in violation of California Business &
7 Professions Code §§ 17200, *et seq.*; and

8 k. the appropriate amount of damages, restitution, and/or monetary penalties resulting from
9 Defendants' violations of California law.

10 **FACTUAL ALLEGATIONS**

11 20. At all times set forth herein, Defendants employed Plaintiff and other persons
12 similarly situated throughout the state of California, and continue to employ such persons.

13 21. Plaintiff is informed and believes, and thereon alleges, that Defendants are and
14 were advised by skilled lawyers and other professionals, employees, and advisors with knowledge
15 of the requirements of California's wage and employment laws.

16 22. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
17 should know, knew and/or should have known that Plaintiff and the other Class Members were
18 entitled to receive minimum wages and overtime wages, as well as premium wages for meal
19 periods and rest breaks and that they were not receiving minimum wages and/or premium wages
20 as required by law.

21 23. Plaintiff is informed and believes, and thereon allege, that at all times herein
22 mentioned, Defendants knew that they had a duty to compensate Plaintiff and Class Members for
23 minimum wages and premium wages, and that Defendants had the financial ability to pay such
24 compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so, and falsely
25 represented to Plaintiff and Class Members that they were properly denied wages, all in order to
26 increase Defendants' profits.

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28 ///

1 **CLASS ACTION CLAIMS**

2 **FIRST CAUSE OF ACTION**

3 **(For Failure to Pay Minimum Wages Owed by Plaintiff and Class Members**

4 **Against All Defendants)**

5 24. Plaintiff incorporates by reference and reallege each and every allegation contained
6 above, as though fully set forth herein.

7 25. At all relevant times, California Labor Code §1197 provides that the minimum
8 wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the
9 payment of a lesser wage than the established minimum is unlawful.

10 26. Throughout the Class Members' employment, Defendants' time-keeping and/or
11 rounding practices and policy were not fair or neutral, and were used in such a manner that they
12 will result, over a period of time, in failure to compensate the Class Members properly for all the
13 time they have actually worked. With respect to those uncompensated minutes and hours worked,
14 Defendants failed to pay the Class Members at least minimum wage for all time worked, which
15 must be paid at a rate of not less than minimum wage pursuant to California law.

16 27. During the relevant time period, Defendants regularly failed to pay minimum wage
17 to Plaintiff and Class Members as required. Defendants' failure to pay Plaintiff and Class
18 Members minimum wages as required violates California Labor Code §1197.

19 28. Plaintiff and Class Members are entitled to recover the unpaid balance of their
20 minimum wage compensation as well as interest, costs, and attorneys' fees pursuant to California
21 Labor Code §1194 and liquidated damages in an amount equal to the wages unlawfully unpaid and
22 interest thereon pursuant to California Labor Code §1194.2.

23 **SECOND CAUSE OF ACTION**

24 **(For Failure to Pay Overtime Wages Owed by Plaintiff, Class Members, and Alternative**
25 **Workweek Subclass Members Against All Defendants)**

26 29. Plaintiff incorporates by reference and reallege each and every allegation contained
27 above, as though fully set forth herein.

28 30. Pursuant to applicable law, no employer shall be deemed to have violated the daily

1 overtime provisions by instituting, pursuant to the election procedures set forth in the applicable
2 wage orders, a regularly scheduled alternative workweek schedule of not more than ten (10) hours
3 per day within a 40 hour workweek without the payment of an overtime rate of compensation. All
4 work performed in any workday beyond the schedule established by the agreement up to 12 hours
5 a day or beyond 40 hours per week shall be paid at one and one-half (1 1/2) times the employee's
6 regular rate of pay. All work performed in excess of 12 hours per day and any work in excess of
7 eight (8) hours on those days worked beyond the regularly scheduled number of workdays
8 established by the alternative workweek agreement shall be paid at double the employee's regular
9 rate of pay. Any alternative workweek agreement adopted pursuant to this section shall provide for
10 not less than four (4) hours of work in any shift.

11 31. If an employer whose employees have adopted an alternative workweek agreement
12 requires an employee to work fewer hours than those that are regularly scheduled by the
13 agreement, the employer shall pay the employee overtime compensation at a rate of one and one-
14 half (1 1/2) times the employee's regular rate of pay for all hours worked in excess of eight (8)
15 hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for
16 the day the employee is required to work the reduced hours.

17 32. Throughout Class Members' employment, because Defendants undercounted their
18 work as alleged in the First Cause of Action, they consequently failed to pay Class Members all
19 overtime wages for hours worked in excessive of applicable overtime and double overtime
20 thresholds.

21 33. In addition, insofar as Defendants maintained an alternative workweek schedule,
22 Defendants failed to pay the Alternative Workweek Subclass Members overtime compensation at
23 a rate of one and one-half (1 1/2) times each employee's regular rate of pay for all hours worked in
24 excess of eight (8) hours, and double the regular rate of pay for all hours worked in excess of 12
25 hours, for all days when Alternative Workweek Subclass Members were required to work fewer
26 hours than those that were regularly scheduled by the alternative workweek agreement.

27 34. Plaintiff seeks, on her behalf and on behalf of the Class and Alternative Workweek
28 Subclass, all damages and remedies available under the California Labor Code.

1 **THIRD CAUSE OF ACTION**

2 **(For Failure to Provide Timely Rest Periods or Pay Premium Wages**

3 **By Plaintiff and Class Members Against All Defendants)**

4 35. Plaintiff incorporates by reference and reallege each and every allegation contained
5 above, as though fully set forth herein.

6 36. Pursuant to the IWC Wage Orders applicable to Plaintiff and Class Members'
7 employment by Defendants: Every employer shall authorize and permit all employees to take rest
8 periods, which insofar as practicable shall be in the middle of each work period. The authorized
9 rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net
10 rest time per four (4) hours or major fraction thereof. Authorized rest period time shall be counted,
11 as hours worked, for which there shall be no deduction from wages.

12 37. California Labor Code §226.7 prohibits an employer from requiring any employee
13 to work during any rest period mandated by an applicable order of the IWC. Defendants were
14 required to authorize and permit employees such as Plaintiff and Class Members to take paid rest
15 periods, based upon the total hours worked at a rate of ten minutes net rest per four hours or major
16 fraction thereof, with no deduction from wages.

17 38. Despite said requirements of the IWC Wage Orders applicable to Plaintiff and
18 Class Members' employment by Defendants, Defendants failed and refused to authorize and
19 permit Plaintiff and Class Members to take paid ten-minute rest periods for every four hours
20 worked, or major fraction thereof.

21 39. At all times relevant, including at times throughout the four year period preceding
22 the filing of this complaint, Defendants failed to authorize and permit Plaintiff and Class Members
23 to take paid rest breaks for every four hours worked or major fraction thereof. Plaintiff and Class
24 Members regularly worked in excess of three and a half hours a day but were not given the
25 opportunity during their work periods to take a first ten minute rest break where they were
26 completely relieved of all duty; Plaintiff and Class Members regularly worked in excess of six
27 hours a day but were not given the opportunity during their work periods to take a second ten
28 minute rest break where they were completely relieved of all duty; and Plaintiff and Class

1 Members regularly worked in excess of ten hours a day but were not given the opportunity during
2 their work periods to take a third ten minute rest break where they were completely relieved of all
3 duty.

4 40. Defendants also failed to pay Class Members an extra hour of pay for days in
5 which they failed to provide compliant rest breaks.

6 41. As a proximate result of the aforementioned violations, Plaintiff and Class
7 Members have been damaged in an amount according to proof at time of trial.

8 42. Pursuant to California Labor Code § 226.7 and the IWC Wage Orders, Plaintiff and
9 Class Members are entitled to recover one hour of premium pay for each day in which a rest
10 period was not provided.

11 **FOURTH CAUSE OF ACTION**

12 **(For Failure to Provide Timely Meal Periods or Pay Premium Wages by Plaintiff and Class**
13 **Members Against All Defendants)**

14 43. Plaintiff incorporates by reference and reallege each and every allegation contained
15 above, as though fully set forth herein.

16 44. Pursuant to California Labor Code §512, no employer shall employ an employee
17 for a work period of more than five hours without providing a meal break of not less than thirty
18 minutes in which the employee is relieved of all of his or her duties. An employer may not employ
19 an employee for a work period of more than ten hours per day without providing the employee
20 with a second meal period of not less than thirty minutes, except that if the total hours worked is
21 no more than twelve hours, the second meal period may be waived by mutual consent of the
22 employer and the employee only if the first meal period was not waived.

23 45. Pursuant to the IWC Wage Orders applicable to Plaintiff and Class Members'
24 employment by Defendants, in order for an "on duty" meal period to be permissible, the nature of
25 the work of the employee must prevent an employee from being relieved of all duties relating to
26 his or her work for the employer and the employee must consent in writing to the "on duty" meal
27 period. Plaintiff and Class Members did not consent in writing to an "on duty" meal period.
28 Further, the nature of the work of Plaintiff and Class Members was not such that they are

1 prevented from being relieved of all duties. Despite said requirements of the IWC Wage Orders
2 applicable to Plaintiff and Class Members' employment by Defendants and California Labor Code
3 §§ 512 and 226.7, Plaintiff and Class Members were not provided with timely meal periods. First
4 meal periods were regularly scheduled after 5 hours of work. Moreover, no second meal period
5 was provided for work periods that exceeded 10 hours. Defendants have also failed to pay Class
6 Members an extra hour of pay for days in which they failed to provide compliant meal breaks.

7 46. As a proximate result of the aforementioned violations, Plaintiff and Class
8 Members have been damaged in an amount according to proof at time of trial.

9 47. Pursuant to California Labor Code § 226.7, Plaintiff and Class Members are
10 entitled to recover one hour of premium pay for each day in which a meal period was not
11 provided.

12 **FIFTH CAUSE OF ACTION**

13 **(For Inaccurate Wage Statements by Plaintiff And Class Members Against All Defendants)**

14 48. Plaintiff incorporates by reference and reallege each and every allegation contained
15 above, as though fully set forth herein.

16 49. California Labor Code §226(a) sets forth reporting requirements for employers
17 when they pay wages: "Every employer shall ... at the time of each payment of wages, furnish
18 each of his or her employees ... an itemized statement in writing showing (1) gross wages earned,
19 (2) total hours worked by the employee ... (5) net wages earned ... and (9) all applicable hourly
20 rates in effect during the pay period and the corresponding number of hours worked at each hourly
21 rate by the employee...."

22 50. California Labor Code §226(e) provides: "An employee suffering injury as a result
23 of a knowing and intentional failure by "an employer to comply with subdivision (a) shall be
24 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period
25 in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
26 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
27 shall be entitled to an award of costs and reasonable attorney's fees."

28 51. California Labor Code §226(e)(2)(B) provides: An employee is deemed to suffer

1 injury for purposes of this subdivision if the employer fails to provide accurate and complete
2 information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and
3 the employee cannot promptly and easily determine from the wage statement alone one or more of
4 the following: (i) The amount of the gross wages or net wages paid to the employee during the pay
5 period or any of the other information required to be provided on the itemized wage statement
6 pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a). (ii) Which deductions the
7 employer made from gross wages to determine the net wages paid to the employee during the pay
8 period. Nothing in this subdivision alters the ability of the employer to aggregate deductions
9 consistent with the requirements of item (4) of subdivision (a). (iii) The name and address of the
10 employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section
11 1682, the name and address of the legal entity that secured the services of the employer during the
12 pay period. (iv) The name of the employee and only the last four digits of his or her social security
13 number or an employee identification number other than a social security number.”

14 52. Defendants knowingly and intentionally failed, and continue to fail to furnish
15 Plaintiff and Paystub Subclass Members, complete and accurate wage statements upon each
16 payment of wages in violation of California Labor Code §226(a).

17 53. Plaintiff and Paystub Subclass Members were injured by these failures because,
18 among other things, these failures led them to believe that they were not entitled to be paid wages
19 for all hours they worked although they were so entitled, they were required to perform
20 mathematical computations to analyze whether wages paid, in fact, compensated for all hours, and
21 they were not able to determine from the wage statements alone one or more of the items required
22 to be provided. Defendants’ failure to comply with California Labor Code §226(a) also hindered
23 Plaintiff and Paystub Subclass Members from determining the amounts of wages actually owed to
24 them, and locating the legal entity responsible for the payment of wages.

25 54. Defendants will no doubt continue these illegal practices until such time as it is
26 forced to pay penalties in compliance with California Labor Code §226(e).

27 55. Plaintiff and Paystub Subclass Members, are entitled to recover statutory penalties,
28 interest, injunctive relief, and attorneys’ fees and costs pursuant to California Labor Code §226(e)

1 and (h).

2 **SIXTH CAUSE OF ACTION**

3 **(For Failure to Pay Wages at Termination by Plaintiff and Waiting Time Subclass Members**
4 **Against All Defendants)**

5 56. Plaintiff incorporates by reference and reallege each and every allegation contained
6 above, as though fully set forth herein.

7 57. California Labor Code §§ 201 and 202 require an employer who discharges an
8 employee to pay compensation due and owing to said employee immediately upon discharge and
9 that if an employee voluntarily leaves his or her employment, his or her wages shall become due
10 and payable not later than seventy-two hours thereafter, unless the employee has given seventy
11 two hours' previous notice of his or her intention to quit in which case the employee is entitled to
12 his or her wages on their last day of work. California Labor Code § 203 provides that if an
13 employer willfully fails to pay compensation promptly upon discharge, as required by California
14 Labor Code §§201 and 202, the employer is liable for waiting time penalties in the form of
15 continued compensation for up to thirty work days.

16 58. During the relevant time period, Defendants willfully failed and refused, and
17 continues to willfully fail and refuse, to pay Plaintiff and Waiting Time Subclass Members their
18 wages, earned and unpaid, either at the time of discharge, or within seventy-two hours of their
19 voluntarily leaving Defendants' employ.

20 59. Defendants' willful failure to pay Plaintiff and Waiting Time Subclass Members
21 their wages earned and unpaid at the time of discharge, or within seventy-two hours of their
22 voluntarily leaving Defendants' employ, violates California Labor Code §§ 201 and 202.

23 60. As a result, Defendants are liable to Plaintiff and Waiting Time Subclass Members
24 for waiting time penalties pursuant to California Labor Code § 203, in an amount according to
25 proof at the time of trial.

26 **SEVENTH CAUSE OF ACTION**

27 **(For Unfair Competition by Plaintiff and Class Members Against All Defendants)**

28 61. Plaintiff incorporates by reference and reallege each and every allegation contained

1 above, as though fully set forth herein.

2 62. Defendants' conduct, as alleged in this complaint, has been, and continues to be,
3 unfair, unlawful, and harmful to Plaintiff and Class Members, Defendants' competitors, and the
4 general public. Plaintiff seeks to enforce important rights affecting the public interest within the
5 meaning of California Code of Civil Procedure §1021.5.

6 63. Defendants' policies, activities, and actions as alleged herein are violations of
7 California law and constitute unlawful business acts and practices in violation of California
8 Business and Professions Code §§ 17200, *et seq.*

9 64. A violation of California Business and Professions Code §§ 17200, *et seq.* may be
10 predicated on the violation of any state or federal law. In the instant case, Defendants' policies and
11 practices of failing to pay Plaintiff and Class Members minimum, overtime, and premium wages,
12 among the other statutory violations alleged herein, over the past four years violates the California
13 Labor Code, including California Labor Code §§1198, 1182.12, 1197, 512, 226.7, 221-223, 201-
14 202, 204, and 226.

15 65. Plaintiff and Class Members have been personally aggrieved by Defendants'
16 unlawful and unfair business acts and practices alleged herein by the loss of money and/or
17 property.

18 66. Pursuant to California Business and Professions Code §§ 17200, *et seq.*, Plaintiff
19 and Class Members are entitled to restitution of the wages and expenses withheld and benefits
20 wrongfully retained by Defendants during a period that commences four years prior to the filing of
21 this complaint; an award of attorneys' fees pursuant to California Code of Civil Procedure
22 §1021.5, and an award of costs.

23 PRAYER FOR RELIEF

24 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

25 a. Class Certification

- 26 1. That this action be certified as a class action;
- 27 2. That Plaintiff be appointed as representative(s) of the Class and Subclasses;
- 28 3. That counsel for Plaintiff be appointed as counsel for the Class and Subclasses.

1 **b. On the First through Seventh Causes of Action**

- 2 1. For compensatory damages in an amount not less than \$2,500,000;
- 3 2. For pre-judgment interest on any unpaid minimum wage and premium wage
- 4 compensation due from the day that such amounts were due according to proof;
- 5 3. For liquidated damages in an amount equal to the wages unlawfully unpaid and
- 6 interest thereon pursuant to California Labor Code § 1194.2;
- 7 4. For statutory penalties pursuant to California Labor Code §§ 203 and 226(e);
- 8 5. For restitution and disgorgement pursuant to Business & Professions Code §§
- 9 17200, *et seq.*;
- 10 6. For reasonable attorneys' fees and costs; and
- 11 7. For such other and further relief as the Court deems proper.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff demands a trial by jury in this matter.

14 DATED: 2/4/20

LEX OPUS

17 By: _____

18 MOHAMMED K. GHODS
19 JEREMY A. RHYNE

20 Attorneys for Plaintiff, ALICIA WILEY,
21 Individually, and on Behalf of Other Members of
22 the Public Similarly Situated
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