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on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

CYNTHIA VIZCARRA-MCNAMEE,
individually and on behalf of herself and
all others similarly situated,

Plaintiff,

v.

NORDSTROM, INC., a Washington
Corporation, and DOES 1-50, inclusive,

Defendants.

Case No. 30-2020-01141916-CU-OE-CXC

COMPLAINT

Assigned for All Purposes To:

Hon. Judge Peter Wilson

Dept.: CX-102

COMPLAINT

- 1) Penalties under the Private Attorney
Generals Act, Labor Code section 2698

DEMAND FOR JURY TRIAL

1 Plaintiff CYNTHIA VIZCARRA-MCNAMEE ("Plaintiff"), individually and on behalf of
2 the general public as private attorney general, hereby asserts representative claims against
3 defendant NORDSTROM, INC., a Washington Corporation, and DOES 1-50, inclusive
4 (collectively "NORDSTROM" or "Defendants") as follows:

5 **INTRODUCTION**

6 1. This is a representative action for recovery of penalties under the Private Attorneys
7 General Act of 2004 ("PAGA"), Cal. Lab. Code sections 2698 *et seq.* PAGA permits "aggrieved
8 employees" to bring a lawsuit as a representative action on behalf of themselves and all other
9 current and former employees, to recover civil penalties and address an employer's violations of
10 the California Labor Code.

11 2. In this case, Defendants violated various provisions of the California Labor Code
12 and relevant IWC Wage Orders. As set forth below, Defendants implemented policies and practices
13 which led to Defendants' (1) failure to pay all wages owed for all hours worked, including minimum
14 wages and overtime; (2) failure to authorize and permit lawful rest periods; (3) failure to pay one
15 hour of premium pay when lawful rest periods were not provided; (4) failure to provide meal
16 periods; (3) failure to pay one hour of premium pay when lawful meal periods were not provided;
17 (5) failure to timely pay all owed wages at the time of termination; (6) failure to indemnify
18 employees for necessary expenses; (7) failure to provide accurate, itemized wage statements; and
19 (8) failure to keep accurate records.

20 3. As set forth in greater detail herein, Defendants engaged in conduct and adopted
21 policies that were and continue to be in violation of the California Labor Code and applicable law.
22 Plaintiff, on behalf of herself and all other aggrieved employees, brings this PAGA action and seeks
23 penalties for violations of the California Labor Code, including without limitation sections 201,
24 202, 203, 204, 210, 216, 225.5, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198,
25 2802, 2698 *et seq.*, Business and Professions Code section 17200 and 17203, applicable IWC
26 California Wage Orders (including Wage Order 7) and California Code of Regulations, Title 8,
27 section 11000 *et seq.*

1 **JURISDICTION AND VENUE**

2 4. The Superior Court of the State of California has jurisdiction in this matter
3 because Plaintiff is a citizen and resident of the State of California and Defendants are citizens
4 and residents of, and/or regularly conduct business in, California. Further, no federal question is
5 at issue because the claims are based solely on California law.

6 5. Venue is proper in this judicial district and the County of Orange, California
7 because Defendants' maintain offices and facilities and transact business in the County of
8 Orange, and Defendants' illegal policies and practices which are the subject of this action were
9 applied, at least in part, in the County of Orange.

10 **THE PARTIES**

11 6. Defendant Nordstrom, Inc., is a Washington corporation in good standing that is
12 authorized to do business throughout the state. Nordstrom, Inc.'s headquarters are located at 1617
13 Sixth Ave. Seattle, WA 98101.

14 7. Defendant Nordstrom, Inc. operates department stores in the United States and
15 Canada, including multiple locations throughout California. Nordstrom, Inc. provides luxury retail
16 goods to consumers.

17 8. During the liability period, Plaintiff Cynthia McNamee was a resident of Orange
18 County, California.

19 9. Plaintiff was employed by Defendant during the liability period as a Store
20 Administrator in Newport Beach, CA.

21 10. Plaintiff and the group of aggrieved employees were employed by Defendants as
22 non-exempt employees in administrative support, store management and operations, and other
23 similar support positions, however titled, (the "Aggrieved Employees") during the liability period.
24 This includes, without limitation, those employees in non-exempt store administrator, store
25 manager support or assistant manager positions.

26 11. This action is timely because Plaintiff suffered from a violation or numerous
27 violations of the California Labor Code within one year of the date on which her PAGA notice
28 was sent to the LWDA.

12. Whenever in this complaint reference is made to any act, deed, or conduct of Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through one or more of Defendants' officers, directors, agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the ordinary business and affairs of Defendants.

13. The true names and capacities of Defendants, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

14. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants and of each other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of the Defendants as alleged herein.

15. Plaintiff is further informed and believes, and thereon alleges, that at all times material herein, each Defendant was completely dominated and controlled by its co-Defendants and each was the alter ego of the other. Whenever and wherever reference is made in this complaint to any conduct by Defendant or Defendants, such allegations and references shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is made to individuals who are not named as Defendants in this complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times acted on behalf of Defendants named in this complaint within the scope of their respective employments.

FACTUAL ALLEGATIONS

16. During the relevant time frame, Defendants compensated Plaintiff and the Aggrieved Employees based upon an hourly wage.

1 17. Plaintiff and the Aggrieved Employees were, and at all times pertinent hereto,
2 have been non-exempt employees within the meaning of the California Labor Code, and the
3 implementing rules and regulations of the IWC California Wage Orders. They are subject to the
4 protections of the IWC Wage Orders and the Labor Code.

5 18. Plaintiff is an Aggrieved Employee working in administrative support, store
6 management and operations, and other similar support positions, however titled, during the liability
7 period.

8 19. Specifically, Plaintiff was employed as an hourly non-exempt Store Administrator
9 from August 18, 2008 through April 30, 2019 at Defendant's location in Newport Beach,
10 California.

11 20. The Aggrieved Employees worked as employees of Defendants throughout the state
12 of California during the liability period as non-exempt employees in administrative support, store
13 management and operations, and other similar support positions, however titled.

14 21. Plaintiff typically worked five days a week, averaging 40-42 hours a week.

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

18 23. During the relevant time frame, Defendant compensated Plaintiff and all other
19 aggrieved employees based upon an hourly rate.

20 **Failure to Accurately and Fully Pay All Wages,**

21 **Including Minimum Wages and Overtime**

22 24. This action is brought under Labor Code section 510, 515, 1194, 1197, 1198, and
23 the IWC Wage Order.

24 25. Labor Code § 1182.12 sets the minimum wage.

25 26. Labor Code §1194 provides that "Notwithstanding any agreement to work for a
26 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
27 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
28 of the full amount of this minimum wage or overtime compensation, including interest thereon,

1 reasonable attorney's fees, and costs of suit."

2 27. Labor Code § 1197 states that "The minimum wage for employees fixed by the
3 commission or by any applicable state or local law, is the minimum wage to be paid to employees,
4 and the payment of a lower wage than the minimum so fixed is unlawful."

5 28. Labor Code § 1198 provides: "The maximum hours of work and the standard
6 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
7 conditions of labor for employees. The employment of any employee for longer hours than those
8 fixed by the order or under conditions of labor prohibited by the order is unlawful."

9 29. The Labor Code and the Wage Orders require that employers pay employees at least
10 minimum wage for every hour worked, and overtime for hours worked over eight hours in a day
11 and over forty hours in a week.

12 30. Labor Code §510, 515 and Section 3(A) of Wage Order No. 7 require employers to
13 pay employees one-and-one-half (1-1/2) times the employee's regular rate of pay for all those hours
14 worked in excess of forty (40) hours in one work week and/or in excess of eight (8) in one work
15 day, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per
16 day, unless such employees are exempt from the requirements of the Wage Order.

17 31. An employee who works more than twelve (12) hours in a day or more than eight
18 (8) hours on the seventh day in a workweek is entitled to overtime compensation at a rate of twice
19 the regular rate of pay.

20 32. Plaintiff and the aggrieved employees were not exempt from the requirement to be
21 paid minimum wages and overtime wages in accordance with the law.

22 33. Plaintiff alleges that Defendants violated Labor Code sections 510, 1194, 1197,
23 1198 and the IWC Wage Order by failing to pay all wages owed including minimum wages and
24 overtime.

25 34. Plaintiff alleges that during the relevant time, Plaintiff and the other aggrieved
26 employees worked hours for which they were not compensated, including minimum wages and
27 overtime, in violation of the law. By way of example only, such hours were worked off-the-clock
28 to perform duties and functions such as answering calls while off-duty before and after work, and

1 during purported off-duty meal periods.

2 35. Moreover, Plaintiff and the Aggrieved Employees were also required to carry
3 cellular phones with them at all times and be available to respond to issues arising at Defendant's
4 location(s).

5 36. Defendant knew or should have known that Plaintiff and the Aggrieved Employees
6 were required to work off-the clock but did not pay Aggrieved Employees for such hours worked.

7 37. As a result of Defendants' conduct in requiring Plaintiffs and the aggrieved
8 employees to work hours for which they were not even paid minimum wage and work hours in
9 excess of eight (8) hours per work day and/or forty (40) in one work week without paying them
10 one-and-one-half (1-1/2) times their regular hour rate (or double-time hours for hours worked in
11 excess of twelve (12) hours per day), Plaintiffs and the aggrieved employees have sustained and
12 will sustain damages in the amount of one-half (1/2) times or double (2) times their regular hourly
13 rate for all overtime hours worked together with interest thereon and attorneys' fees and costs of
14 suit.

15 38. Plaintiff and the Aggrieved Employees are or were employees in the State of
16 California and Defendant was and is an employer employing persons in the State of California. As
17 such, Plaintiff and the Aggrieved employees were the type of persons contemplated to be protected
18 by Labor Code §§1194, and 1194.2 and said provisions were intended to apply to Defendants and
19 to prevent the type of injury and damage set forth herein.

20 39. As a result of Defendants' conduct in not paying Plaintiffs and aggrieved employees
21 all wages earned, Plaintiffs and the aggrieved employees have been deprived of minimum wages
22 for off the clock hours and the legal overtime wage for all overtime hours they worked and for
23 which they were not compensated.

24 **Failure to Authorize and Permit Legally Compliant Rest Breaks**

25 40. This action is brought under Labor Code §226.7 and Section 12(A) of Wage Order
26 7, which provides that employers shall authorize and permit employees to take a rest period of ten
27 (10) minutes for each four (4) hours, or major fraction thereof, worked.

1 41. This action is further brought under Labor Code §226.7(b) and Section 12(B) of
2 Wage Order 7, which provides that if an employer fails to provide an employee with a rest period,
3 the employer shall pay the employee one hour of pay for each work day that a rest period was
4 missed.

5 42. Plaintiff and the Aggrieved Employees were systematically not authorized and
6 permitted to take legally compliant net ten (10) minute rest periods for every four hours worked or
7 major fraction thereof, which is a violation of the Labor Code section 226.7 and IWC wage order
8 7.

9 43. Employees were not authorized and permitted to take a net ten minute rest period as
10 required by law, in part because Defendants maintained and enforced scheduling practices, policies
11 and practices, and imposed work demands that frequently required employees to forego their breaks
12 or return before a net ten minutes of rest.

13 44. Moreover, Plaintiff and the Aggrieved Employees were also required to carry
14 cellular phones with them at all times and be available to respond to issues arising at Defendant's
15 location(s).

16 45. Pursuant to Labor Code § 226.7, 1198, and the Wage Order, Plaintiff and the
17 Aggrieved Employees are entitled to recover one (1) hour of premium pay for each day in which a
18 rest period violation occurred.

19 46. Despite the above-mentioned rest period violations, Defendant did not compensate
20 Plaintiff, and on information and belief, did not compensate the Aggrieved Employees one
21 additional hour of pay at their regular rate as required by California law for each day on which rest
22 periods were not lawfully authorized and permitted.

23 47. As a direct and proximate result of Defendant's conduct as alleged above, Plaintiff
24 and the Aggrieved Employees have sustained damages in the amount of one hour of wages for each
25 day they were not authorized and permitted to take lawful net ten (10) minute rest periods.

26 **Failure to Provide Lawful Meal Periods**

27 48. Pursuant to Labor Code § 512, no employer shall employ an employee for a work
28 period of more than five (5) hours without providing a meal break of not less than thirty (30)

1 minutes in which the employee is relieved of all of his or her duties, except that when a work period
2 of not more than six (6) hours will complete the day's work the meal period may be waived by
3 mutual consent of the employer and employee.

4 49. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee
5 for a work period of more than ten (10) hours without providing a second meal break of not less
6 than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal
7 break may only be waived by mutual consent, and if the employee did not waive his or her first
8 meal period, and the employee's work day will not exceed twelve hours.

9 50. During the liability period, Defendant failed to provide Plaintiff and Aggrieved
10 Employees with timely and uninterrupted first meal periods of not less than thirty (30) minutes
11 within the first five hours of a shift.

12 51. During the liability period, Defendant also failed to provide Plaintiff and the
13 Aggrieved Employees with timely and uninterrupted second meal periods of not less than thirty
14 (30) minutes on shifts longer than ten hours.

15 52. Indeed, during the relevant time, as a consequence of Defendant's staffing and
16 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
17 Plaintiff and the Aggrieved Employees were not provided with legally required uninterrupted
18 meal periods.

19 53. Meal periods, to the extent they were provided in the first instance, were late and
20 frequently interrupted. Moreover, Aggrieved Employees were required to carry cellular phones
21 with them during purported meal breaks and were required to respond to issues arising during
22 purported meal breaks. Aggrieved Employees were frequently required to work through meal
23 breaks as well.

24 54. On information and belief, Plaintiff and Aggrieved Employees did not waive their
25 rights to meal periods under the law.

26 55. Pursuant to Labor Code § 226.7, Plaintiff and Class Members are entitled to recover
27 one (1) hour of premium pay for each day in which a meal period violation occurred.

28 56. Plaintiff and the Aggrieved Employees were not paid one hour of pay at their regular

1 rate for each day that a first or second meal period was not lawfully provided.

2 **Failure to Reimburse Expenses**

3 57. Wage Order 7 and Labor Code § 2802 require employers to reimburse employees
4 for necessary expenses incurred in direct consequence of the discharge of the employees' duties
5 or in obedience to the direction of the employer.

6 58. Plaintiff and the Aggrieved Employees were required to incur expenses in direct
7 consequence of the discharge of their duties. By way of example only, such expenses include
8 those related to cell phone usage, and other items.

9 59. Defendant did not reimburse the expenses incurred by Plaintiff and the Aggrieved
10 employees in violation of the IWC Wage Order and Labor Code section 2802. Accordingly,
11 Plaintiff and the Aggrieved Employees were damaged.

12 **Failure to Provide Accurate Itemized Wage Statements**

13 60. In relevant part, Labor Code section 226(a) requires: An employer, semimonthly
14 or at the time of each payment of wages, shall furnish to his or her employee, an accurate
15 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
16 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee
17 is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of
18 the period for which the employee is paid, (7) the name of the employee and only the last four
19 digits of his or her social security number or an employee identification number other than a
20 social security number, (8) the name and address of the legal entity that is the employer, and (9)
21 all applicable hourly rates in effect during the pay period and the corresponding number of hours
22 worked at each hourly rate by the employee.

23 61. Defendant violated Labor Code section 226 in part because of the above specified
24 violations, including the failure to pay for all hours worked, and the failure to pay one hour of
25 premium pay at the employee's regular rate of pay for rest breaks and meal breaks that were not
26 legally provided.

1 **Failure to Keep Accurate Payroll and Timekeeping Records**

2 62. Wage Order No. 7, Labor Code sections 226(a), 1174, and 1174.5 require that the
3 Defendant keep accurate payroll and timekeeping information.

4 63. By virtue of the above-specified violations, including the failure to record hours
5 worked off the clock and hours worked during purportedly provided meal breaks, Defendant
6 failed to keep accurate timekeeping information for Plaintiff and the Aggrieved Employees.

7 64. Defendant also failed to keep accurate payroll information as a consequence of the
8 above specified violations, including the failure to pay premiums for missed meal and rest breaks
9 as required by law.

10 **Failure to Timely Pay Wages**

11 65. In addition, Plaintiff alleges that Defendants violated section 204 of the Labor
12 Code, as Defendant willfully failed to pay on time to Plaintiff and the aggrieved employees the
13 legal wages (including minimum wages and overtime wages) they earned, and failed to pay one
14 hour wages in lieu of required, but not lawfully provided, meal and rest periods, twice per
15 calendar month as required by law.

16 **Failure to Timely Pay Wages at Termination**

17 66. In part as a result of the above specified violations, Defendants have also failed to
18 pay all wages owed at the time of separation as required by Labor Code §§ 201-202, and did not
19 receive waiting time penalties as required by Labor Code § 203.

20 67. All Aggrieved Employees who were separated from employment are entitled to
21 compensation for all forms of wages earned, including but not limited to unpaid straight time
22 wages, minimum wage, overtime compensation and compensation for non-provided meal and rest
23 periods, but to date have not received such compensation, therefore entitling them to civil
24 penalties under PAGA for violations of Labor Code sections 201-203.

25 **FIRST CAUSE OF ACTION**

26 **THE PRIVATE ATTORNEYS GENERAL ACT - LABOR CODE §§ 2698, et. seq.**
27
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1 68. Plaintiff incorporates by reference and reallege each and every allegation contained
2 above, as though fully set forth herein.

3 69. On March 30, 2020, Plaintiff provided written notice by online filing to the Labor
4 and Workforce Development Agency (“LWDA”) and via certified mail to Defendant of the specific
5 violations of the California Labor Code that Defendants have violated and continue to violate,
6 including the facts and theories that supported each alleged violation.

7 70. 65 days have passed and no response has been received from the LWDA.
8 Accordingly, the LWDA has permitted Plaintiff to proceed in a representative capacity.

9 71. Plaintiff has exhausted all administrative procedures required of them under Labor
10 Code §§2698, 2699 and 2699.3, and as a result, is justified as a matter of right in bringing forward
11 this cause of action.

12 72. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a). She
13 brings this cause of action on her own behalf and all Aggrieved Employees of Defendant.

14 73. Pursuant to Labor Code section 2698 et seq and 2699(a), Plaintiff seeks to recover
15 civil penalties for which Defendants are liable due to numerous Labor Code and Wage Order
16 violations as set forth in this Complaint.

17 74. Specifically, Plaintiff, on behalf of herself and the Aggrieved Employees, seek
18 penalties under Labor Code §2699, for, without limitation, the following:

- 19 a. Defendants’ failure to comply with the requirement of Labor Code
20 §1182.12, 1194, 1197, 1198, and Wage Order 7-2001 to pay at least
21 minimum wage for every hour worked;
- 22 b. Defendants’ failure to comply with the requirement of Labor Code §510,
23 1194, 1197, 1198, and Wage Order 7-2001 to pay all wages earned including
24 overtime wages;
- 25 c. Defendants’ failure to comply with the requirement of Labor Code §216 to
26 pay wages after demand was made by Plaintiffs;
- 27
28

- 1 d. Defendants' failure to comply with the requirement of Labor Code §§204
2 and 210 to pay, without condition and within the time set by the applicable
3 article, all wages earned;
- 4 e. Defendants' failure to comply with the requirement of Labor Code §225.5
5 to pay wages due;
- 6 f. Defendants' failure to comply with the requirement of Labor Code §§201
7 and 202 to pay wages due to former employees;
- 8 g. Defendants' failure to comply with the requirement of Labor Code §203 to
9 pay waiting time penalties to former employees for violating Labor Code
10 §§201-202.
- 11 h. Defendants' failure to comply with the requirement of Labor Code §226.7,
12 1198, and IWC Wage Order 7-2001 to authorize and permit ten (10) minute
13 rest breaks;
- 14 i. Defendants' failure to comply with the requirement of Labor Code §226.7,
15 1198, and IWC Wage Order 7-2001 to pay one hour of premium pay for each
16 statutorily required rest break that was not authorized and permitted;
- 17 j. Defendants' failure to comply with the requirement of Labor Code §226.7,
18 512, 1198, and IWC Wage Order 7-2001 to provide uninterrupted 30 minute
19 off-duty meal periods;
- 20 k. Defendants' failure to comply with the requirement of Labor Code §226.7,
21 1198, and IWC Wage Order 7-2001 to pay one hour of premium pay for each
22 statutorily required meal break that was not provided;
- 23 l. Defendants' failure to maintain required records in violation of Labor Code
24 § 226, 1174, and Wage Order 7-2001;
- 25 m. Defendants' failure to provide accurate compliant wage statements under
26 Labor Code § 226.
- 27 n. Defendants' failure to reimburse necessary expenses in violation of Labor
28 Code § 2802.

1 75. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
2 §§2698 and 2699 because of Defendants' violation of numerous provisions of the California Labor
3 Code and IWC Wage Orders. Plaintiff seeks civil penalties for Defendants' violation of Labor
4 Code provisions for which a civil penalty is specifically provided, including but not limited to the
5 following:

- 6 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204,
7 Defendants are subject to a civil penalty in the amount of one
8 hundred dollars (\$100) for the initial violation for each failure to pay
9 each employee and two hundred (\$200) per employee for violations
10 in subsequent pay periods.
- 11 b. Pursuant to Labor Code § 226.3, for violations of Labor Code §
12 226(a), Defendants are subject to a civil penalty in the amount of two
13 hundred and fifty dollars (\$250) per aggrieved employee for the
14 initial pay period where a violation occurs and one thousand dollars
15 (\$1,000) per aggrieved employee for violations in subsequent pay
16 periods.
- 17 c. Pursuant to Labor Code § 558(a), "[a]ny employer or other person
18 acting on behalf of an employer who violates, or causes to be
19 violated, a section of this chapter or any provision regulating hours
20 and days of work in any order of the Industrial Welfare
21 Commission," including Labor Code §§ 510 and 512, shall be subject
22 to a civil penalty, in addition to any other penalty provided by law,
23 of fifty dollars (\$50) for initial violations for each underpaid
24 employee for each pay period for which the employee was underpaid
25 and one hundred dollars (\$100) for each subsequent violation for
26 each underpaid employee for each pay period for which the
27 employee was underpaid.

1 d. Pursuant to Labor Code § 1174.5, for violations of Labor Code §
2 1174(d), Defendants are subject to a civil penalty of five hundred
3 dollars (\$500).

4 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes
5 to be paid to any employee a wage less than the minimum fixed by
6 an order of the commission, shall be subject to a civil penalty as
7 follows: for any initial violation that is intentionally committed, one
8 hundred dollars (\$100) for each underpaid employee for each pay
9 period for which the employee is underpaid; and for each subsequent
10 violation of the same offense, two hundred fifty dollars (\$250) for
11 each underpaid employee for each pay period for which the
12 employee is underpaid regardless of whether the initial violation was
13 intentionally committed.

14 76. Under Labor Code §2699(f), Plaintiff and the Aggrieved Employees are entitled to
15 \$100 for any initial violation and \$200 for all subsequent violations of the above-mentioned
16 provisions of the California Labor Code for which no other civil penalty is specifically provided.

17 77. Under Labor Code §2699, Plaintiff and the Aggrieved Employees should be
18 awarded twenty-five percent (25%) of all penalties due under California law, as well as interest,
19 attorneys' fees and costs.

20 78. Under Labor Code §2699, the State of California should be awarded seventy-five
21 percent (75%) of the penalties due under California law.

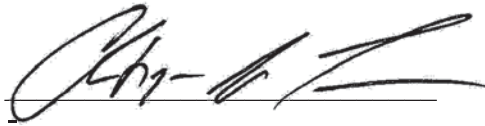
22 **PRAYER FOR RELIEF**

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

- 24 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq. for the
25 violations specified above;
26 2. For penalties under Labor Code sections 210, 226.3, 1174.5, 1197.1, and 2699(a) and
27 (f);
28

- 1 3. For interest at the legal rate pursuant to Labor Code §§ 218.6, 1194, 2802, California
2 Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-
3 judgment interest;
4 4. For reasonable attorneys' fees, expenses and costs under Labor Code §§1194, 226,
5 2699, and/or Code of Civil Procedure §1021.5, and/or any other applicable provisions
6 providing for attorneys' fees and costs; and
7 5. For such other and further relief as the Court deems proper.

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10 Respectfully submitted,

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13 Dated: June 03, 2020

14 JAMES HAWKINS, APLC
15 James R. Hawkins, Esq.
16 Christina M. Lucio, Esq.

17 Attorneys for Plaintiff CYNTHIA VIZCARRA-
18 MCNAMEE, on behalf of herself and all others similarly
19 situated
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