

DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian (SBN 226337)
David@yeremianlaw.com
Jason Rothman (SBN 304961)
Jason@yeremianlaw.com
535 N. Brand Blvd., Suite 705
Glendale, California 91203
Telephone: (818) 230-8380
Facsimile: (818) 230-0308

UNITED EMPLOYEES LAW GROUP, PC
Walter Haines (SBN 71075)
whaines@uelg.com
5500 Bolsa Ave., Suite 201
Huntington Beach, CA 92649
Telephone: (310) 652-2242

Attorneys for Plaintiff Julieta Morales,
on behalf of herself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JULIETA MORALES, an individual, on behalf
of herself and others similarly situated,

Plaintiff,

vs.

SAN DIEGO SUNRISE MANAGEMENT
COMPANY, a California corporation; TRILAR
MANAGEMENT GROUP, a California
corporation, and DOES 1 through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code §§ 226.7, 512;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5;
7. Violation of Labor Code § 221;
8. Violation of Labor Code § 203;
9. Failure to Reimburse Expenses § 2802; and
10. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff Julieta Morales (hereinafter “Plaintiff”), on behalf of herself and all others
2 similarly situated (collectively, “Employees” or “Class Members”; individually, “Employee”)
3 complains of Defendants, and each of them, as follows:

4 **INTRODUCTION**

5 1. Plaintiff brings this action on behalf of herself and all current and former
6 Employees within the State of California who, at any time four (4) years prior to the filing of this
7 lawsuit, are or were employed as non-exempt, hourly employees by Defendant SAN DIEGO
8 SUNRISE MANAGEMENT COMPANY, a California corporation; TRILAR MANAGEMENT
9 GROUP, a California corporation, and DOES 1 through 50 (all defendants being collectively
10 referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each of them, violated
11 various provisions of the California Labor Code, relevant orders of the Industrial Welfare
12 Commission (IWC), including IWC Wage Order No. 5-2001 regulating the wages, hours and
13 working conditions in the public housekeeping industry (“Wage Order No. 5”), and California
14 Business & Professions Code, and seeks redress for these violations.

15 2. Upon information and belief, the same violations Plaintiff endured at Defendants’
16 San Diego, California location was also experienced by all non-exempt hourly employees working
17 for Defendants throughout California. Plaintiff was employed by Defendants and (1) shared
18 similar job duties and responsibilities, (2) was subjected to the same policies and practices, and (3)
19 endured similar violations at the hands of Defendants as the other Class Members who served in
20 similar and related positions throughout California.

21 **THE PARTIES**

22 **A. The Plaintiff**

23 3. Plaintiff, Julieta Morales is a resident of San Diego County in California and,
24 during the time period relevant to this Complaint, was employed by Defendants as a non-exempt,
25 hourly employee, based out of Defendants’ facility in San Diego, California.

26 **B. The Defendants**

27 4. Defendant, SAN DIEGO SUNRISE MANAGEMENT COMPANY (“SUNRISE”),
28 is a California corporation and lists its principal offices in San Diego County, California. During a

1 portion of the relevant time period that is the subject of this complaint, SUNRISE has been listed
2 as the employer on the wage statements and other employment related documentation issued to
3 Plaintiff, and upon information and belief, the other Class Members.

4 5. Defendant, TRILAR MANAGEMENT GROUP (“TRILAR”), is a California
5 corporation and lists its principal offices in San Diego County, California. Upon information and
6 belief, during a portion of the relevant time period that is the subject of this complaint, TRILAR
7 has been listed as the employer on the wage statements and other employment related
8 documentation issued to Plaintiff, and upon information and belief, the other Class Members.

9 6. The true names and capacities, whether individual, corporate, associate, or
10 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
11 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
12 Civil Procedure § 474. Plaintiff is informed and believes, and thereon alleges, that Defendants
13 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
14 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
15 this Complaint to reflect the true names and capacities of the Defendants designated herein as
16 Does 1 through 50 when their identities become known.

17 7. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted in
18 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
19 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
20 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
21 all respects as the employers or joint employers of Employees. Defendants, and each of them,
22 exercised control over the wages, hours or working conditions of Employees, issued policies
23 governing their employment, or suffered or permitted Employees to work, or engaged, thereby
24 creating a common law employment relationship, with Employees. Therefore, Defendants, and
25 each of them, employed or jointly employed Employees.

26 8. Whenever and wherever reference is made in this Complaint to any act by a
27 defendant or defendants, such allegations and references shall also be deemed to mean the acts and
28 failures to act of each defendant acting individually, jointly, and severally.

9. Whenever and wherever reference is made to individuals who are not named as a Defendant in this Complaint but were agents, servants, employees and/or supervisors of Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope of their employment.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred at least in part in San Diego County. Defendants maintain and operate company facilities in San Diego and employs Plaintiff and other Class Members throughout California.

FACTUAL BACKGROUND

11. The Employees who comprise the Class, including Plaintiff, are non-exempt employees pursuant to the applicable Wage Order(s) of the IWC. Defendants hire hourly employees who work in non-exempt positions at the direction of Defendants in the State of California. Plaintiff and Class Members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Plaintiff and Class Members all wages due and owing to their detriment.

12. As discussed in detail below, Defendants' employment practices resulted in (i) Class Members performing off-the-clock pre-shift and post-shift work, (ii) the under-recording of hours worked, all while under the control of Defendants, (iii) failure to provide timely, uninterrupted meal and rest breaks, (iv) failure to pay minimum wages for all hours worked, (v) failure to furnish accurate wage statements, and (vi) failure to reimburse all necessary incurred business related expenses. Defendants conduct thus violated various provisions of the California Labor Code and applicable Wage Orders), including IWC Wage Order No. 5-2001 regulating the

1 wages, hours and working conditions in the public housekeeping industry (“Wage Order No. 5”).

2 13. The work performed by Plaintiff and the other Class Members consisted of
3 performing property management and maintenance related services, including, but not limited to,
4 collecting rent, responding to time sensitive issues, overall maintenance, and handling tenant
5 complaints. Plaintiff began working for TRILAR in October of 2015. In May of 2017 SUNRISE
6 took over management for the properties which Plaintiff was employed as property manager for.
7 Plaintiff alleges that she and Class Members were subject to the same wage and hour violations,
8 detailed below, as they pertained to both Defendants.

9 14. Plaintiff was scheduled to work, on average, five (5) days per week, from 8:00 a.m.
10 to 5:00 p.m. (Monday – Friday), though Plaintiff was required to remain on-call and under
11 Defendants’ control 24 hours a day in order to be able to address time sensitive problems after
12 hours. In order to accomplish the tasks required of her, Defendants would require Plaintiff to
13 respond to time sensitive e-mails and telephone calls at all times of the day. More specifically,
14 regardless of the time of day when a tenant needed assistance with a property related problems,
15 which happened after business hours on a regular basis, Plaintiff had to respond in as short of a
16 time as possible. Defendants management would also contact Plaintiff at all hours of the day,
17 sometimes as late as 11:00 p.m. or as early in the morning as 3:00 a.m., in order to assist with
18 property related problems which often had to be handled immediately. Plaintiff was not afforded
19 the ability to wait until her scheduled shift began. Thus Plaintiff would typically start and end her
20 shift before and after her scheduled shift start time, all off the clock and uncompensated for.

21 15. Plaintiff also engaged in off the clock pre-shift work, to her detriment. Due to
22 demands placed upon her once her schedule shift began, Plaintiff would arrive to work up to
23 twenty (2) to fifteen (15) minutes early each day in order to schedule tours, discuss property
24 related issues with maintenance personnel, and schedule tenant move-outs and/or move-ins, to
25 name a few items.

26 16. Furthermore, if Plaintiff left Defendants premises and her services were needed by
27 either management or a tenant, then she would have to drive back to Defendants premises
28

1 immediately. This employment requirement prevented Plaintiff from ever truly being off the clock
2 as she was required to be available 24 hours per day.

3 17. This meant that Plaintiff was regularly performing pre-shift and post-shift work
4 related functions for Defendants, all off the clock and uncompensated for, to her detriment. While
5 the amount of pre-shift and post-shift work Plaintiff engaged in varied on a day to day basis,
6 Plaintiff estimates that she worked, on average, four (4) to seven (7) hours off the clock and
7 uncompensated for per week.

8 18. To the extent that Defendants paid overtime to Plaintiff and Class Members, it
9 began doing so well after eight (8) hours into a work shift day and/or forty (40) hours a week, as
10 Defendants' corresponding time records and paystubs show. Therefore, from at least four (4) years
11 prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy
12 or practice of failing to pay Employees for all hours worked, and failing to pay minimum wages,
13 overtime wages, and double time wages for all time worked as required by California Law and in
14 violation of the Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and
15 4(A)-4(C) of the applicable IWC Wage Orders. Defendants' willful actions resulted in the
16 systematic underpayment of wages to Class Members, including underpayment of overtime and
17 double time pay to Class Members over a period of time.

18 19. While Defendants had the ability to record hours worked to the exact minute,
19 Defendants have intentionally pressured Plaintiff and Class Members to only record hours worked
20 according to their scheduled shifts instead of all hours actually worked, including, but not limited
21 to, the time spent responding to management and tenant inquiries outside of regularly scheduled
22 hours.

23 20. As a result of Defendants' unlawful policies and practices, Plaintiff and Class
24 Members incurred overtime hours worked for which they were not adequately and completely
25 compensated for, in addition to the hours they were required to work off-the-clock. To the extent
26 applicable, Defendants also failed to pay Plaintiff and Class Members at an overtime rate of 1.5
27 times the regular rate for the first eight hours of the seventh consecutive work day in a week and
28 overtime payments at the rate of two (2) times the regular rate for hours worked over eight (8) on

1 the seventh consecutive work day, as required under the Labor Code and applicable IWC Wage
2 Orders.

3 21. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
4 meal periods and all the legally required paid, off-duty rest periods to the Plaintiff and the other
5 Class Members, including as required by Labor Code §§ 226.7 and 512, and paragraphs 11 and 12
6 of the applicable IWC Wage Orders.

7 22. Defendants did not have a policy or practice which provided or recorded all the
8 legally required unpaid, off-duty meal periods. Plaintiff and Class Members were required to
9 perform work as ordered by Defendants for more than five (5) hours during a shift, but were often
10 required to do so without receiving a lawful and timely meal break, and were sometimes required
11 to take shortened meal breaks in order to keep up with the demands and pressures from
12 Defendants. This is because Defendants placed the current job needs over Plaintiff and Class
13 Members' lawful meal breaks, forcing Class Members to take on duty meal periods in order to
14 keep up with the demands of the job. For example, not only was Plaintiff unable to take timely
15 meal breaks before the fifth hour worked, Plaintiff was also required to carry her cellular phone
16 with her at all times and remain on-call throughout her supposed off-duty thirty (30) minute meal
17 breaks. Thus, Employees meal breaks were often interrupted and cut short by either Defendants or
18 Defendants tenants/clients.

19 23. Defendants' policy of requiring employees to engage in pre-shift off the clock work
20 also resulted in under-reporting hours worked in a manner that would impact when Class
21 Members were to receive meal periods, resulting in meal periods that were either provided late,
22 were impermissibly shortened, or were interrupted by work demands. This often resulted in meal
23 breaks being taken generally later than five (5) hours into the shift.

24 24. Therefore, from at least four (4) years prior to the filing of this lawsuit and
25 continuing to the present, meal period violations thus occurred in one or more of the following
26 manners:

- 27 a. Class Members were not provided full thirty-minute duty free meal periods for
28 work days in excess of five (5) hours and were not compensated one (1) hour's

- 1 wages in lieu thereof, all in violation of, among others, Labor Code §§ 226.7,
2 512, and the applicable Industrial Welfare Commission Wage Order(s);
- 3 b. Class Members were not provided second full thirty-minute duty free meal
4 periods for work days in excess of ten (10) hours;
- 5 c. Class Members were required to work through at least part of their daily meal
6 period(s);
- 7 d. Class Members were not provided with “premium pay,” i.e. one hour of wages
8 at each Employee’s effective hourly rate of pay, for each meal period that
9 Defendants failed to provide or deficiently provided.
- 10 e. Meal periods were provided after five hours of continuous work during a shift;
- 11 f. Class Members were restricted in their ability to take a full duty free thirty-
12 minute meal period; and
- 13 g. Class Members were unable to leave the premises during their meal periods.

14 25. Plaintiff and Class Members were regularly required by Defendants to work
15 through or during their rest breaks and were not provided with one hour’s wages in lieu thereof, as
16 discussed more fully above. For example, Plaintiff was required to carry her work personal
17 cellular phone with her at all times due to being on-call 24 hours a day.

- 18 26. Rest period violations therefore arose in one or more of the following manners:
- 19 a. Class Members were required to work without being provided a minimum ten
20 (10) minute rest period for every four (4) hours or major fraction thereof
21 worked and were not compensated one (1) hour of pay at their regular rate of
22 compensation for each workday that a rest period was not provided;
- 23 b. Class Members, due to the busy work environment, were restricted in their
24 ability to take timely off-duty rest breaks which in turn were often provided at
25 the end of a shift instead of every four (4) hours worked, or major fraction
26 thereof; and
- 27 c. Class Members were unable to leave the premises during their rest breaks.

28 ///

1 27. From at least four (4) years prior to filing this lawsuit and continuing to the present,
2 Defendants have also had a consistent policy of failing to pay all wages owed to Employees at the
3 time of their termination of within seventy-two (72) hours of their resignation, as required by
4 California wage-and-hour laws.

5 28. Additionally from at least three (3) years prior to the filing of this lawsuit, and
6 continuing to the present, Defendants have consistently failed to keep accurate time and wage
7 records as required by California wage-and-hour laws.

8 29. Defendants' management also did not reimburse Plaintiff and Class Members for
9 all necessarily incurred expenses in performance of their job duties. Plaintiff incurred personal
10 cellular phone expenses in the performance of her job duties that were uncompensated for. For
11 example, Defendants management and Defendants tenants would regularly contact Plaintiff on her
12 personal cell phone for work related matters during all times of the day. Plaintiff estimates that
13 35% of her personal cellular phone usage was incurred as a result of these work-related calls and
14 messages

15 30. In light of the foregoing, Plaintiff bring this action on behalf of herself and on
16 behalf of all similarly situated Employees, pursuant to, *inter alia*, Labor Code §§ 201, 202, 203,
17 204, 218.6, 221, 226, 226.7, 510, 512, 558, 1174, 1185, 1194, 1194.2, 1197, 2802, and California
18 Code of Regulations, Title 8, section 11000 *et seq.*

19 31. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
20 and her fellow Employees seek injunctive relief, restitution, and disgorgement of all benefits
21 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
22 fraudulent practices alleged in this Complaint.

23 **CLASS ALLEGATIONS**

24 32. Plaintiff brings this class action on behalf of herself an all others similarly situated
25 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or "the Class" or
26 "Class Members") defined as follows: "All individuals employed by Defendants at any time
27 during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
28 determined by the Court ("the Class Period"), and who have been employed by Defendants as

1 non-exempt, hourly employees within the State of California.”

2 33. Further, Plaintiff seeks to represent the following Subclasses composed of and
3 defined as follows:

- 4 a. Subclass 1. Minimum Wages Subclass. All Class Members who were not
5 compensated for all hours worked for Defendants at the applicable minimum
6 wage.
- 7 b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not
8 compensated for all hours worked for Defendants at the required rates of pay,
9 including for all hours worked in excess of eight in a day and/or forty in a
10 week.
- 11 c. Subclass 3. Meal Period Subclass. All Class Members who were subject to
12 Defendants’ policy and/or practice of failing to provide unpaid 30-minute
13 uninterrupted and duty-free meal periods or one hour of pay at the Employee’s
14 regular rate of pay in lieu thereof.
- 15 d. Subclass 4. Rest Break Subclass. All Class Members who were subject to
16 Defendants’ policy and/or practice of failing to authorize and permit Employees
17 to take uninterrupted, duty-free, 10-minute rest periods for every four hours
18 worked, or major fraction thereof, and failing to pay one hour of pay at the
19 Employee’s regular rate of pay in lieu thereof.
- 20 e. Subclass 5. Payroll Records Subclass. All Class members who were subject to
21 Defendants’ policy and/or practice of failing to keep accurate time and wage
22 records as required by California wage-and-hour laws.
- 23 f. Subclass 6. Wage Statement Subclass. All Class Members who, within the
24 applicable limitations period, were not provided with accurate itemized wage
25 statements.
- 26 g. Subclass 7. Unauthorized Deductions from Wages Subclass. All Class
27 Members who were subject to Defendants’ policy and/or practice of
28 automatically deducting 30-minutes worth of wages from Employees for

1 alleged meal periods they were denied and/or by understating the hours worked
2 by Employees.

- 3 h. Subclass 8. Termination Pay Subclass. All Class Members who, within the
4 applicable limitations period, either voluntarily or involuntarily separated from
5 their employment and were subject to Defendants' policy and/or practice of
6 failing to timely pay wages upon termination.
- 7 i. Subclass 9. Expense Reimbursement Subclass. All Class Members who
8 incurred necessary and reasonable expenses in connection with performing their
9 job duties for Defendants and who were subject to a policy and/or practice
10 under which such expenses were not reimbursed.
- 11 j. Subclass 10. UCL Subclass. All Class Members who are owed restitution as a
12 result of Defendants' business acts and practices, to the extent such acts and
13 practices are found to be unlawful, deceptive, and/or unfair.

14 34. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
15 modify the class description with greater particularity or further division into subclasses or
16 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
17 against Defendants, the Class Period should be adjusted accordingly.

18 35. Defendants, as a matter of company policy, practice and procedure, and in violation
19 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
20 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
21 in a practice whereby Defendants failed to correctly calculate compensation for the time worked
22 by Plaintiff and Class Members, even though Defendants enjoyed the benefit of this work,
23 required employees to perform this work and permitted or suffered to permit this work.
24 Defendants have uniformly denied these Class Members wages to which they are and were
25 entitled, and failed to provide meal periods or authorize and permit rest periods, in order to
26 unfairly cheat the competition and unlawfully profit.

27 36. This action has been brought and may properly be maintained as a class action
28 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community

of interest in litigation and the proposed Class is easily ascertainable.

A. Numerosity

37. The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiff is informed and believes that Defendants employ or, during the time period relevant to this lawsuit, employed hundreds of Employees who satisfy the Class definition within the State of California.

38. Accounting for employee turnover during the relevant time period increases this number substantially. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

39. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime based on proper calculation of the regular rate of pay;
- d. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- g. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;

- 1 h. Whether Defendants violated Labor Code § 221 by unlawfully deducting
2 from wages;
- 3 i. Whether Defendants violated Labor Code § 204 by failing to timely pay
4 wages;
- 5 j. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to
6 pay wages and compensation due and owing at the time of termination of
7 employment;
- 8 k. Whether Defendants' conduct was willful;
- 9 l. Whether Defendants violated Labor Code § 2802 by failing to reimburse
10 necessary business related expenses;
- 11 m. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC
12 Wage Orders by failing to maintain accurate records of Class Members'
13 earned wages and work periods;
- 14 n. Whether Defendants violated Labor Code § 1194 by failing to compensate
15 all Employees during the relevant time period for all hours worked, whether
16 regular or overtime;
- 17 o. Whether Defendants violated Business and Professions Code § 17200 *et*
18 *seq.*; and
- 19 p. Whether Employees are entitled to equitable relief pursuant to Business and
20 Professions Code § 17200 *et seq.*

21 **C. Typicality**

22 40. The claims of the named Plaintiff are typical of those of the other Employees. The
23 Class Members all sustained injuries and damages arising out of and caused by Defendants'
24 common course of conduct in violation of statutes, as well as regulations that have the force and
25 effect of law, as alleged herein.

26 **D. Adequacy of Representation**

27 41. Plaintiff will fairly and adequately represent and protect the interests of the
28 Employees. Counsel who represent the Employees are experienced and competent in litigating

1 employment class actions.

2 **E. Superiority of Class Action**

3 42. A class action is superior to other available means for the fair and efficient
4 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
5 questions of law and fact common to all Employees predominate over any questions affecting only
6 individual Employees. Each Employee has been damaged and is entitled to recovery by reason of
7 Defendants' illegal policies or practices of failing to properly compensate Employees.

8 43. As to the issues raised in this case, a class action is superior to all other methods for
9 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
10 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
11 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
12 be relatively small, the expense and burden of individual actions makes it difficult for Class
13 Members to individually redress the wrongs they have suffered. Moreover, in the event
14 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
15 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
16 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
17 to vindicate their rights for violations they endured which they would otherwise be foreclosed
18 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

19 44. Class action treatment will allow those persons similarly situated to litigate their
20 claims in the manner that is most efficient and economical for the parties and the judicial system.
21 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
22 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would
23 set forth the subject and nature of the instant action. The Defendants' own business records can be
24 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
25 that any further notice is required additional media and/or mailings can be used.

26 45. Defendants, as a prospective and actual employer of the Employees, had a special
27 fiduciary duty to disclose to prospective Class Members the true facts surrounding Defendants'
28 pay practices, policies and working conditions imposed upon the similarly situated Employees as

1 well as the effect of any alleged arbitration agreements that may have been forced upon them. In
2 addition, Defendants knew they possessed special knowledge about pay practices and policies,
3 most notably intentionally refusing to pay for all hours actually worked which should have been
4 recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
5 and policies and practices on the Employees and Class as a whole.

6 46. Plaintiff and the Employees in the Class did not discover the fact that they were
7 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
8 ever any discussion about Plaintiff's and the Class' waiver of their Constitutional rights of trial by
9 jury, right to collectively organize and oppose unlawful pay practices under California and federal
10 law as well as obtain injunctive relief preventing such practices from continuing. As a result, the
11 applicable statutes of limitation were tolled until such time as Plaintiff and Class Members
12 discovered their claims.

13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO PAY MINIMUM WAGES**

15 **(Against All Defendants)**

16 47. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
17 full herein.

18 48. Defendants failed to pay Employees in the Class minimum wages for all hours
19 worked and provided them with inaccurate wage statements that prevented Plaintiff and Class
20 Members from learning of these unlawful pay practices.

21 49. Employees worked hours and did not receive wages, including as alleged above in
22 connection with off-the-clock work. Defendants, and each of them, have imposed difficult to attain
23 job and shift scheduling requirements on Plaintiff and Class Members, which resulted in off-the-
24 clock work and underpayment of all wages owed to employees over a period of time, while
25 benefiting Defendants. Defendants' uniform pattern of unlawful wage and hour practices
26 manifested, without limitation, applicable to the Class as a whole, as a result of implementing a
27 uniform policy and practice that denied accurate compensation to Plaintiff and the other members
28 of the Class as to minimum wage pay.

1 50. In California, employees must be paid at least the then applicable state minimum
2 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California
3 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
4 timely pay its employees for all hours worked. Defendants failed to do so.

5 51. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states:
6 “The minimum wage for employees fixed by the commission is the minimum wage to be paid to
7 employees, and the payment of a less wage than the minimum so fixed is unlawful.”

8 52. The applicable minimum wages fixed by the commission for work during the
9 relevant period is found in the Wage Orders. The minimum wage provisions of California Labor
10 Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states:
11 “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
12 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
13 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
14 compensation, including interest thereon, reasonable attorney’s fees and costs of suit.”

15 53. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
16 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
17 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
18 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
19 all hours worked. All hours must be paid at least at the statutory or agreed upon rate, and no part
20 of this rate may be used as a credit against a minimum wage obligation.

21 54. In committing these violations of the California Labor Code, Defendants
22 inaccurately recorded or incorrectly calculated the time worked, and consequently underpaid the
23 actual time worked by Plaintiff and other members of the Class. Defendants acted in an illegal
24 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
25 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
26 regulations. As a result of these violations, Defendants also failed to timely pay all wages earned
27 in accordance with California Labor Code § 1194.

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1 55. California Labor Code § 1194.2 also provides for the following remedies: “In any
2 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
3 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
4 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

5 56. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
6 1197.1, Plaintiff and Class Members are entitled to recover a penalty of \$100.00 for the initial
7 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
8 pay each employee minimum wages.

9 57. Pursuant to California Labor Code § 1194.2, Plaintiff and Class Members are
10 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
11 interest thereon.

12 58. Defendants have the ability to pay minimum wages for all time worked and have
13 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
14 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

15 59. Wherefore, Plaintiff and Class Members are entitled to recover the unpaid
16 minimum wages, liquidated damages in an amount equal to the minimum wages unlawfully
17 unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California
18 Labor Code § 1194(a). Plaintiff and the other members of the Class further request recovery of all
19 unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any
20 statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or
21 other applicable statutes. To the extent minimum wage compensation is determined to be owed to
22 Class Members who have terminated their employment, Defendants’ conduct also violates Labor
23 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time
24 penalties under California Labor Code § 203, which penalties are sought herein on behalf of these
25 Class Members. Defendants’ failure to timely pay all wages owed also violated Labor Code § 204
26 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate
27 wage statements. Defendants’ conduct as alleged herein was willful, intentional and not in good
28 faith. Further, Plaintiff and other Class Members are entitled to seek and recover statutory costs.

1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE §§ 510, 1194**

3 **(Against All Defendants)**

4 60. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 61. California Labor Code §§ 1194 and 1198 provides that employees in California
7 shall not be employed more than eight (8) hours in any work day, and/or more than forty (40)
8 hours in any workweek, or work a seventh (7th) day in a work week unless they receive additional
9 compensation beyond their regular wages in amounts specified by law.

10 62. California Labor Code § 1194 provides that “any employee receiving less than the
11 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
12 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
13 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action
14 may be maintained directly against the employer in an employee’s name without first filing a
15 claim with the Department of Labor Standards and Enforcement.

16 63. By their conduct, as set forth herein, Defendants violated California Labor Code §
17 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
18 (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
19 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
20 on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
21 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight
22 (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not
23 paying Employees wages for all hours worked, under-reporting actual hours worked, and not
24 paying proper overtime and double rates, as detailed above.

25 64. Defendants, and each of them, have intentionally and improperly required Plaintiff
26 and Class Members to accept changed, adjusted and/or modified hours worked, or otherwise
27 caused them to work off the clock to avoid paying Plaintiff and Class Members all earned and
28 owed straight time and overtime wages and other benefits, in violation of the California Labor

1 Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by
2 the Division of Labor Standards and Enforcement. Defendants have also violated these provisions
3 by requiring Plaintiff and other similarly situated non-exempt Employees to work through meal
4 periods when they were required to be clocked out. Therefore, Employees were not properly
5 compensated, nor were they paid overtime rates for hours worked in excess of eight hours in a
6 given day, and/or forty hours in a given week. Based on information and belief, Defendants did
7 not make available to Employees a reasonable protocol for correcting time records when
8 Employees worked overtime hours or to fix incorrect time entries that were under recorded by
9 Defendants, to the Employee's detriment. Defendants have also violated these provisions by
10 requiring Plaintiff and other similarly situated Employees in the Class to work through meal
11 periods when they were required to be clocked out or to otherwise work off the clock to complete
12 their daily job duties.

13 65. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of
14 regular wages owed and overtime compensation, as required by California law, violates the
15 provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

16 66. Additionally, Labor Code § 558(a) provides "any employer or other person acting
17 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
18 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
19 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
20 pay period for which the employee was underpaid in addition to an amount sufficient to recover
21 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
22 underpaid employee for each pay period for which the employee was underpaid in addition to an
23 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
24 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in
25 this section are in addition to any other civil or criminal penalty provided by law." Defendants
26 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
27 Wage Orders. Accordingly, Plaintiff and Class Members seek the remedies set forth in Labor
28 Code § 558.

1 67. Defendants' failure to pay compensation in a timely fashion also constituted a
2 violation of California Labor Code § 204, which requires that all wages shall be paid
3 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
4 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
5 and overtime compensation earned by Employees. Each such failure to make a timely payment of
6 compensation to Employees constitutes a separate violation of California Labor Code § 204.

7 68. Employees have been damaged by these violations of California Labor Code §§
8 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

9 69. Consequently, pursuant to California Labor Code, including Labor Code §§ 204,
10 510, and 1194 (and the relevant orders of the Industrial Welfare Commission), Defendants are
11 liable to Employees for the full amount of all their unpaid wages and overtime compensation, with
12 interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory
13 penalties against Defendants, and each of them, and any additional sums as provided by the Labor
14 Code and/or other statutes.

15 70. Further, Plaintiff and Class Members are entitled to seek and recover reasonable
16 attorneys' fees and costs pursuant to Labor Code §§ 210 and 1194.

17 **THIRD CAUSE OF ACTION**

18 **MEAL BREAK LIABILITY UNDER LABOR CODE §§ 226.7, 512**

19 **(Against All Defendants)**

20 71. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 72. Employees regularly worked shifts greater than five (5) hours and in some
23 instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ
24 someone for a shift of more than five (5) hours without providing him or her with a meal period of
25 not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or
26 her with a second meal period of not less than thirty (30) minutes.

27 73. Defendants failed to provide Employees with meal periods as required under the
28 Labor Code. Employees received short meal periods, were regularly required to work during their

1 meal periods, as discussed above, or were provided with them after working beyond the fifth hour
2 of their shifts, if Defendant provided them at all. Furthermore, upon information and belief, on the
3 occasions when Employees worked more than ten (10) hours in a given shift, they did so without
4 receiving a second uninterrupted, timely and duty-free thirty (30) minute meal period, as required
5 by law.

6 74. Defendants placed the current demands of the job over Plaintiff and Class
7 Members' lawful meal breaks, resulting in meal breaks that were taken late, shortened due to work
8 demands, or not taken at all. As a result, Defendants' failure to provide Plaintiff and Class
9 Members with all their legally required off-duty, unpaid meal periods is and will be evidenced by
10 Defendants' business records, or lack thereof.

11 75. Upon information and belief, on the occasions when Employees in the Class
12 worked more than ten (10) hours in a shift, Defendants also failed to provide them with a second,
13 uninterrupted, timely and duty-free meal period as will be evidenced by Defendants' business
14 records, or lack thereof.

15 76. Defendants thus failed to provide Plaintiff and Class Members with meal periods as
16 required by the Labor Code, including by not providing them with the opportunity to take meal
17 breaks, by providing them late or for less than thirty (30) minutes, or by requiring them to perform
18 work during breaks.

19 77. Moreover, Defendants failed to compensate Employees for each meal period not
20 provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of the
21 applicable IWC Wage Orders, which provides that, if an employer fails to provide an employee a
22 meal period in accordance with this section, the employer shall pay the employee one (1) hour of
23 pay at the employee's regular rate of compensation for each workday that the meal period is not
24 provided. To the extent Defendants did make any such payments to Plaintiff and Class Members,
25 they failed to do so for the vast majority of the violations. Defendants failed to compensate
26 Employees for each meal period not provided or inadequately provided, as required under Labor
27 Code § 226.7.

28 ///

1 78. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in
2 an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal
3 period not provided or deficiently provided, a sum to be proven at trial, as well as the assessment
4 of any statutory penalties against the Defendants, and each of them, in a sum as provided by the
5 Labor Code and other statutes.

6 **FOURTH CAUSE OF ACTION**

7 **REST BREAK LIABILITY UNDER LABOR CODE § 226.7**

8 **(Against All Defendants)**

9 79. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
10 full herein.

11 80. Labor Code § 226.7 and paragraph 12 of the applicable IWC Wage Orders provide
12 that employers must authorize and permit all employees to take rest periods at the rate of ten (10)
13 minutes net rest time per four (4) work hours, or major fraction thereof.

14 81. Employees consistently worked consecutive shifts of at least eight (8) hours and
15 were generally required to work shifts of greater than eight (8) hours total. Pursuant to the Labor
16 Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of not less
17 than ten (10) minutes for each consecutive four (4) hour or longer shift. Defendants failed to
18 provide Employees with timely rest breaks of not less than ten (10) minutes for each consecutive
19 four (4) hours of work, or major fraction thereof, if rest breaks were provided at all. Furthermore,
20 upon information and belief, on the occasions when Employees worked more than ten (10) hours
21 in a given shift, they did so without receiving a third uninterrupted ten (10) minute rest break, as
22 required by law.

23 82. Labor Code § 226.7 and paragraph 12 of the applicable IWC Wage Orders provide
24 that if an employer fails to provide an employee rest period in accordance with this section, the
25 employer shall pay the employee one (1) hour of pay at the employee's regular rate of
26 compensation for each workday that the rest period is not provided.

27 83. Defendants, and each of them, have therefore intentionally and improperly denied
28 rest periods to Plaintiff and Class Members in violation of Labor Code § 226.7 and paragraph 12

1 of the applicable IWC Wage Orders.

2 84. Defendants failed to authorize and permit Plaintiff and Class Members to take rest
3 periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
4 with an additional hour of pay at each Employee's effective hourly rate for each day that
5 Defendants failed to provide them with adequate rest breaks, as required under Labor Code §
6 226.7.

7 85. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
8 Wage Orders, Employees are entitled to damages in an amount equal to one (1) hour of wages at
9 their effective hourly rates of pay for each day worked without the required rest breaks, a sum to
10 be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each
11 of them, in a sum as provided by the Labor Code and/or other statutes.

12 **FIFTH CAUSE OF ACTION**

13 **VIOLATION OF LABOR CODE § 226(a)**

14 **(Against All Defendants)**

15 86. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 87. California Labor Code § 226(a) requires an employer to furnish each of his or her
18 employees with an accurate, itemized statement in writing showing the gross and net earnings,
19 total hours worked, and the corresponding number of hours worked at each hourly rate; these
20 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
21 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
22 statements may be given to the employee separately from the payment of wages; in either case the
23 employer must give the employee these statements twice a month or each time wages are paid.

24 88. Defendants failed to provide Employees with accurate itemized wage statements in
25 writing, as required by the Labor Code. Specifically, the wage statements given to Employees by
26 Defendants failed to accurately account for wages, overtime, and premium pay for deficient meal
27 periods and rest breaks, and automatically deducted wages for alleged meal periods and under
28 recording and/or altering timekeeping entries to the detriment of Class Members, all of which

1 Defendants knew or reasonably should have known were owed to Employees, as alleged
2 hereinabove.

3 89. Throughout the liability period, Defendants intentionally failed to furnish to
4 Plaintiff and Class Members, upon each payment of wages, itemized statements accurately
5 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
6 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
7 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
8 the employee and only the last four digits of his or her social security number or an employee
9 identification number other than a social security number, (8) the name and address of the legal
10 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
11 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
12 Code § 226, amongst other statutory requirements. Defendants knowingly and intentionally failed
13 to provide Plaintiff and Class Members with such timely and accurate wage and hour statements.

14 90. Plaintiff and Class Members suffered injury as a result of Defendants' knowing and
15 intentional failure to provide them with the wage and hour statements as required by law and are
16 presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as the
17 Defendants have failed to provide wage statements with accurate and complete information as
18 required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and the Plaintiff
19 and Class Members cannot promptly and easily determine from the wage statement alone one or
20 more of the following: (i) The amount of the gross wages or net wages paid to the employee
21 during the pay period or any of the other information required to be provided on the itemized wage
22 statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which
23 deductions the employer made from gross wages to determine the net wages paid to the employee
24 during the pay period, (iii) The name and address of the employer and, (iv) The name of the
25 employee and only the last four digits of his or her social security number or an employee
26 identification number other than a social security number. For purposes of Labor Code § 226(e)
27 "promptly and easily determine" means a reasonable person [i.e. an objective standard] would be
28 able to readily ascertain the information without reference to other documents or information.

1 91. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
2 § 226(a), Employees suffered injuries, including among other things confusion over whether they
3 received all wages owed them, the difficulty and expense involved in reconstructing pay records,
4 and forcing them to make mathematical computations to analyze whether the wages paid in fact
5 compensated them correctly for all hours worked.

6 92. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover
7 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
8 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
9 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
10 award of costs and reasonable attorneys' fees.

11 93. Labor Code § 226.3 further provides that "[a]ny employer who violates subdivision
12 (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars
13 (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per
14 employee for each violation in a subsequent citation, for which the employer fails to provide the
15 employee a wage deduction statement or fails to keep the required in subdivision (a) of Section
16 226." To the extent that Labor Code § 226.3 applies, Plaintiff also seeks such penalties on behalf
17 of herself and the other Class Members.

18 **SIXTH CAUSE OF ACTION**

19 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS**

20 **UNDER LABOR CODE §§ 1174, 1174.5**

21 **(Against All Defendants)**

22 94. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
23 full herein.

24 95. California Labor Code § 1174 requires that all employers shall keep accurate time
25 and wage records for all employees. California Labor Code § 1174.5 further requires that any
26 employee suffering injury due to a willful violation of the aforementioned obligations may seek
27 damages, including civil penalties, from the employer.

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1 96. During the course of Plaintiff's and Employees' employment, Defendants
2 consistently failed to maintain accurate time and wage records for Plaintiff and Employees as
3 required by California Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages,
4 overtime, and premium pay as discussed above.

5 97. Accordingly, Defendants are liable for civil penalties pursuant to the California
6 Labor Code §§ 1174.5, for the three (3) years prior to the filing of this Complaint.

7 **SEVENTH CAUSE OF ACTION**

8 **VIOLATION OF LABOR CODE § 221**

9 **(Against All Defendants)**

10 98. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
11 full herein.

12 99. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
13 receive from an employee any part of wages theretofore paid by said employer to said employee."
14 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
15 public policy, an employer must timely pay its employees for all hours worked. Defendants failed
16 to do so.

17 100. Defendants unlawfully received and/or collected wages from the Employees in the
18 Class by implementing a policy of automatically deducting vested wages for meal periods that
19 were not provided from Employees, as well as by under recording and understating the hours
20 worked by Employees, as alleged above.

21 101. As a direct and proximate cause of the unauthorized deductions, Employees have
22 been damaged, in an amount to be determined at trial.

23 **EIGHTH CAUSE OF ACTION**

24 **VIOLATION OF LABOR CODE § 203**

25 **(Against All Defendants)**

26 102. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

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1 103. Numerous Employees, including Plaintiff, are no longer employed by Defendants;
2 they either quit Defendants' employ or were fired there from.

3 104. Defendants failed to pay these Employees all wages due and certain at the time of
4 termination or within seventy-two (72) hours of resignation.

5 105. The wages withheld from these Employees by Defendants remained due and owing
6 for more than thirty (30) days from the date of separation from employment.

7 106. Defendants failed to pay Plaintiff and Class Members without abatement, all wages
8 as defined by applicable California law. Among other things, these Employees were not paid all
9 regular and overtime wages, including by failing to pay for all hours worked or requiring off-the-
10 clock work or by unlawful under recording and/or altering of time entries to the detriment of
11 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and
12 rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
13 required time was willful within the meaning of Labor Code § 203.

14 107. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
15 knew wages to be due but failed to pay them; this violation entitles these Employees to penalties
16 under Labor Code § 203, which provides that an employee's wages shall continue until paid for up
17 to thirty (30) days from the date they were due.

18 **NINTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES, LABOR CODE**

20 **§ 2802**

21 **(Against All Defendants)**

22 108. Defendants' Plaintiff re-alleges and incorporates all preceding paragraphs, as
23 though set forth in full herein.

24 109. Plaintiff and Class Members are informed and believe and based thereon allege that
25 throughout the period applicable, Defendants compelled Plaintiff and Class Members to pay out-
26 of-pocket for necessary work related expenses they incurred in the form of personal cellular phone
27 usage, a requirement for employment with Defendants.

28 110. Plaintiff and Class Members were not reimbursed for these lawful and necessary

1 work related expenses or losses incurred in direct discharge of their job duties during employment
2 with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the
3 applicable IWC Wage Orders, paragraph 9.

4 111. Therefore, Plaintiff and Class Members are entitled to reimbursement for any and
5 all necessary work-related expenses, as provided for in Labor Code § 2802(b), incurred during the
6 direct discharge of their duties while employed by Defendants, as well as accrued interest on those
7 expenses that were not reimbursed from the date Plaintiff and Class Members incurred those
8 expenses.

9 112. Further, Plaintiff and Class Members are entitled to costs and attorney's fees
10 pursuant to Labor Code § 2802(c).

11 **TENTH CAUSE OF ACTION**

12 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

13 **(Against All Defendants)**

14 113. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 114. Plaintiff, on behalf of herself, the Employees, and the general public, brings this
17 claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as
18 alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees
19 and the general public. Plaintiff seeks to enforce important rights affecting the public interest
20 within the meaning of Code of Civil Procedure § 1021.5.

21 115. Plaintiff is a "person" within the meaning of Business & Professions Code
22 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
23 relief, restitution, and other appropriate equitable relief.

24 116. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
25 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
26 fraudulent in that Defendants' policy and practice failed to provide the required amount of
27 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
28 Class Members for all hours worked, due to systematic business practices as alleged herein that

1 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
2 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
3 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
4 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

5 117. Wage-and-hour laws express fundamental public policies. Paying employees their
6 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
7 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
8 vigorously to enforce minimum labor standards, to ensure that employees are not required or
9 permitted to work under substandard and unlawful conditions, and to protect law-abiding
10 employers and their employees from competitors who lower costs to themselves by failing to
11 comply with minimum labor standards.

12 118. Defendants have violated statutes and public policies. Through the conduct alleged
13 in this Complaint, Defendants have acted contrary to these public policies, have violated specific
14 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
15 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff,
16 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
17 guaranteed to all employees under the law.

18 119. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in
19 violation of the Business & Professions Code § 17200 *et seq.*

20 120. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
21 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
22 reasonable care should have known that their conduct was unlawful; therefore their conduct
23 violates the Business & Professions Code § 17200 *et seq.*

24 121. By the conduct alleged herein, Defendants have engaged and continue to engage in
25 a business practice which violates California and federal law, including but not limited to, the
26 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
27 Code including Sections 201, 202, 203, 204, 218.6, 221, 226, 226.7, 510, 512, 558, 1174, 1185,
28 1194, 1194.2, 1197, and 2802 for which this Court should issue declaratory and other equitable

1 relief pursuant to California Business & Professions Code § 17203 as may be necessary to prevent
2 and remedy the conduct held to constitute unfair competition, including restitution of wages
3 wrongfully withheld.

4 122. As a proximate result of the above-mentioned acts of Defendants, Employees have
5 been damaged, in a sum to be proven at trial.

6 123. Unless restrained by this Court, Defendants will continue to engage in such
7 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
8 should make such orders or judgments, including the appointment of a receiver, as may be
9 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
10 deceptive practice prohibited by the Business & Professions Code, including but not limited to the
11 disgorgement of such profits as may be necessary to restore Employees to the money Defendants
12 have unlawfully failed to pay.

13 **RELIEF REQUESTED**

14 WHEREFORE, Plaintiff prays for the following relief:

- 15 1. For an order certifying this action as a class action;
- 16 2. For compensatory damages in the amount of the unpaid minimum wages for work
17 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
18 the filing of this action, as may be proven;
- 19 3. For liquidated damages in the amount equal to the unpaid minimum wage and
20 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 21 4. For compensatory damages in the amount of all unpaid wages, including overtime
22 and double-time pay, as may be proven;
- 23 5. For compensatory damages in the amount of the hourly wage made by Employees
24 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
25 years prior to the filing of this action, as may be proven;
- 26 6. For compensatory damages in the amount of the hourly wage made by Employees
27 for each day requisite rest breaks were not provided or were deficiently provided where no
28 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may

1 be proven;

2 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

3 8. For restitution and/or damages for all amounts unlawfully withheld from the wages
4 for all class members in violation of Labor Code § 221, as may be proven;

5 9. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
6 fired in an amount equal to their daily wages times thirty (30) days, as may be proven;

7 10. For penalties pursuant to Labor Code § 1174.5, as may be proven;

8 11. For restitution for unfair competition pursuant to Business & Professions Code
9 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

10 12. For an order enjoining Defendants and their agents, servants, and employees, and
11 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
12 duties adumbrated in this Complaint;

13 13. For damages and restitution for failure to reimburse all reasonable and necessary
14 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

15 14. For all general, special, and incidental damages as may be proven;

16 15. For an award of pre-judgment and post-judgment interest;

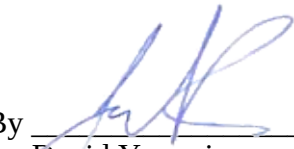
17 16. For an award providing for the payment of the costs of this suit;

18 17. For an award of attorneys' fees; and

19 18. For such other and further relief as this Court may deem proper and just.

20
21 DATED: April 22, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

22
23 By 

24 David Yeremian

Jason Rothman

25 Attorneys for Plaintiff Julieta Morales, and
26 all others similarly situated
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DATED: April 22, 2020

By

Attorneys for Plaintiff Julieta Morales, and
all others similarly situated