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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

ORALIA GONZALEZ TALAMANTES,
CESAR HERNANDEZ MARTINEZ, and
BLANCA MAGAÑA, as individuals, and
on behalf of other members of the general
public similarly situated,

Plaintiffs,

v.

MI RANCHO SUPERMARKET (SAN
JOSE) INC., a California corporation; MI
RANCHO SUPERMARKET (SAN JOSE 2)
INC., a California corporation; MI
RANCHO SUPERMARKET (REDWOOD
CITY) INC., a California corporation; MI
RANCHO SUPERMARKET (REDWOOD
CITY STORE 2) INC., a California
corporation; MI RANCHO
SUPERMARKET (SAN MATEO) INC., a
California corporation; MI RANCHO
SUPERMARKET (SAN LEANDRO) INC.,
a California corporation; JESUS LOPEZ, an
individual; YOLANDA LOPEZ, an
individual; MINERVA PULIDO, an
individual; and DOES 1 through 10,
inclusive,

Defendants.

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Case No. 20CV365957

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Failure to Pay Premium Pay for Non-Compliant Meal Periods
4. Failure to Pay Premium Pay for Non-Compliant Rest Periods
5. Failure to Furnish Accurate Itemized Wage Statements
6. Failure to Maintain Required Records
7. Failure to Pay All Wages When Due
8. Failure to Pay All Wages Due to Discharged and Quitting Employees
9. Failure to Indemnify Employees for Necessary Expenditures
10. Unfair Competition
11. Civil Penalties Under the Private Attorneys' General Act

JURY TRIAL DEMANDED

1 Plaintiffs ORALIA GONZALEZ TALAMANTES, CESAR HERNANDEZ MARTINEZ, and
2 BLANCA MAGAÑA as individuals (“Plaintiffs”) and on behalf of other members of the general
3 public similarly situated, as well as aggrieved employees under the Labor Code Private Attorneys
4 General Act of 2004, California Labor Code section 2698, et seq. (“PAGA”), allege and complain as
5 follows:

6 **INTRODUCTION**

7 1. Plaintiffs bring this Second Amended Class and Representative Action Complaint
8 (“SAC”) for wage and hour claims and civil penalties on behalf of themselves, as individuals, and all
9 other similarly situated non-exempt hourly employees, as well as aggrieved employees under the
10 PAGA, currently or formerly employed in California by: MI RANCHO SUPERMARKET (SAN
11 JOSE) INC., a California corporation; MI RANCHO SUPERMARKET (SAN JOSE 2) INC., a
12 California corporation; MI RANCHO SUPERMARKET (REDWOOD CITY) INC., a California
13 corporation; MI RANCHO SUPERMARKET (REDWOOD CITY STORE 2) INC., a California
14 corporation; MI RANCHO SUPERMARKET (SAN MATEO) INC., a California corporation; MI
15 RANCHO SUPERMARKET (SAN LEANDRO) INC., a California corporation; JESUS LOPEZ; an
16 individual; YOLANDA LOPEZ, an individual; MINERVA PULIDO, an individual; and DOES 1
17 through 10, inclusive, (collectively referred to as “Defendants”).

18 2. At all times relevant to this SAC, Defendants own and operate several Hispanic
19 supermarkets in San Mateo and Santa Clara counties under the fictitious business name of Mi Rancho
20 Supermarket.

21 3. At all times relevant to this SAC, Defendants are and were employers within the
22 meaning of the California Labor Code and the Industrial Welfare Commission Wage (“IWC”) Order
23 No. 4-2001 (“IWC Wage Order No. 4-2001”).

24 4. Beginning at least four (4) years prior to the filing of this SAC and continuing through
25 the present (the “Relevant Time Period”), Defendants have engaged in a systematic practice of
26 unlawful wage theft, including but not limited to: (i) altering or condoning the alteration of time
27 records to avoid paying Plaintiffs and other similarly situated hourly employees for time worked and
28 for overtime premiums earned; (ii) requiring, suffering, or permitting Plaintiffs and other similarly

1 situated hourly employees to work off the clock without compensation; (iii) failing to pay legally
2 required premium wages when Defendants failed to provide Plaintiffs and other similarly situated
3 hourly employees with complete, timely, and uninterrupted meal and rest periods, as required by
4 California law; (iv) requiring Plaintiffs and other similarly situated hourly employees to incur
5 necessary expenses without reimbursement; (v) failing to furnish accurate itemized wage statements;
6 (vi) failing to keep accurate payroll records; and (vii) assigning hourly employees to work double
7 shifts at the same or a different store location without paying overtime compensation or providing
8 additional meal and rest periods, among other violations of the California Labor Code and IWC Wage
9 Order No. 4-2001.

10 5. On information and belief, Defendants had actual or constructive knowledge of the
11 improprieties alleged in this SAC and intentionally refused to rectify their unlawful policies in order
12 to perpetuate a systematic practice of unlawful wage theft.

13 6. At all times relevant to this SAC, Defendants' violations of the California Labor Code
14 and Wage Order No. 4-2001 were willful, deliberate, and aimed at maximizing profit at the expense
15 of their employees' rights. Moreover, Defendants, as the employer of Plaintiffs and all similarly
16 situated hourly employees, were and are legally responsible for all of the unlawful conduct, policies,
17 practices, acts and omissions, as alleged in this SAC.

18 7. In view of the systematic practice of unlawful wage theft committed by Defendants,
19 Plaintiffs, on behalf of themselves, as individuals, and on behalf of all similarly situated current and
20 former hourly employees of Defendants during the Relevant Time Period, seek compensatory,
21 statutory, declaratory, and injunctive relief to compensate them and their fellow workers for the unpaid
22 and underpaid wages that Defendants have stolen from them and to protect current and future
23 employees from being subjected to similar wage theft and otherwise unlawful working conditions.

24 8. Furthermore, in view of the systematic practice of unlawful wage theft committed by
25 Defendants, Plaintiffs and the aggrieved employees under PAGA seek the recovery of civil penalties
26 to the extent permitted by law.

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JURISDICTION AND VENUE

9. This SAC is brought pursuant to California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiffs, on behalf of themselves and other similarly situated non-exempt hourly employees, exceed the minimal jurisdictional limits of the Superior Court of California and will be established according to proof at trial.

10. This Court has original jurisdiction over this SAC pursuant to California Constitution, Article VI, Section 10, which grants the Superior Court of California “original jurisdiction in all other causes” except those causes given by statute to other courts. The statutes under which this SAC is brought do not specify any other basis for jurisdiction.

11. Upon information and belief, this Court has personal jurisdiction over all Defendants in this SAC because each party is either a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

12. Venue is proper in the County of Santa Clara pursuant to California Code of Civil Procedure section 395.5. Plaintiffs were employed and performed work for Defendants in the County of Santa Clara, California, during the time period relevant to this SAC. Moreover, Defendants maintain offices, have agents, and/or transact business in the County of Santa Clara.

13. This Court has jurisdiction over this SAC because California Labor Code sections 2698 et seq., the “Labor Code Private Attorneys General Act of 2004,” authorizes aggrieved employees to bring an action for civil penalties, as private attorney generals, against their current or former employers for violations of numerous provisions of the California Labor Code, when the California Labor Workforce and Development Agency (“LWDA”), after proper notice of the alleged violations of the Labor Code by the plaintiff, declines to investigate the alleged violations of the Labor Code asserted by the plaintiff in his or her notice, thus enabling the plaintiff to bring an action for civil penalties as a proxy for the State of California.

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PARTIES

14. At all times relevant to this SAC, Plaintiff ORALIA GONZALEZ TALAMANTES resided in Santa Clara County, California. Plaintiff TALAMANTES was employed as a Front-End Cashier and Grocery Clerk by Defendants from approximately February 2018 to February 2020. Plaintiff TALAMANTES worked at Defendants' Story Road, San Jose, California location and her last rate of pay with Defendants was \$15.50 per hour.

15. At all times relevant to this SAC, Plaintiff CESAR HERNANDEZ MARTINEZ resided in Santa Clara County, California. Plaintiff MARTINEZ was employed by Defendants from approximately March 2019 to May 2020. Plaintiff MARTINEZ worked at Defendants' Story Road, San Jose, California location. Plaintiff MARTINEZ initially worked as a Grocery Clerk, but later served as an Assistant Store Supervisor. Plaintiff MARTINEZ's last rate of pay was \$18.00 per hour.

16. At all times relevant to this SAC, Plaintiff BLANCA MAGAÑA resided in Santa Clara County, California. Plaintiff MAGAÑA was employed by Defendants from approximately September 2017 to July 2019. Plaintiff MAGAÑA worked at Defendants' 150 Charter Street, Redwood City, California, 94603 store as well as its 3840 Monterey Highway, San Jose, California location. Plaintiff MAGAÑA worked as an Assistant Manager and her last rate of pay was \$18.00 per hour.

17. Plaintiffs are informed and believe and thereon allege Defendants are an integrated enterprise operating a chain of Hispanic supermarkets, including but not limited to:

- a. Defendant MI RANCHO SUPERMARKET (SAN JOSE) INC., a California corporation, located at: 2806 Story Road, San Jose, California 95127;
- b. Defendant MI RANCHO SUPERMARKET (SAN JOSE 2) INC., a California corporation, located at: 3840 Monterrey Highway, San Jose, California 95111;
- c. Defendant MI RANCHO SUPERMARKET (REDWOOD CITY) INC., a California corporation, located at: 137 Roosevelt Avenue, Redwood City, California 94063;
- d. Defendant MI RANCHO SUPERMARKET (REDWOOD CITY STORE 2) INC., a California corporation, located at: 150 Charter Street, Redwood City, California, 94603;

- e. Defendant MI RANCHO SUPERMARKET (SAN MATEO) INC., a California corporation, located at: 80 North B Street, San Mateo, California 94401;
- f. Defendant MI RANCHO SUPERMARKET (SAN LEANDRO) INC., a California corporation, located at: 15850 E. 14th Street, San Leandro, California, 94578;
- g. Defendant JESUS LOPEZ, an individual, domiciled at: 70 Redwood Way, Atherton, California 94027;
- h. Defendant YOLANDA LOPEZ, an individual, domiciled at: 70 Redwood Way, Atherton, California 94027;
- i. Defendant MINERVA PULIDO, an individual, domicile unknown; and
- j. DOES 1 through 10, inclusive.

The entities and individuals named above in paragraphs (a) through (i) above are collectively referred to as “Defendants.”

18. At all times relevant to this SAC, Defendants were the “employer” of Plaintiffs within the meaning of all applicable California laws and statutes.

19. At all times relevant to this SAC, Defendants were subject to the California Labor Code and IWC Wage Order 4-2001, because their employees worked in the County of Santa Clara and the State of California.

20. At all times relevant to this SAC, each of the Defendants were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, of each of the other Defendants.

21. At all times relevant to this SAC, each of the Defendants were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged in this SAC were committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each alleged DOE Defendant.

22. The true names and capacities of defendants DOES 1 through 10 inclusive, whether corporate, associate, individual or otherwise, are unknown to Plaintiffs and Plaintiffs therefore sue

1 these DOE defendants by fictitious names. On information and belief, each of the DOE defendants is
2 liable for the unlawful acts alleged in this SAC and proximately caused the injuries and damages to
3 Plaintiffs and Class Members prosecuting this SAC. Once Plaintiffs ascertain the true names and
4 capacities of these DOE Defendants, Plaintiffs will seek leave of court to file an amended Class Action
5 Complaint.

6 23. Plaintiffs further allege Defendants directly or indirectly controlled or affected the
7 working conditions, wages, working hours, and conditions of employment of Plaintiffs and Class
8 Members so as to make each of the Defendants liable under the statutory provisions set forth in this
9 SAC as joint employers.

10 **CLASS ACTION ALLEGATIONS**

11 24. Plaintiffs bring this action on their own behalf and on behalf of all other members of
12 the general public similarly situated who were affected by Defendants' violations of the California
13 Labor Code, Business and Professions Code section 17200 et seq., and IWC Wage Order No. 4-2001.

14 25. Plaintiffs bring this action and may maintain this action as a class action pursuant to
15 Code of Civil Procedure section 382 because there is a well-defined community of interest among the
16 persons who comprise the readily ascertainable classes defined below. Plaintiffs are unaware of
17 any difficulties likely to be encountered in managing this action as a class action.

18 26. **Relevant Time Period:** The Relevant Time Period is defined as the time period
19 beginning four years prior to the filing of this action until judgment is entered.

20 27. **Class Definition:**

- 21 a. All persons who are currently employed, or formerly have been employed, as
22 non-exempt hourly employees by Defendants in California, during the Relevant
23 Time Period.

24 28. Plaintiffs reserve the right to seek leave of this Court to amend this SAC to plead
25 subclasses or modify any Class definition as Plaintiffs deem appropriate, based on their investigation,
26 discovery, and specific theories of liability.

27 29. Members of the Class described above will be collectively referred to as "Class
28 Members" in this SAC.

1 30. **Numerosity:** The Class Members are so numerous that joinder of all class members is
2 impracticable. The membership of the entire class is unknown to Plaintiffs at this time; however, the
3 Class is estimated to be greater than one hundred (100) individuals and the identity of such
4 membership is readily ascertainable by inspection of Defendants' employment records.

5 31. **Commonality and Predominance:** Common questions of law and fact exist as to all
6 Class Members and predominate over any questions that affect only individual Class Members. These
7 common questions include, but are not limited to:

- 8 a. Whether Defendants' failure to pay wages without abatement or reduction in
9 accordance with the California Labor Code was willful;
- 10 b. Whether Defendants had a corporate policy and practice of failing to pay their
11 hourly non-exempt employees within the State of California for all hours
12 worked and missed meal and rest periods (short, late, interrupted, and/or missed
13 altogether) in violation of California law;
- 14 c. Whether Defendants required Plaintiffs and Class Members to work over eight
15 (8) hours per day and/or over forty (40) hours per week and failed to pay the
16 legally required overtime compensation to Plaintiffs and Class Members;
- 17 d. Whether Defendants deprived Plaintiffs and Class Members of meal and/or rest
18 periods or required Plaintiffs and Class Members to work during meal and/or
19 rest periods without compensation;
- 20 e. Whether Defendants failed to pay minimum wages to Plaintiffs and Class
21 Members for all hours worked;
- 22 f. Whether Defendants failed to timely pay all wages due to Plaintiffs and Class
23 Members during their employment;
- 24 g. Whether Defendants failed to pay all wages due to Plaintiffs and Class
25 Members within the required time upon their separation – discharge or
26 resignation;
- 27 h. Whether Defendants provided accurate, itemized wage statements to Plaintiffs
28 and Class Members as required by California law;

- i. Whether Defendants kept complete and accurate payroll records as required by the California Labor Code, including but not limited to section 1174, subdivision (d);
- j. Whether Defendants failed to reimburse Plaintiffs and Class Members for necessary business-related expenses and costs;
- k. Whether Defendants' conduct was willful or reckless;
- l. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200 et seq.;
- m. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- n. Whether Plaintiffs and Class Members are entitled to compensatory damages pursuant to the California Labor Code and IWC Wage Order No. 4-2001.

32. **Typicality:** Plaintiffs' claims are typical of the claims of other Class Members. Plaintiffs are informed and believe and thereupon allege that Defendants have a policy or practice of failing to comply with the Labor Code, IWC Wage Order No. 4-2001 and the Business and Professions Code as alleged in this SAC.

33. **Adequacy:** Plaintiffs will fairly and adequately protect the interests of each Class Member, with whom they have a well-defined community of interest and typicality of claims, as demonstrated in this SAC. Plaintiffs have no interest that is antagonistic to the other Class Members. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred and will continue to incur during the pendency of this SAC, costs and attorneys' fees that have been, are, and will necessarily be expended for the prosecution of this SAC for the substantial benefit of each Class Member.

34. **Superiority:** A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all Class Members is impractical.

35. **Public Policy Considerations:** Certification of this lawsuit as a class action will advance public policy objectives. Employers throughout the State of California violate employment and labor laws on a daily basis. Current employees are often reluctant to assert their rights individually

1 because of fear of direct or indirect retaliation by their employers. Class actions however provide Class
2 Members, who are not specifically named in the SAC, with anonymity that allows for the vindication
3 of their rights without fear of direct or indirect retaliation by their employers.

4 **GENERAL ALLEGATIONS**

5 36. At all times relevant to this SAC, Defendants employed Plaintiffs and other California
6 residents as hourly employees within the State of California, including the County of Santa Clara.

7 37. Defendants, jointly and severally, employed Plaintiff TALAMANTES as an hourly,
8 non-exempt employee from February 2018 to approximately February 2020, in the State of California,
9 County of Santa Clara. Plaintiff TALAMANTES was employed as a Cashier and Grocery Clerk, and
10 from August 2019 to approximately December 2019, also assisted with front-office duties.

11 38. Defendants, jointly and severally, employed Plaintiff MARTINEZ as an hourly, non-
12 exempt employee from approximately March 2019 to May 2020, in the State of California, County of
13 Santa Clara. Plaintiff MARTINEZ worked at Defendants' Story Road, San Jose, California location,
14 but traveled to other store locations throughout the Bay Area in his personal vehicle for work purposes.
15 Plaintiff MARTINEZ initially worked as a Grocery Clerk, but later served as an Assistant Store
16 Supervisor. Plaintiff MARTINEZ's last rate of pay was \$18.00 per hour.

17 39. Defendants, jointly and severally, employed Plaintiff BLANCA MAGAÑA as an
18 hourly, non-exempt employee from approximately September 2017 to July 2019, in the State of
19 California, County of Santa Clara. Plaintiff MAGAÑA worked at Defendants' 150 Charter Street,
20 Redwood City, California, 94603 store as well as its 3840 Monterey Highway, San Jose, California
21 location. Plaintiff MAGAÑA worked as an Assistant Manager and her last rate of pay was \$18.00 per
22 hour

23 40. Defendants continue to employ hourly, non-exempt employees in California.

24 41. At all times relevant to this SAC, on information and belief, Defendants were advised
25 by skilled lawyers, employees, and other professionals who were knowledgeable about California's
26 wage and hour laws, employment, and personnel practices, and the requirements of California law.

27 42. At all times relevant to this SAC, Defendants were required by California law to
28 compensate Plaintiffs and Class Members for all hours worked (including minimum wages and

overtime wages) and did not compensate Plaintiffs and Class Members for all wages earned for work that Defendants required them to perform. On information and belief, in violation of the Labor Code and IWC Wage Order No. 4-2001, Defendants failed to pay Plaintiffs and Class Members all wages due – including minimum wages and overtime wages – for all hours worked.

43. At all times relevant to this SAC, Defendants were required by California law to provide Plaintiffs and Class Members with meal periods in compliance with California law or payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay when Defendants did not provide them with a complete, timely, uninterrupted meal period. On information and belief, in violation of the Labor Code and IWC Wage Order No. 4-2001, Defendants did not always provide Plaintiffs and Class Members with meal periods in compliance with California law and did not provide Plaintiffs and Class Members with one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay when they did not provide them with a complete, timely, uninterrupted meal period.

44. At all times relevant to this SAC, Defendants were required by California law to provide Plaintiffs and Class Members rest periods or payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay when they did not provide Plaintiffs and Class members with a rest period in compliance with California law. On information and belief, in violation of the Labor Code and IWC Wage Order No. 4-2001, Defendants did not always provide Plaintiffs and Class Members with rest periods in compliance with California law and Defendants did not provide Plaintiffs and Class Members with payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay when Defendants did not provide Plaintiffs and Class Members with a compliant rest period.

45. At all times relevant to this SAC, Defendants were required by California law to timely pay Plaintiffs and Class Members their wages due during their employment. On information and belief, in violation of the California Labor Code and IWC Wage Order No. 4-2001, Defendants did not pay Plaintiffs and Class Members all of their wages within the time periods required by California law.

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1 46. At all times relevant to this SAC, Defendants were required by California law to timely
2 pay Plaintiffs and Class Members their wages upon separation of employment. On information and
3 belief, in violation of the California Labor Code and IWC Wage Order No. 4-2001, Defendants did
4 not pay Plaintiffs and Class Members all of their wages due upon separation of employment within
5 the time period required by California law, including, but not limited to: unpaid minimum and
6 overtime wages.

7 47. At all times relevant to this SAC, Defendants were required by California law to
8 provide Plaintiffs and Class Members with accurate and itemized wage statements in accordance with
9 California law. On information and belief, in violation of the California Labor Code and IWC Wage
10 Order No. 4-2001, Defendants did not provide Plaintiffs and Class Members with accurate and
11 itemized wage statements detailing their total hours worked, number of hours worked at each hourly
12 rate, and gross and net wages, among other information required by California law.

13 48. At all times relevant to this SAC, Defendants were required by California law to
14 reimburse Plaintiffs and Class Members for business-related expenditures. On information and belief,
15 in violation of the California Labor Code and IWC Wage Order No. 4-2001, Defendants did not
16 provide Plaintiffs and Class members with indemnification or reimbursement for all business-related
17 expenditures, including expenses associated with driving their personal vehicles.

18 49. At all times relevant to this SAC, Defendants were required by California law to fully
19 compensate Plaintiffs and Class Members, and Defendants, despite having the financial ability to pay
20 such compensation, willfully, knowingly and intentionally failed to do so, in order to increase their
21 profits at the expense of Plaintiffs' and Class Members' rights under California law.

22 50. Throughout Plaintiffs' employment, Defendants did not pay Plaintiffs for wages earned
23 with checks that were negotiable and payable in cash, on demand, and at a place of business established
24 in California.

25 51. In view of the Defendants' aforementioned violations of the California Labor Code and
26 IWC Wage Order No. 4-2001, Plaintiffs bring this SAC on behalf of themselves, as individuals, and
27 on behalf of all Class Members, seeking monetary and injunctive relief against Defendants to recover,
28 among other things, unpaid wages, interest, attorneys' fees, penalties, costs, and expenses.

52. As alleged in this SAC, Defendants have engaged in a systematic pattern and practice of wage theft under the California Labor Code and IWC Wage Order No. 4-2001 for the purpose of maximizing profit at the expense of their employees' rights under California law, all of which contribute to Defendants' deliberate unfair competition.

53. Plaintiffs further bring this SAC pursuant to California Labor Code section 218, which provides that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him [or her] under this article.”

SPECIFIC ALLEGATIONS

Failure to Pay Minimum and Overtime Wages

54. First, Defendants had, and continue to have, a company-wide policy and/or practice of understaffing their stores to maximize profits. This practice resulted in chronic understaffing, such that there were insufficient employees on duty to handle the workload. Without proper staffing, Defendants' stores lacked the necessary coverage to relieve employees of their duties. As a result, Defendants did not always provide Plaintiffs and Class Members with meal periods as required by California. That is, Defendant did not provide Plaintiffs and Class Members with meal periods that were timely, complete, and uninterrupted, if any meal periods were provided at all. Additionally, Plaintiffs and Class Members were required to assist customers on the floor even when they were on their meal periods, interrupting their meal periods and forcing them to work without pay. Given that the employee break room was located at the furthest end of the back of each store and the only time clock was at the front of each store, Plaintiffs and Class Members regularly had their meal periods interrupted by customers after they had clocked out for their meal periods and while they walked back to the breakroom. As such, Plaintiffs and Class Members missed meal periods and/or had their meal periods interrupted, without receiving any compensation from Defendants for this time worked.

55. Second, Defendants had, and continue to have, a company-wide policy that fails to pay overtime and double time to employees who work double shifts. The purpose of this scheme is directly aimed at violating California law, so that Defendants do not have to pay statutorily required overtime and double time for hours worked in excess of eight (8) and twelve (12) hours in the same day. Because of Defendants' unlawful conduct, Class Members were not paid overtime wages for all of the overtime

1 hours they actually worked. Defendants' failure to pay aggrieved employees statutorily required
2 overtime and double time violates the provisions of California Labor Code sections 510 and 1198. For
3 example, Plaintiff MARTINEZ regularly worked double shifts without receiving proper overtime
4 compensation, as required by California law.

5 56. Third, on information and belief, Defendants had, and continue to have, a company-
6 wide closing procedure that requires Class Members to perform work for Defendants after they already
7 clocked out for their shifts, which results in employees working off the clock and without being paid
8 for those hours worked. Each store's closing process could take various minutes depending on the
9 tasks that needed to be completed – time that Plaintiffs and Class Members spent off the clock, but
10 under Defendants' control, without receiving appropriate compensation, as required by California law.

11 57. Fourth, on information and belief, Defendants had, and continue to have, a company-
12 wide policy that required Plaintiffs and Class Members to spend time outside of their shifts or on their
13 off days answering work-related calls from Defendants' managers. Even though California law
14 required Defendants to pay Plaintiffs and Class Members for this time, as it was time spent under
15 Defendants' control and for Defendants' benefit, Defendants also failed to compensate Plaintiffs and
16 Class Members for this time.

17 **Failure to Provide Meal Periods**

18 58. As previously alleged in this SAC, Defendants had, and continue to have, a company-
19 wide policy and/or practice of understaffing locations that resulted in an insufficient number of
20 employees at store locations to handle the required workload and a lack of coverage to provide
21 employees with meal periods as required by California law. Defendants' intentional and chronic
22 understaffing of store locations prevented Plaintiffs and Class Members from taking all timely,
23 complete, and uninterrupted meal periods. As a result of Defendants' practices and/or policies and the
24 layout of its breakrooms and limited time clocks, Defendants required Plaintiffs and Class Members
25 to work through part or all of their meal periods, permitted their meal periods to be interrupted, and/or
26 wait extended periods of time before taking meal periods. Further, Defendants did not provide
27 Plaintiffs and Class Members with second 30-minute meal periods on days that they worked in excess
28 of ten (10) hours in one day. Plaintiffs and Class Members did not sign valid meal period waivers for

1 days in which they were entitled to meal periods and were not relieved of all duties.

2 59. Defendants knew or should have known that as a result of their policies, including
3 understaffing, breakroom layout, limited time clocks, and failure to provide meal periods, that
4 Plaintiffs and Class Members were not actually relieved of all duties to take timely, complete, and
5 uninterrupted meal periods. Defendants further knew or should have known that they did not pay
6 Plaintiffs and Class Members meal period premium wages when they were missed, late, short, and/or
7 interrupted.

8 60. Defendants also have engaged in a company-wide practice and/or policy of not paying
9 meal period premiums for days when they did not provide employees with compliant meal periods.
10 Because of this practice and/or policy, Plaintiffs and Class Members have not received premium pay
11 for meal periods that were missed, late, short, or interrupted.

12 **Failure to Provide Rest Periods**

13 61. As with meal periods, Defendants' company-wide policy and practice of understaffing
14 its stores resulted in an insufficient number of employees to handle the required workload and a lack
15 of coverage to relieve Plaintiffs and Class Members of all duties in order to provide them with rest
16 periods as required by California law. This practice was further compounded by the fact that
17 Defendants required Plaintiffs and Class Members to clock in and out for rest periods and each store
18 had a single time clock at the front of each store and a breakroom at the very back end of the store.
19 Plaintiffs and Class Members regularly had their breaks interrupted by customers as they walked from
20 the time clock at the very front of the store to the break room at the very back end of the store. In view
21 of the foregoing, when attempting to take rest periods, Plaintiffs and Class Members were not relieved
22 of all duties and were instead required to continue working. Plaintiffs and Class Members therefore
23 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
24 receiving all uninterrupted 10-minute rest periods to which they were entitled. Notably, Defendants'
25 Employee Handbook, which was provided to Plaintiffs and Class Members, does not have a rest break
26 policy.

27 62. Defendants also have engaged in a company-wide practice and/or policy of not paying
28 employees all rest period premiums when they failed to provide them with compliant rest periods.

1 Because of this practice and/or policy, Plaintiffs and Class Members have not received premium pay
2 for all missed rest periods.

3 **Failure to Provide Compliant Wage Statements and Maintain Required Payroll Records**

4 63. Defendants have knowingly and intentionally provided Plaintiffs and Class Members
5 with uniform, incomplete, and inaccurate wage statements. Specifically, Defendants violated sections
6 226, subdivisions (a)(1), (2), (5) and (9). Defendants deducted time worked from Plaintiffs and Class
7 Members' wage statements and employment records for meal periods that were interrupted or missed
8 (and therefore time for which they should have been paid), and did not record time Plaintiffs and Class
9 Members spent working off the clock, the result of which was an unlawful deduction of wages earned
10 and meal period premiums that should have been paid. Thus, Defendants did not furnish wage
11 statements to Plaintiffs and Class Members containing accurate totals of the hours worked (Lab. Code,
12 § 226, subd. (a)(2)), number of hours worked at each hourly rate (Lab. Code, § 226, subd. (a)(9)), net
13 wages earned (Lab. Code, § 226, subd. (a)(5)) and gross wages earned (Lab. Code, § 226, subd. (a)(1)).

14 64. Because Defendants did not calculate Plaintiffs' and Class Members' regular rate of
15 pay correctly for purposes of paying overtime, Defendants did not list the correct amount of gross
16 wages in compliance with section 226, subdivision (a)(1). For the same reason, Defendants also failed
17 to list the correct amount of net wages in violation of section 226, subdivision (a)(5). Further,
18 Defendants failed to list the correct amount of net wages earned by Plaintiffs and Class Members in
19 violation of section 226, subdivision (a)(5). Defendants also failed to correctly list all applicable hourly
20 rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for
21 meal and rest premium wages, in violation of section 226, subdivision (a)(9).

22 65. The wage statement deficiencies also include: failing to list all deductions; failing to
23 list the name and address of the legal entity that is the employer; and/or failing to state all hours worked
24 as a result of not recording or stating the hours they worked off-the-clock.

25 66. Defendants failed to maintain and keep required payroll records detailing the name and
26 addresses of all employees employed and to keep, at a central location in the State of California or at
27 the establishments at which employees are enrolled, payroll records detailing the hours worked daily
28 by and the wages paid to all employees employed at the establishment.

1 67. Moreover, Defendants failed to maintain time records detailing when the employee
2 begins and ends each work period, meal period, and split shift interval, as required by IWC Wage
3 Order No. 4-2001.

4 **Failure to Timely Pay Wages During Employment**

5 68. At all times relevant to this SAC, Defendants failed to pay Plaintiffs and Class
6 Members all wages due to them, within any time period specified by California Labor Code section
7 204, including, but not limited to: overtime wages; minimum wages; reporting time pay; and meal and
8 rest period premium wages. Defendants' failure to timely pay Plaintiffs and Class Members, including
9 requiring them to wait several days after they were provided with their paychecks to cash or deposit
10 their paychecks.

11 **Failure to Timely Pay Final Wages Upon Termination**

12 69. Defendants have a company-wide practice or policy of not paying departing employees
13 their final wages on their last day of employment or within seventy-two (72) hours of resigning without
14 prior notice, instead of abiding by the time requirements required by California Labor Code sections
15 201 and 202. Thus, Defendants failed to timely pay Plaintiffs' and Class Members' owed wages within
16 the required time limit, in violation of California Labor Code section 201. For example, according to
17 Defendants' records, Plaintiff TALAMANTES was terminated on February 13, 2020, but she did not
18 receive her final pay on the date of her termination or on her last day of work. Indeed, Defendants did
19 not provide Plaintiff her final paycheck for weeks and instead conditioned payment of her final wages
20 on her physically coming into the store where she worked to pick up her paycheck.

21 70. Additionally, Defendants willfully failed to pay Plaintiffs and Class Members who are
22 no longer employed by Defendants all their earned wages either at the time of discharge, or within
23 seventy-two (72) hours of their leaving Defendants' employ in violation of California Labor Code
24 sections 201, 202, and 203, including, but not limited to: overtime wages; minimum wages; and
25 reporting time pay.

26 **Failure to Reimburse Business Expenses**

27 71. Defendants had, and continue to have, a company-wide policy and/or practice of not
28 reimbursing employees for expenses necessarily incurred, in violation of California law.

1 72. First, at all times relevant to this SAC, Defendants required Plaintiffs and Class
2 Members to use their own personal cell phones to carry out their job duties. Plaintiffs and Class
3 Members received work-related calls and texts from managers outside of work hours. For example,
4 because the front-end department was always understaffed, Plaintiff TALAMANTES would
5 sometimes receive calls and texts from store managers to discuss scheduling concerns or certain issues
6 with the front-end department. Defendants however failed to reimburse Plaintiffs and Class Members
7 for the costs of their work-related cell phone expenses in violation of California law.

8 73. Second, at all times relevant to this SAC, Defendants failed to provide Plaintiffs and
9 Class Members with adequate uniforms for the tasks Defendants required them to perform. Instead,
10 Defendants required Plaintiffs and Class Members to pay out-of-pocket for some of their uniform
11 expenses. For example, Defendants required Plaintiffs, as part of their duties, to use Company-
12 approved slip-resistant shoes. Defendants however did not provide these shoes to store employees and
13 instead required Plaintiffs and Class Members to purchase multiple slip-resistant shoes on their own
14 without reimbursement for this expense in violation of California law.

15 74. Third, Defendants required certain employees to drive to other store locations during
16 their shifts using their own personal vehicles. However, Defendants failed to reimburse these
17 employees for the costs and mileage incurred during such travel in violation of California law. For
18 example, Plaintiff MARTINEZ travelled to other store locations throughout the Bay Area in his
19 personal vehicle for work purposes, but he did not receive any reimbursement from Defendants for
20 the costs and mileage he incurred for such travel.

21 75. Defendants could have provided Plaintiffs and Class Members with the actual tools for
22 use on the job, including company phones to be used for fulfilling work-related tasks and actual
23 uniforms for use on the job (like non-slip shoes), or could have reimbursed employees for their actual
24 cellular phone usage and uniform expenses. Defendants also could have reimbursed employees for
25 work-related travel expenses. Instead, Defendants required Plaintiffs and Class Members to bear the
26 burden of these expenses without reimbursement in violation of California law.

27 //

28 //

FIRST CAUSE OF ACTION

Failure to Pay Overtime Wages

[Cal. Labor Code, §§ 510, 1194, and 1198; IWC Wage Order No. 4-2001, § 3]

(Against All Defendants and DOES 1-10)

76. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by reference all previous paragraphs of this SAC.

77. California Labor Code section 1198 makes unlawful the employment of an employee under conditions the IWC prohibits.

78. California Labor Code section 510 and IWC Wage Order No. 4-2001, section (3), make it unlawful for employers to employ persons without compensating them at minimum wage for all hours worked and at their applicable overtime rate of pay for all overtime hours worked.

79. California Labor Code section 510 and IWC Wage Order No. 4-2001, section (3), require employers to compensate hourly, non-exempt employees with overtime compensation paid at one and-one-half times the employee's regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and overtime compensation paid at twice the employee's regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

80. California Labor Code section 1194, subdivision (a), entitles an employee to recover in a civil action the unpaid balance of all overtime compensation due but unpaid.

81. At all times relevant to this SAC, Plaintiffs and Class Members are current and former hourly, non-exempt employees entitled to the protections of California Labor Code sections 510, 1194, and IWC Wage Order No. 4-2001.

82. At all times relevant to this SAC, Plaintiffs and the Class Members regularly worked in excess of eight (8) hours in a day and/or in excess of forty (40) hours in a week.

83. At all times relevant time to this SAC, Defendants failed to pay overtime wages to Plaintiffs and Class Members as required by California Labor Code section 510 and IWC Wage Order No. 4-2001, section (3), by having followed and by continuing to follow a policy and practice of failing

1 to pay Plaintiffs and Class Members at or above the applicable overtime rate required under California
2 law for many hours worked, including but not limited to: hours Defendants required, permitted, or
3 suffered Plaintiffs and Class Members to work off the clock; hours that Defendants altered or removed
4 from time records; hours in which Plaintiffs and Class Members worked double shifts; and hours
5 Defendants required, permitted, or suffered Plaintiffs and Class Members to work through unpaid
6 breaks.

7 84. Defendants committed and continue to commit the acts alleged in this SAC knowingly
8 and willfully.

9 85. As a direct and proximate result of Defendants' failure to pay overtime wages as
10 required by California law, Plaintiffs Class Members sustained damages.

11 86. Pursuant to California Labor Code section 1194, subdivision (a), Plaintiffs and Class
12 Members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
13 attorneys' fees.

14 **SECOND CAUSE OF ACTION**

15 **Failure to Pay Minimum Wages**

16 **[Cal. Labor Code, §§ 1182.12, 1194, 1194.2, 1194.5, 1197, 1198;**

17 **IWC Wage Order No. 4-2001, § 4]**

18 **(Against All Defendants and DOES 1-10)**

19 87. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by
20 reference all previous paragraphs of this SAC.

21 88. California Labor Code section 1198 makes unlawful the employment of an employee
22 under conditions the IWC prohibits.

23 89. California Labor Code sections 1182.12, 1194, 1197, and IWC Wage Order No. 4-
24 2001, section (4), make it unlawful for employers to pay hourly, non-exempt employees less than the
25 minimum wage fixed by California law.

26 90. California Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a),
27 provide that an employer that fails to pay its employees the legal minimum wage is liable to pay those
28 employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal

1 to the wages unpaid and interest thereon.

2 91. At all times relevant time to this SAC, Defendants failed to pay minimum wage to
3 Plaintiffs and Class Members as required by California Labor Code sections 1182.12, 1194, 1197, and
4 1198, by having followed and by continuing to follow a policy and practice of failing to pay Plaintiffs
5 and Class Members at or above the California minimum wage for many hours worked, including but
6 not limited to: hours Defendants required, permitted, or suffered Plaintiffs and Class Members to work
7 off the clock; hours that Defendants altered or removed from time records; and hours Defendants
8 required, permitted, or suffered Plaintiffs and Class Members to work through unpaid breaks.

9 92. At all times relevant to this SAC, Defendants knowingly and willfully failed to pay
10 minimum wages as required by California law.

11 93. As a direct and proximate result of Defendants' failure to pay minimum wages as
12 required by California law, Plaintiffs and Class Members sustained damages.

13 94. Pursuant to California Labor Code sections 1194, 1194.2, and 1197, Plaintiffs and
14 Class Members are entitled to recover from the Defendants the unpaid balance of their minimum wage
15 compensation not paid to them by Defendants, as well as interest, costs, attorneys' fees, and liquidated
16 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

17 **THIRD CAUSE OF ACTION**

18 **Failure to Pay Premium Pay for Non-Compliant Meal Periods**

19 **[Cal. Labor Code, §§ 226.7 and 512 subd. (a); IWC Wage Order No. 4-2001, § 11]**

20 **(Against All Defendants and DOES 1-10)**

21 95. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by
22 reference all previous paragraphs of this SAC.

23 96. California Labor Code section 1198 makes unlawful the employment of an employee
24 under conditions the IWC prohibits.

25 97. California Labor Code section 226.7, subdivision (b), makes it unlawful for employers
26 to require hourly, non-exempt employees to work during any meal period mandated by an applicable
27 IWC Order.

28 98. California Labor Code section 512, subdivision (a), and IWC Wage Oder No. 4, section

1 (11), subdivision (A), makes it unlawful for an employer to require, cause or permit an hourly-paid,
2 non-exempt employee to work for a work period of more than five (5) hours per day without providing
3 the employee with a meal period of not less than thirty (30) minutes, except that when the total work
4 period per day of the employee is no more than six (6) hours the meal period may be waived by mutual
5 consent of both the employer and employee.

6 99. California Labor Code section 512, subdivision (a), and IWC Wage Order No. 4,
7 section (11), subdivision (A), also make it unlawful for an employer, like Defendants, to require, cause,
8 or permit an employee to work for a work period of more than ten (10) hours per day without providing
9 the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that
10 when the total hours worked is no more than twelve (12) hours, the second meal period may be waived
11 by mutual consent of the employer and the employee but only if the first meal period was not waived
12 by the employee.

13 100. Pursuant to California Labor Code section 226.7, subdivision (c), and IWC Wage Order
14 No. 4-2001, section (11), subdivision (B), if an employer fails to provide an employee a meal period
15 as required, the employer must pay the employee one hour of pay at the employee's regular rate of
16 compensation for each workday that a meal period is not provided as required.

17 101. During the relevant time period, Defendants failed to provide Plaintiffs and Class
18 Members with a 30-minute, duty-free meal period for every five hours of work. Employees routinely
19 missed meal periods or had late, short, or interrupted meal periods due to a heavy workload, location
20 of time clocks in relation to the employee breakroom, and insufficient staffing. In addition, Defendants
21 required employees to clock out for meal periods, even when employees were not able to take
22 compliant meal periods or any meal periods at all. This policy instituted by Defendants created the
23 false appearance that compliant meal periods were taken when they were not.

24 102. At all times relevant to this SAC, Defendants failed to pay Plaintiffs and Class
25 Members meal period premium pay due for non-compliant meal periods, pursuant to California Labor
26 Code section 226.7, subdivision (c), and IWC Wage Order No. 4-2001, section (11), subdivision (B).

27 103. At all times relevant to this SAC, Defendants knowingly and willfully failed to pay
28 Plaintiffs and Class Members premium pay for non-compliant meal periods as required by California

1 law.

2 104. As a direct and proximate result of Defendants' failure to pay premium pay for non-
3 compliant meal periods as required by California law, Plaintiffs and Class Members sustained
4 damages.

5 105. Pursuant to California Labor Code section 226.7, subdivision (c), and IWC Wage Order
6 No. 4-2001, section (11), subdivision (B), Plaintiffs and Class Members are entitled to recover from
7 Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each
8 workday that a compliant meal period was not provided, including interest thereon, statutory penalties,
9 civil penalties, and costs of suit.

10 **FOURTH CAUSE OF ACTION**

11 **Failure to Pay Premium Pay for Non-Compliant Rest Periods**

12 **[Cal. Labor Code, § 226.7; IWC Wage Order No. 4-2001, § 12]**

13 **(Against All Defendants and DOES 1-10)**

14 106. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by
15 reference all previous paragraphs of this SAC.

16 107. California Labor Code section 1198 makes unlawful the employment of an employee
17 under conditions the IWC prohibits.

18 108. California Labor Code section 226.7, subdivision (b), prohibits an employer from
19 requiring an employee to work during any rest break mandated by an applicable Industrial Wage
20 Order.

21 109. IWC Wage Order No. 4-2001, section (12), subdivision (A), requires employers to
22 authorize and permit employees who work three and one half or more hours in a day to take a paid
23 rest period of at least 10 minutes for every four hours worked or major fraction thereof, which insofar
24 as practicable shall be in the middle of each work period.

25 110. Pursuant to California Labor Code section 226.7, subdivision (c), and IWC Wage Order
26 No. 4-2001, section (12), subdivision (B), states that if an employer fails to provide an employee a rest
27 period as required, then the employer must pay the employee one hour of pay at the employee's regular
28 rate of compensation for each workday that a rest period is not provided as required.

111. At all times relevant to this SAC, Defendants required Plaintiffs and Class Members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof in violation of California law.

112. At all times relevant to this SAC, Defendants did not provide Plaintiffs and Class Members with a duty-free rest period of at least 10 minutes for every four hours of work or major fraction thereof. Plaintiffs and Class Members were unable to take compliant rest periods for the same reasons they could not take compliant meal periods.

113. At all times relevant to this SAC, Defendants knowingly and willfully failed and continue to fail to pay Plaintiffs and Class Members premium pay for non-compliant rest periods as required by California law.

114. As a direct and proximate result of Defendants' failure to pay premium pay for non-compliant rest periods as required by California law, Plaintiffs and Class Members sustained damages.

115. Pursuant California Labor Code section 226.7, subdivision (c), and IWC Wage Order 4-2001, section (12), subdivision (B), Plaintiffs and Class Members are entitled to recover from Defendants one additional hour of pay at the employee's regular hourly rate of compensation for each work day that a compliant rest period was not provided, including interest thereon, statutory penalties, civil penalties, and costs of suit.

FIFTH CAUSE OF ACTION

Failure to Furnish Accurate Itemized Wage Statements

[Cal. Labor Code, § 226; IWC Wage Order No. 4-2001, § 7]

(Against All Defendants and DOES 1-10)

116. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by reference all previous paragraphs of this SAC.

117. California Labor Code section 226, subdivision (a), provides that every employer, like Defendants, must provide each of their employees, like Plaintiffs and members of the Wage Statement Penalty Class, with an accurate itemized wage statement in writing detailing the following information: (1) gross wages earned; (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under

1 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the
2 number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate
3 basis; (4) all deductions, provided that all a deductions made on written orders of the employee may
4 be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
5 which the employee is paid; (7) the name of the employee and his or her social security number, except
6 that by January 1, 2008, only the last four digits of his or her social security number or an employee
7 identification number other than a social security number may be shown on the itemized statement;
8 (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in
9 effect during the pay period and the corresponding number of hours worked at each hourly rate by the
10 employee.

11 118. California Labor Code section 226, subdivision (e), provides that an employee who
12 suffers injury as a result of a knowing and intentional failure by an employer to comply with section
13 226, subdivision (a), may recover the greater of actual damages or the civil penalties designated by
14 statute of \$50 for the initial pay period.

15 119. California Labor Code section 226, subdivision (e)(2)(B), provides that an employee is
16 deemed to suffer injury if the wage statement fails to accurately and completely provide certain
17 information and the employee cannot promptly and easily determine such information from the wage
18 statement alone. In relevant part, California Labor Code section 226, subdivision (e)(2)(B), provides
19 that an employee is deemed to suffer injury if the wage statement does not accurately and completely
20 state the total number of hours worked by the employee, all applicable hourly rates in effect during
21 the pay period, and the corresponding number of hours worked at each hourly rate.

22 120. Defendants intentionally and willfully failed to provide employees with complete and
23 accurate wage statements because the wage statements provided by Defendants failed to accurately
24 detail Plaintiffs' and Class Members' total hours worked and the corresponding hourly rates as a result
25 of Defendants' failure to pay the outstanding wages alleged in this SAC.

26 121. As a direct and proximate result of Defendants' failure to provide Plaintiffs and Class
27 Members with accurate itemized wage statements as required by California law, Plaintiffs and Class
28 Members suffered injury and damages.

122. Specifically, Plaintiffs and Class Members were injured by Defendants' intentional violation of California Labor Code section 226, subdivision (a), because they were denied both their legal right to receive and their protected interest in receiving, accurate, itemized wage statements under California Labor Code section 226, subdivision (a). Plaintiffs and Class Members were injured by Defendants' intentional violation of California Labor Code section 226, subdivision (a), because it has caused confusion over whether they received from Defendants all of the wages owed to them, in addition to their difficulty and expense in reconstructing pay records and making mathematical computations to analyze whether the wages paid to them did in fact compensate them for all hours worked.

123. Plaintiffs and Class Members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226, subdivision (a), or an aggregate penalty not exceeding four thousand dollars per employee.

124. California Labor Code section 226, subdivision (h), authorizes courts to issue injunctive relief to remedy violations of section 226, subdivision (a). Plaintiffs and Class Members are entitled to injunctive relief under the governing legal standards and are entitled to an order enjoining Defendants: (i) to immediately begin providing to Plaintiffs and Class Members itemized wage statements containing all of the information required to be detailed by California Labor Code section 226, subdivision (a); and (ii) to immediately provide to all Plaintiffs and Class Members the information required be disclosed by California Labor Code section 226, subdivision (a), dating back to those employees' beginning of employment or to the start of the applicable limitations period, whichever is further back in time.

SIXTH CAUSE OF ACTION

Failure to Maintain Required Records

[Cal. Labor Code, §§ 226, 1174, 1174.5, 1194.5; IWC Wage No. 4-2001 § 7]

(Against All Defendants and DOES 1-10)

125. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by reference all previous paragraphs of this SAC.

126. California Labor Code section 1198 makes unlawful the employment of an employee

26.

1 under conditions the IWC prohibits.

2 127. California Labor Code section 1174, subdivision (d), requires employers, like
3 Defendants, to keep, at a central location in the state or at the plants or establishments at which
4 employees are employed, payroll records detailing the hours worked daily by and the wages paid to,
5 and the number of piece-rate units earned by and any applicable piece rate paid to, employees
6 employed at the respective plants or establishments. Employers must keep these records in accordance
7 with the rules established by the IWC, but in any case must be kept on file for no less than three years.

8 128. IWC Wage Order No. 4-2001, section (7), subdivision (A)(3), requires employers to
9 keep time records detailing when the employee begins and ends each work period, meal period, and
10 split shift interval. IWC Wage Order No. 4-2001, section (7), subdivision (A)(5), requires employers
11 to record each employee's total hours worked and applicable rates of pay and must make such
12 information "readily available" to the employee upon request. IWC Wage No. 4-2001, section (7),
13 subdivision (C), states that all required records must be in the English language and in ink or other
14 indelible form, properly stated, showing month, day, and year, and must be kept on file by the
15 employer for at least three years at the place of employment or at a central location within the State of
16 California. Under both IWC Wage Order No. 4-2001, section (7), subdivision (C) and California Labor
17 Code section 226, subdivision (b), all records must be available for inspection by an employee upon
18 reasonable request.

19 129. Pursuant to Defendants' policy and practice, Defendants have willfully failed, and
20 continue to willfully fail, to maintain accurate, complete, and readily available records, in violation of
21 California Labor Code section 1174 and IWC Wage Order No. 4-2001, section (7).

22 130. Defendants have failed and continue to fail to maintain required records that accurately
23 reflect the actual time and hours worked by Plaintiffs and Class Members and the regular and overtime
24 rates of pay associated with these hours worked.

25 131. Plaintiffs and Class Members have suffered and will continue to suffer actual economic
26 harm resulting from these recordkeeping violations, as they have been, and will continue to be,
27 precluded from monitoring the wages to which they are entitled, have been required to retain counsel
28 and others to evaluate and calculate unpaid wages, and have suffered delays in receiving the wages

1 and interest that are due and owing to them.

2 132. Defendants' ongoing violations of these mandatory recordkeeping laws have caused,
3 and will continue to cause, irreparable harm to Plaintiffs and Class Members, among other reasons,
4 because as long as Defendants failed to maintain the required records, Plaintiffs and Class Members
5 will be unable to determine or demonstrate the precise number of hours actually worked, or the wages
6 and penalties owed to them for the hours that Defendants have required, suffered, or permitted them
7 to work.

8 133. By willfully failing to maintain records required by California Labor Code section
9 1174, subdivisions (c) and (d), Defendants are also liable for a civil penalty of five hundred dollars for
10 each violation under section 1174.5.

11 **SEVENTH CAUSE OF ACTION**

12 **Failure to Pay All Wages When Due**

13 **[Cal. Labor Code, § 204]**

14 **(Against All Defendants and DOES 1-10)**

15 134. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by
16 reference all previous paragraphs of this SAC.

17 135. California Labor Code section 204 provides that all wages earned by any person in any
18 employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages
19 due upon termination of an employee, are due and payable between the 16th and the 26th day of the
20 month during which the labor was performed.

21 136. California Labor Code section 204 further provides that all wages earned by any person
22 in any employment between the 16th and the last day, inclusive, of any calendar month, other than
23 those wages due upon termination of an employee, are due and payable between the 1st and the 10th
24 day of the following month.

25 137. California Labor Code section 204 additionally provides that all wages earned for labor
26 in excess of the normal work period shall be paid no later than the payday for the next regular payroll
27 period.

28 138. At all times relevant to the SAC, Defendants intentionally and willfully failed to pay

1 Plaintiffs and Class Members all wages due to them, within any time period required by California
2 Labor Code section 204.

3 139. As a direct and proximate result of Defendants' failure to pay Plaintiffs and Class
4 Members all wages when due, Plaintiffs and Class Members sustained damages.

5 140. Plaintiffs and Class Members are entitled to recover from Defendants unpaid wages
6 and lost interest, in an amount to be established at trial, economic and statutory damages and penalties,
7 and other appropriate relief.

8
9 **EIGHTH CAUSE OF ACTION**

10 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

11 **[Cal. Labor Code, §§ 201, 202 and 203]**

12 **(Against All Defendants and DOES 1-10)**

13 141. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by
14 reference all previous paragraphs of this SAC.

15 142. California Labor Code sections 201 and 202 provide that if an employer discharges an
16 employee, then the wages earned and unpaid at the time of discharge are due and payable immediately,
17 and that if an employee voluntarily leaves his or her employment, his or her wages shall become due
18 and payable not later than seventy-two (72) hours thereafter unless the employee has given seventy-
19 two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to
20 his or her wages at the time of quitting.

21 143. California Labor Code section 203 provides that if an employer willfully fails to pay
22 wages owed in accordance with sections 201 and 202, then the wages of the employee shall continue
23 as a penalty from the due date, and at the same rate until paid or until an action is commenced, but the
24 wages shall not continue for more than thirty (30) days.

25 144. The unpaid wages owed to Plaintiffs and Class Members at the time of termination of
26 their employment include unpaid regular, overtime, and double time wages, as set forth in this SAC.

27 145. By failing to compensate Plaintiffs and Class Members upon separation, including but
28 not limited to Defendants' failure to properly pay Plaintiffs and Class Members wages for all hours

1 worked when due, overtime wages, and minimum wages, Defendants have willfully failed and
2 continue to fail to pay all accrued wages and other compensation to Plaintiffs and Class Members in
3 accordance with California Labor Code sections 201 and 202.

4 146. As a direct and proximate result of Defendants' failure to pay all wages due upon
5 separation, Plaintiffs and Class Members have suffered damages.

6 147. Plaintiffs and Class Members are entitled to recover from Defendants the statutory
7 penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California
8 Labor Code section 203.

9 **NINTH CAUSE OF ACTION**

10 **Failure to Indemnify Employees for Necessary Expenditures**

11 **[Cal. Labor Code § 2802; IWC Wage Order No. 4-2001, § 9]**

12 **(Against All Defendants and DOES 1-10)**

13 148. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by
14 reference all previous paragraphs of this SAC.

15 149. California Labor Code sections 2802, subdivision (a), requires employers to reimburse
16 their employees for all necessary expenditures incurred by the employee in direct consequence of the
17 discharge of their job duties or in direct consequence of their job duties or in direct consequence of
18 their obedience to the directions of the employer.

19 150. IWC Wage Order 4-2001, section (9), subdivision (A), provides that if an employer
20 requires a uniform or part of a uniform to be worn by an employee, then the employer must provide
21 and maintain the uniform, or pay for the maintenance of that uniform.

22 151. Defendants have failed and continue to fail to indemnify Plaintiffs and Class Members
23 for all business expenses and/or losses incurred in direct consequence of the discharge of their duties,
24 including, but not limited to, reimbursements for: purchasing and maintaining required uniforms;
25 purchasing non-slip shoes; purchasing cellular phone service; and paying for gas to travel from one
26 store location to another.

27 152. By requiring Plaintiffs and Class Members to pay for work-related expenses without
28 reimbursement, Defendants, pursuant to their policy and practice, have violated and continue to violate

1 California Labor Code section 2802 and IWC Wage Order No. 4-2001, section (9).

2 153. Defendants have intentionally and willfully failed to reimburse Plaintiffs and Class
3 Members for all necessary business-related expenses and costs.

4 154. As a direct and proximate result of Defendants' failure reimburse Plaintiffs and Class
5 Members for all necessary business-related expenses and costs as required by California law, Plaintiffs
6 and Class Members sustained damages.

7 155. Plaintiffs and Class Members are entitled to recover from Defendants their business-
8 related expenses and costs incurred during the course and scope of their employment plus interest
9 accrued from the date on which the employee incurred the necessary expenditures at the same rate as
10 judgments in civil actions in the State of California, including interest thereon, reasonable attorneys'
11 fees, and costs of suit.

12 **TENTH CAUSE OF ACTION**

13 **Unfair and Unlawful Business Practices**

14 **[Cal. Business & Professions Code, §§ 17200, et seq.]**

15 **(Against All Defendants and DOES 1-10)**

16 156. Plaintiffs on behalf of themselves and Class Members re-allege and incorporate by
17 reference all previous paragraphs of this SAC.

18 157. As alleged in this SAC, Defendants' conduct, has been, and continues to be, unfair,
19 unlawful, and harmful to Plaintiffs and Class Members, and to the general public. Plaintiffs seek to
20 enforce important rights affecting the public interest within the meaning of Code of Civil Procedure
21 section 1021.5.

22 158. As alleged in this SAC, Defendants' actions violate California law and constitute
23 unlawful business acts and practices in violation of California Business & Professions Code sections
24 17200 et seq.

25 159. A violation of California Business & Professions Code section 17200 et seq. may be
26 predicated on the violation of any state or federal law. In the present case, Defendants' policy and
27 practice of not paying all regular, overtime, and double time wages due to Plaintiffs and Class
28 Members violates California Labor Code sections 510, 1194, and 1198; Defendants' policy and

1 practice of requiring Plaintiffs and Class Members to work through their meal and rest periods without
2 paying them proper compensation violates California Labor Code sections 226.7 and 512, subdivision
3 (a); Defendants' policy of not timely paying Plaintiffs and Class Members, all wages due to them,
4 during their employment violates California Labor Code section 204; Defendants' policy and practice
5 of not timely paying all wages owed to Plaintiffs and Class Members upon resignation or termination
6 violates California Labor Code sections 201, 202, and 203; Defendants' policy and practice of not
7 fully reimbursing Plaintiffs and Class Members for necessary business-related expenses and costs
8 incurred during their employment violates California Labor Code sections 2800 and 2802; and
9 Defendants' policy and practice of failing to provide accurate itemized wage statements violates
10 California Labor Code section 226. As alleged in this SAC, Defendants' unlawful business acts and
11 practices, involve, but not necessarily limited to the loss of money and/or property.

12 160. Plaintiffs and Class Members have been personally injured. Pursuant to California
13 Business & Professions Code sections 17200 et seq., Plaintiffs and Class Members are entitled to:
14 restitution from Defendants of the wages withheld and retained by Defendants during a period that
15 commences four years prior to the filing of this complaint; a permanent injunction requiring
16 Defendants to pay all outstanding wages due to Plaintiffs and Class Members; an award of attorneys'
17 fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an
18 award of costs.

19 **ELEVENTH CAUSE OF ACTION**

20 **Private Attorneys' General Act**

21 **[Cal. Labor Code, §§ 2698 et seq.]**

22 **(Against All Defendants and DOES 1-10)**

23 161. Plaintiffs, on behalf of themselves, Class Members, other aggrieved employees and the
24 State of California re-allege and incorporate by reference all previous paragraphs of this SAC.

25 162. Defendants have committed several Labor Code violations against Plaintiffs, Class
26 Members, and other aggrieved employees. Plaintiffs, as "aggrieved employees" within the meaning
27 of Labor Code section 2698 et seq., acting on behalf of themselves and other aggrieved employees,
28 bring this representative action against Defendants to recover the civil penalties due to Plaintiffs, the

1 Class Members, other aggrieved employees, and the State of California according to proof pursuant
2 to Labor Code section 2699, subdivisions (a) and (f), including, but not limited to: (1) \$100.00 for
3 each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation
4 or willful or intentional violation pursuant to Labor Code section 210 for each failure to pay each
5 employee, plus 25 percent of the amount unlawfully withheld; (2) \$100.00 for each initial violation
6 and \$250.00 for each subsequent violation pursuant to Labor Code section 1197.1; (3) \$250.00 for
7 each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code section
8 226.3 per employee per pay period; (4) \$50.00 for each initial violation for each underpaid employee
9 for each pay period for which the employee was underpaid in addition to an amount sufficient to
10 recover underpaid wages and \$100.00 for each underpaid employee for each pay period for which the
11 employee was underpaid in addition to an amount sufficient to recover underpaid wages pursuant to
12 Labor Code section 558; (5) \$500 for failure to maintain accurate and complete records required by
13 Labor Code section 1174; and/or (6) \$100.00 for each initial violation and \$200.00 for each subsequent
14 violation per employee per pay period for those violations of the Labor Code for which no civil penalty
15 is specifically provided, based on the following Labor Code violations:

- 16 a. Defendants violated Labor Code sections 204, 510, 558, 1194, and 1198 by
17 failing to pay Plaintiffs and other aggrieved employees all overtime
18 compensation earned;
- 19 b. Defendants violated Labor Code sections 1194, 1194.2, and 1197 by failing to
20 pay Plaintiffs and other aggrieved employees the statutory minimum wage for
21 all hours worked;
- 22 c. Defendants violated Labor Code sections 226.7, 512, 516, and 558 by failing to
23 authorize and permit all legally required meal and rest periods and failing to
24 pay meal and rest period premiums to Plaintiffs and other aggrieved employees;
- 25 d. Defendants violated Labor Code section 226 by failing to furnish Plaintiffs and
26 other aggrieved employees with accurate and compliant itemized wage
27 statements;
- 28 e. Defendants violated Labor Code section 204 by failing to pay Plaintiffs and

1 other aggrieved employees all earned wages at least twice during each calendar
2 month;

3 f. Defendants violated Labor Code section 1174 by failing to maintain accurate
4 records on behalf of Plaintiffs and other aggrieved employees;

5 g. Defendants violated Labor Code sections 201, 202 and 203 by failing to timely
6 pay all final wages due to Plaintiffs and other aggrieved employees; and

7 h. Defendants violated Labor Code section 2802 by failing to indemnify necessary
8 expenditures due to Plaintiffs and other aggrieved employees.

9 163. On March 2, 2020, counsel for Plaintiffs notified Defendants via certified mail, and
10 notified the LWDA via its website, of Defendants' violations of the California Labor Code and
11 Plaintiffs' intent to bring an action for civil penalties under California Labor Code section 2698 et seq.
12 with respect to violations of the California Labor Code. A true and correct copy of Plaintiffs' letter is
13 attached hereto as **Exhibit 1**. Now that at least sixty-five days have passed from Plaintiffs notifying
14 Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends
15 to investigate the violations, Plaintiffs have exhausted the administrative requirements for bringing an
16 action under the PAGA with respect to these violations.

17 **REQUEST FOR A JURY TRIAL**

18 164. Plaintiffs, on behalf of themselves, and similarly situated hourly, non-exempt
19 employees currently or formerly employed in California by Defendants, hereby demand a jury trial on
20 all causes of action and claims so triable.

21 **PRAYER FOR RELIEF**

22 165. Plaintiffs, on behalf of themselves and all other members of the general public similarly
23 situated pray for relief and judgment against Defendants, as follows:

24 a. For certification of the proposed Class and any other appropriate subclasses
25 under California Code of Civil Procedure section 382;

26 b. For appointment of ORALIA GONZALEZ TALAMANTES, CESAR
27 HERNANDEZ MARTINEZ, and BLANCA MAGAÑA as the class
28 representatives;

- 1 c. For appointment of Macias Rodriguez Adams LLP as class counsel for all
2 purposes;
- 3 d. For an award of compensatory damages, including but not limited to, lost and
4 unpaid wages;
- 5 e. For an award of statutory penalties provided by law, including but not limited
6 to those in California Labor Code sections 203 and 226, subdivision (e);
- 7 f. An award of unpaid premium wages pursuant to California Labor Code 226.7,
8 subdivision (c);
- 9 g. For liquidated damages under Labor Code section 1194.2, in an amount equal
10 to the unpaid minimum wages;
- 11 h. For declaratory relief, enjoining Defendants' practices as being unlawful and
12 unfair business practices within the meaning of the California Business and
13 Professions Code, and declaring Defendants have unlawfully treated Plaintiffs
14 and Class Members by failing to pay all wages in violation of California law,
15 failing to provide meal and rest periods or compensation in lieu thereof, failing
16 to provide accurate itemized wage statements, failing to provide wages due at
17 termination, and failing to reimburse necessary business expenses;
- 18 i. For restitution to Plaintiffs and Class Members of all money and/or property
19 unlawfully acquired by Defendants by means of any acts or practices declared
20 by this Court to be in violation of Business and Professions Code section 17200
21 et seq.;
- 22 j. For an order requiring Defendants to restore and disgorge all profits and other
23 appropriate equitable relief authorized by California Business and Professions
24 Code section 17200 et seq.;
- 25 k. For an award of civil penalties due to Plaintiffs, other aggrieved employees, and
26 the State of California according to proof pursuant to Labor Code section 2699,
27 subdivision (a) and (f), including, but not limited to: (1) \$100.00 for each initial
28 violation for each failure to pay each employee and \$200.00 for each subsequent

1 violation or willful or intentional violation pursuant to Labor Code section 210
2 for each failure to pay each employee, plus 25 percent of the amount unlawfully
3 withheld; (2) \$100.00 for each initial violation and \$250.00 for each subsequent
4 violation pursuant to Labor Code section 1197.1; (3) \$250.00 for each initial
5 violation and \$1,000.00 for each subsequent violation pursuant to Labor Code
6 section 226.3 per employee per pay period; (4) \$50.00 for each initial violation
7 for each underpaid employee for each pay period for which the employee was
8 underpaid in addition to an amount sufficient to recover underpaid wages and
9 \$100.00 for each underpaid employee for each pay period for which the
10 employee was underpaid in addition to an amount sufficient to recover
11 underpaid wages pursuant to Labor Code section 558; (5) \$500 for failure to
12 maintain accurate and complete records required by Labor Code section 1174;
13 and/or (6) \$100.00 for each initial violation and \$200.00 for each subsequent
14 violation per employee per pay period for those violations of the Labor Code
15 for which no civil penalty is specifically provided, based on the Labor Code
16 violations cited above;

- 17 l. For pre-judgment interest and post-judgment interest on all sums awarded;
18 m. Costs of suit;
19 n. For reasonable attorneys' fees and litigation expenses to the extent permitted
20 by law, including, but not limited to, Code of Civil Procedure section 1021.5
21 and Labor Code sections 218.5, 226, subdivision (e), and 1194, subdivision (a).
22 o. For such other relief as the Court deems just and proper.

23 //

1 Dated: October 22, 2021

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5 _____
6 JOSE MACIAS, JR.
7 HECTOR RODRIGUEZ
8 TRAVIS M. ADAMS
9 **MACIAS RODRIGUEZ ADAMS LLP**
10 Attorneys for Plaintiffs
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EXHIBIT 1
NOTICE OF PAGA VIOLATIONS



Macías Rodríguez LLP
— ATTORNEYS AT LAW —

March 2, 2020

VIA ELECTRONIC SUBMISSION

PAGAFilings@dir.ca.gov

State of California Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA CERTIFIED MAIL

Mi Rancho Supermarket (Redwood City) Inc.
c/o Jesus Lopez
137 Roosevelt Avenue
Redwood City, CA 94061

Mi Rancho Supermarket (Redwood City Store
2) Inc.
c/o Jesus Lopez
70 Redwood Way
Atherton, CA 9402

Mi Rancho Supermarket (San Mateo) Inc.
c/o Minerva Pulido c/o Minerva Pulido
80 North B. Street
San Mateo, CA 94401

Mi Rancho Supermarket (San Jose) Inc.
c/o Jesus Lopez
137 Roosevelt Avenue
Redwood City, CA 94061

Mi Rancho Supermarket (San Jose 2) Inc.
c/o Jesus Lopez
137 Roosevelt Avenue
Redwood City, CA 94061

**Re: NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO THE PRIVATE
ATTORNEY GENERAL ACT (LABOR CODE SECTION 2699.3)**

Dear Administrator:

This office represents Oralia Gonzalez Talamantes (hereinafter "Ms. Talamantes") in connection with her claims under the California Labor Code. Ms. Talamantes was an employee of Mi Rancho Supermarket Inc. (hereinafter, "Mi Rancho").

Ms. Talamantes intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA"). Ms. Talamantes seeks relief on behalf of herself, the State of California, and other persons who were employed by Mi Rancho in California as non-exempt, hourly-paid employees and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

Mi Rancho employed Ms. Talamantes as a non-exempt, hourly-paid Cashier from approximately February 7, 2018 to February 13, 2020. Ms. Talamantes worked for Mi Rancho at their supermarket located at 2806 Story Road, San Jose CA 95127. Her job duties included all the following: welcoming customers, answering their questions, helping them locate items, and providing advice or recommendations. She also rang up sales for customers, bagged items, requested price checks, collected payment from customers and counted the contents of the cash register drawer at the end of each shift. As a lead Cashier, she also regularly assisted management with front office duties which included cashing employee checks, processing money orders and tabulating store sales.

Mi Rancho committed one or more of the following Labor Code violations against Ms. Talamantes, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699, subdivision (c).

Mi Rancho's Company-Wide Uniform Payroll and HR Practices

Mi Rancho Supermarket Inc. is a California corporation, with its principal place of business and corporate headquarters located in Redwood City, California. Mi Rancho operates a chain of specialty supermarkets throughout Northern California. Upon information and belief, Mi Rancho maintains a centralized Human Resources (HR) department at its corporate headquarters in Redwood City, California, which implements uniform, standardized policies and practices affecting all of its non-exempt, hourly-paid employees in California, including Ms. Talamantes and other aggrieved employees. At all relevant times, Mi Rancho issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid employees in California, including Ms. Talamantes and other aggrieved employees, regardless of their location or position.

Upon information and belief, Mi Rancho maintains a centralized Payroll department at its corporate headquarters in Redwood City, California, which processes payroll for all non-exempt, hourly-paid employees working for Mi Rancho in California, including Ms. Talamantes and other aggrieved employees. Further, Mi Rancho issues the same uniform and formatted wage statements to all nonexempt, hourly-paid employees in California, irrespective of their location, position, or manner in which each employee's employment ended. Mi Rancho's centralized Payroll department processed payroll for non-exempt, hourly-paid employees in the same manner throughout California. In other words, Mi Rancho utilized the same methods and formulas when calculating wages due to Ms. Talamantes and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 - Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a workday or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all compensation for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

Mi Rancho willfully failed to pay all overtime wages owed to Ms. Talamantes and other aggrieved employees. During the relevant time period, Ms. Talamantes and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, Mi Rancho had, and continues to have, a company-wide policy and/or practice of understaffing its stores to maximize profits. This practice has resulted in chronic understaffing, such that there were too few employees on duty to handle the workload and provide uninterrupted meal break coverage. Thus, other aggrieved employees were not provided adequate meal break coverage to allow them to be relieved of their duties for compliant meal breaks. Additionally, Ms. Talamantes and other aggrieved employees were required to assist customers on the floor even when on their respective meal breaks – interrupting their breaks and forcing them to work without pay. Given that the employee break room was located at the furthest end of the back of the store and the only time clock was at the front of the store, Ms. Talamantes and other aggrieved employees regularly had their meal breaks interrupted by customers after they had clocked out for their meal breaks and while they walked back to the breakroom. As a result, Ms. Talamantes and other aggrieved employees missed meal periods and/or had their meal periods interrupted but were not compensated for this time.

Second, Mi Rancho had, and continues to have, a company policy which fails to pay overtime and double time to employees who work double shifts. Mi Rancho requires that employees working double shifts clock out after working eight (8) hours and then clock back in using a different identifier to work the second portion of their shift using a different account and therefore not pay statutory required overtime and double time for hours worked in excess of eight (8) and twelve (12) hours in the same day. Mi Rancho pays these employees two separate checks. Therefore, aggrieved employees were not paid overtime wages for all the overtime hours they actually worked. Mi Rancho's failure to pay aggrieved employees statutory required overtime and double time, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Third, Mi Rancho's company-wide closing procedures required aggrieved employees to perform work after clocking out for their shifts, resulting in employees working off the clock, but aggrieved employees were not paid for those hours worked. Each store's closing process could take various

minutes depending on the tasks, time that aggrieved employees spent under Mi Rancho's control and off the clock.

Fourth, on information and belief, Ms. Talamantes and other aggrieved employees were required to spend time outside of their shifts or on their off-days answering work-related calls from Mi Rancho's managers, work for which they were not paid.

Mi Rancho knew or should have known that as a result of these company-wide practices and/or policies, Ms. Talamantes and other aggrieved employees were performing assigned duties during their meal periods and before and after their scheduled shifts, and thereby performing work for which they were not paid. Mi Rancho also knew, or should have known, that it did not compensate Ms. Talamantes and other aggrieved employees for this off-the-clock work. Because Ms. Talamantes and other aggrieved employees regularly worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work performed during unpaid meal periods qualified for overtime premium pay. Therefore, Ms. Talamantes and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. Mi Rancho's failure to pay Ms. Talamantes and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Ms. Talamantes and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699, subdivisions (a) and (f) through (g).

Violation of California Labor Code Sections 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum fixed is unlawful. Compensable work time is defined by the applicable Wage Order as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

As stated above, due to Mi Rancho's company-wide understaffing practices and resultant lack of meal break coverage, other aggrieved employees were forced to forego meal periods and/or had their meal periods interrupted by work. This practice was further compounded by the fact that there was a single time clock at the front of the store and employees were regularly interrupted by customers after they had clocked out for their meal breaks and walked to the back of the store to the breakroom

In addition, Mi Rancho required that Ms. Talamantes and other aggrieved employees perform work off-the-clock before and after their scheduled shifts, including waiting to leave the store after closing and responding to calls from Mi Rancho managers.

Mi Rancho did not pay minimum wages for meal periods and other off-the-clock hours that Ms. Talamantes and other aggrieved employees worked through that qualified for overtime premium payment. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Mi Rancho did not pay at least minimum wages for those hours worked off-the-clock in

violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, Mi Rancho regularly failed to pay at least minimum wages to Ms. Talamantes and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Ms. Talamantes and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1197.1 and/or 2699, subdivisions (a) and (f) through (g).

Violation of California Labor Code Sections 226.7, 512(a), and 1198 - Failure to Provide Meal Periods

California Labor Code sections 226.7, 512, subdivision (a), and 1198 and the applicable IWC Wage Order require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512, subdivision (a), and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

Under California law, first meal periods must start before the end of the fifth hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1041-1042.). Labor Code sections 226.7 and 512, subdivision (a), and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, Mi Rancho has, and continues to have, a company-wide policy and/or practice of understaffing locations which resulted in a lack of meal break coverage and prevented other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result of Mi Rancho's practices and/or policies and the layout of its breakrooms and limited time clocks, other aggrieved employees had to work through part or all of their meal periods, have their meal periods interrupted, and/or wait extended periods of time before taking meal periods. Further, Mi Rancho did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Other aggrieved employees did not sign valid meal break waivers on days that they were entitled to meal periods and were not relieved of all duties.

Mi Rancho knew or should have known that as a result of its policies, including understaffing, breakroom layout, limited time clocks and failure to provide second meal periods, that other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. Mi Rancho further knew or should have known that they did not pay other aggrieved employees meal period premium wages when they were missed, late, short, and/or interrupted.

Mi Rancho also has engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Talamantes and other aggrieved employees have not received premium pay for missed meal periods.

Accordingly, Mi Rancho failed to provide all meal periods in violation of California Labor Code sections 226.7, 512, and 1198. Other aggrieved employees are therefore entitled to penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699, subdivision(a) and (f) through (g).

Violation of California Labor Code Sections 226.7 and 1198 - Failure to Provide Rest Periods

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "(e)very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269-270.)

As with meal periods, Mi Rancho's company-wide policy and practice of understaffing and resulting lack of break coverage prevented Ms. Talamantes and other aggrieved employees from being relieved of all duty to take compliant rest periods. This practice was further compounded by the fact that there was a single time clock at the front of the store and employees were regularly interrupted by customers after they had clocked out for their rest breaks and walked to the back of the store to the breakroom – Mi Rancho forced Ms. Talamantes and all aggrieved employees to clock in and out for rest breaks. As a result, Ms. Talamantes and other aggrieved employees were prevented from being relieved of all duty in order to take compliant rest periods and instead would be required to continue working. As a result of Mi Rancho's practices and policies, Ms. Talamantes and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10 minute rest periods to which they were entitled. For example, throughout her employment, Ms. Talamantes was frequently not permitted to take full and complete ten (10) minute rest periods, and instead would miss her rest periods or have his rest periods interrupted to meet the store's demands, such as assisting customers.

Mi Rancho also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not provided. Because of this practice and/or policy, Ms. Talamantes and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, Mi Rancho failed to provide all rest periods in violation of California Labor Code sections 226.7, 512, and 1198. Ms. Talamantes and other aggrieved employees are therefore entitled to penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and 2699, subdivisions (a) and (f) through (g).

Violation of IWC Wage Order 4 and Labor Code 1198 – Failure to Provide Suitable Seating

The applicable Industrial Welfare Commission Wage Order here, Wage Order 4, provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats." Cal. Code Regs., tit. 8, §§ 11040, subd. 14(A) (Wage Order No. 4-2001), 11070, subd. 14(A) (Wage Order No. 7-2001).

In the present case, Ms. Talamantes and other aggrieved employees worked as supermarket cashiers at fixed stations behind a permanent counter. Mi Rancho failed to provide suitable seating despite the fact that the nature of Ms. Talamantes work, as well as the work of other aggrieved supermarket cashiers, reasonably permitted the use of seats. Accordingly, Ms. Talamantes and other aggrieved employees are entitled to applicable penalties pursuant to Wage Order 4 and Labor Code section 1198.

Violation of California Labor Code Sections 226(a), 1174(d), and 1198 - Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226, subdivision (a), requires employers to make, keep and provide true, accurate, and complete employment records. Mi Rancho has not provided Ms. Talamantes and other aggrieved employees with properly itemized wage statements. Labor Code section 226, subdivision (e), provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226, subdivision (a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226, subdivision (a), shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226, subdivision (a).

Mi Rancho has knowingly and intentionally provided Ms. Talamantes and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. Specifically, Mi Rancho violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9). Mi Rancho deducted time worked from other aggrieved employees' wage statements and employment records for meal periods that were interrupted or missed (and therefore time for which they should have been paid), and did not record time Ms. Talamantes and other aggrieved employees spent working off the clock, the result of which was an unlawful deduction of wages earned and meal period premiums that should have been paid. Thus, Mi Rancho did not furnish wage statements to Ms. Talamantes and other aggrieved employees containing accurate totals of the hours worked (Lab. Code § 226(a)(2)), number of hours worked at each hourly rate (Lab. Code § 226(a)(9)), net wages earned (Lab. Code § 226(a)(5)) and gross wages earned (Lab. Code § 226(a)(1)).

Because Mi Rancho did not calculate Ms. Talamantes' and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, Mi Rancho did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, Mi Rancho also failed to list the correct amount of net wages in violation of section 226(a)(5). Further, Mi Rancho failed to list the correct amount of net wages earned by Ms. Talamantes and other aggrieved employees in violation of section 226(a)(5). Mi Rancho also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for meal and rest premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things: failing to list all deductions; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174, subdivision (d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174, subdivision (d). During the relevant time period, and in violation of Labor Code section 1174, subdivision (d), Mi Rancho willfully failed to maintain accurate payroll records for Ms. Talamantes and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Mi Rancho failed, on a company-wide basis, to keep accurate records of work period start and stop times for Ms. Talamantes and other aggrieved employees, in violation of section 1198.

Because Mi Rancho failed to provide the accurate number of total hours worked on wage statements, Ms. Talamantes and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Talamantes and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Talamantes and other aggrieved employees are entitled to recover penalties, attorneys' fees, costs, and interest thereon pursuant to Labor Code sections 226, subdivision (e), 226.3, 1174.5, and/or 2699, subdivisions (a) and (f) through (g).

Violation of California Labor Code Section 204 - Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, Mi Rancho failed to pay Ms. Talamantes and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, reporting time pay, and meal and rest period premium wages, within any time period specified by California Labor Code section 204. This included ordering Ms. Talamantes and other aggrieved employees to wait several days after they were provided with their paychecks to cash or deposit their paychecks.

Ms. Talamantes and aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code 201, 202, and 203 - Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

For example, per Mi Rancho's records, Ms. Talamantes was terminated on February 13, 2020, but she did not receive her final pay on this date or on her last day of work. Indeed, to this date, Mi Rancho has still not provided her with her final paycheck and instead conditioned her final paycheck on her coming physically into the store where she worked to pick up her final wages. In addition, on information and belief, Mi Rancho has a company-wide practice or policy of not paying departing employees their final wages on their final day of employment or within seventy-two (72) hours of resigning without prior notice, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. Thus, Mi Rancho failed to timely pay Ms. Talamantes' owed wages within the requisite time limit, in violation of Labor Code section 201.

Additionally, Mi Rancho willfully failed to pay Ms. Talamantes and other aggrieved employees who are no longer employed by Mi Rancho all their earned wages, including, but not limited to, overtime wages, minimum wages, reporting time pay, and meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving Mi Rancho's employ in violation of California Labor Code sections 201, 202, and 203.

Mr. Talamantes and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 4(C) - Failure to Pay Split-Shift Premiums

California Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that ". . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful."

California Code of Regulations, Title 8, section 11070(4)(C) provides that "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment." California Code of Regulations, Title 8, defines a split shift as "a work schedule, which is interrupted by non-paid nonworking periods established by the employer, other than bona fide rest or meal periods."

On information and belief, Mi Rancho willfully violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(4)(C), because Mi Rancho failed to pay other aggrieved employees a split-shift premium when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour.

On information and belief, Mi Rancho sometimes scheduled other aggrieved employees to work double-shifts that were separated by more than one (1) hour of time, but failed to pay them one (1) hour's pay at the minimum wage in addition to the minimum wage for that workday. Accordingly, Mi Rancho required other aggrieved employees to work split shifts but failed to pay them an additional hour at minimum wage in violation of California Labor Code section 1198.

Mi Rancho's failure to provide other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198 and California Code of Regulations Title 8, Section 11070(4)(C). Other aggrieved employees are therefore entitled to recover penalties pursuant to sections 1194 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 5(A) - Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that ". . . the standard conditions of labor fixed by the commission

shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful."

California Code of Regulations, Title 8, section 11070(5)(A) provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage." Mi Rancho violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5), because Mi Rancho failed to pay Ms. Talamantes and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regular schedule.

On information and belief, Mi Rancho had a company-wide practice of sending employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay employees for half of their scheduled shift. Aggrieved employees would report to work based on the schedule that Mi Rancho provided to them but would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, Ms. Talamantes and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

Mr. Talamantes and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and 2699(f)-(g).

Violation of California Labor Code § 2802 - Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan 's Home Service, Inc.*, 228 Cal. App. 4th 1 1 37, 1 144 (2014). The applicable wage order provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, Mi Rancho required that Ms. Talamantes and other aggrieved employees utilize their own personal cell phones to carry out their job duties, but Mi Rancho failed to reimburse them for the costs of their work-related cell phone expenses. Ms. Talamantes and other aggrieved employees were required to use their personal cellular phone in order to carry out their job duties. First, Ms. Talamantes and other aggrieved employees received work-related calls and texts from managers outside of work hours. For example, the front-end department was always understaffed, and Ms. Talamantes would sometimes receive calls and texts from store managers to discuss scheduling concerns or certain issues with the front-end department – especially during the time she was given the additional responsibility of assisting management with office issues at the front of the store. Although Mi Rancho required Ms. Talamantes and

other aggrieved employees to utilize their personal cellular phones to carry out work-related responsibilities, Mi Rancho failed to reimburse them for this cost.

Also, during the relevant time period, Mi Rancho failed to provide Ms. Talamantes and other aggrieved employees with adequate uniforms for the tasks they were required to perform, instead forcing Ms. Talamantes and other aggrieved employees to pay out-of-pocket for some of their uniform components. For example, Ms. Talamantes, as part of her duties as a Cashier, was required to use Company-approved slip-resistant shoes. However, Mi Rancho did not provide these shoes to store employees. Instead, Ms. Talamantes and other aggrieved employees were required to purchase multiple slip-resistant shoes on their own and were not reimbursed for this cost.

Further, Mi Rancho also required that certain employees drive to other store locations during their shifts using their own personal vehicles but failed to reimburse these employees for the costs and mileage incurred during such travel.

Mi Rancho could have provided Ms. Talamantes and other aggrieved employees with the actual tools for use on the job, including company phones to be used for fulfilling work-related tasks and actual uniforms for use on the job, including non-slip shoes, or reimbursed employees for their actual cellular phone usage and uniform expenses. Mi Rancho also could have reimbursed aggrieved employees for work-related travel expenses. Instead, Mi Rancho passed these operating costs off onto Ms. Talamantes and other aggrieved employees. Mi Rancho had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred. At all relevant times, Ms. Talamantes did not earn at least two (2) times the minimum wage.

Mi Rancho's policy and/or practice of passing its operating costs on to Ms. Talamantes and other aggrieved employees by requiring that they use their own personal cell phones for business and purchase their own uniforms is in violation of California Labor Code section 2802. Ms. Talamantes and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

Violation of California Labor Code § 2810.5(a) — Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claimed as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against

for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

Mi Rancho failed to provide Ms. Talamantes and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Mi Rancho's failure to provide Ms. Talamantes and other aggrieved employees with written notice of basic information regarding their employment with Mi Rancho is in violation of Labor Code section 2810.5. Ms. Talamantes and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code §§ 6401 and 6403 - Failure to Provide Personal Protective Equipment

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of its employees. California Labor Code section 6403(a) requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

On information and belief, Mi Rancho, on a company-wide basis, failed to provide aggrieved employees with personal protective equipment, such as long-sleeved shirts and sweaters, to keep them safe in the workplace. Despite the fact that Mi Rancho required employees to wear certain personal protective equipment, including long-sleeved shirts and sweaters, Mi Rancho failed to provide such reasonably necessary equipment to aggrieved employees to keep them safe.

Mi Rancho's failure to provide aggrieved employees with basic personal protective equipment for the workplace violates Labor Code sections 6401 and 6403. Ms. Talamantes and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(f)-(g).

Violation of California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." Mi Rancho, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Talamantes' and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Talamantes seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Talamantes, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against Mi Rancho for violations of California Labor Code sections 201, 202, 203, 204, 221, 224, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5, 6401, and 6403.

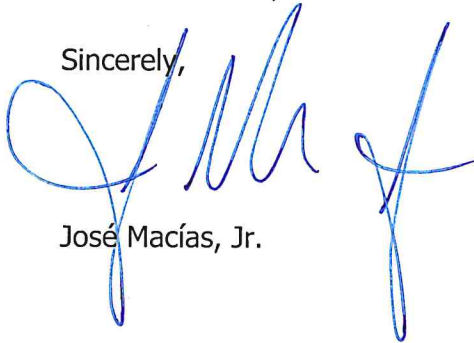
Therefore, on behalf of all aggrieved employees, Ms. Talamantes seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the address below:

Macías Rodríguez LLP
1550 The Alameda, Suite 332
San Jose, CA 95126

Sincerely,

José Macías, Jr.

A handwritten signature in blue ink, appearing to read 'José Macías, Jr.', is written over the printed name. The signature is stylized with a large initial 'J' and a long horizontal stroke.