

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
PHILLIP SONG (SBN 326572)
JUSTICE LAW CORPORATION
751 North Fair Oaks Avenue, Suite 101
Pasadena, California 91103
Telephone (818) 230-7502
Facsimile (818) 230-7259

Attorneys for Plaintiffs

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

PATRICIA ALCANTAR and LEAH
BROWN, individually, and on behalf of
other members of the general public similarly
situated;

Plaintiffs,

v.

BAY EQUITY LLC, a California Company;
and DOES 1 through 100, inclusive;

Defendants.

Case No.: CIV1903376

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194 and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of California Labor Code § 2698, *et seq.* (Private Attorneys General Act of 2004);
- (9) Violation of California Business & Professions Code § 17200, *et seq.*

DEMAND FOR JURY TRIAL

1 COME NOW, Plaintiffs PATRICIA ALCANTAR and LEAH BROWN (“Plaintiffs”),
2 on behalf of themselves and on behalf of other members of the general public similarly
3 situated, and allege as follows:

4 **JURISDICTION AND VENUE**

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

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

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

17 4. Venue is proper in this Court because, upon information and belief, Defendants
18 maintain offices, have agents, and/or transact business in the State of California, including the
19 County of Marin. The majority of the acts and omissions alleged herein relating to Plaintiffs
20 took place in the State of California. Defendants employed Plaintiffs within the State of
21 California.

22 **PARTIES**

23 5. Plaintiffs PATRICIA ALCANTAR and LEAH BROWN are individuals residing
24 in the State of California

25 6. Defendant BAY EQUITY LLC, at all times herein mentioned, was and is, upon
26 information and belief, a California company, and at all times herein mentioned, was and is,
27 an employer whose employees are engaged throughout the State of California, including the
28 County of Marin.

1 7. At all relevant times, Defendant BAY EQUITY LLC was the “employer” of
2 Plaintiffs within the meaning of all applicable California laws and statutes.

3 8. At all times herein relevant, Defendants BAY EQUITY LLC and DOES 1
4 through 100, and each of them, were the agents, partners, joint venturers, joint employers,
5 representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each
6 of the other, and at all times relevant hereto were acting within the course and scope of their
7 authority as such agents, partners, joint venturers, joint employers, representatives, servants,
8 employees, successors, co-conspirators and assigns, and all acts or omissions alleged herein
9 were duly committed with the ratification, knowledge, permission, encouragement,
10 authorization, and consent of each defendant designated herein.

11 9. The true names and capacities, whether corporate, associate, individual or
12 otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs, who sue
13 said defendants by such fictitious names. Plaintiffs are informed and believe, and based on
14 that information and belief allege, that each of the Defendants designated as a DOE is legally
15 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
16 the injuries and damages to Plaintiffs and the other class members as alleged in this Complaint.
17 Plaintiffs will seek leave of court to amend this Complaint to show the true names and
18 capacities when the same have been ascertained.

19 10. Defendants BAY EQUITY LLC and DOES 1 through 100 will hereinafter
20 collectively be referred to as “Defendants.”

21 11. Plaintiffs further allege that Defendants directly or indirectly controlled or
22 affected the working conditions, wages, working hours, and conditions of employment of
23 Plaintiffs and the other class members so as to make each of said Defendants employers and
24 employers liable under the statutory provisions set forth herein.

25 **CLASS ACTION ALLEGATIONS**

26 12. Plaintiffs bring this action on their own behalves and on behalf of all other
27 members of the general public similarly situated, and, thus, seeks class certification under
28 Code of Civil Procedure section 382.

13. The proposed classes are defined as follows:

- (i) Non-Arbitration Class: All individuals who worked for Defendant Bay Equity LLC as hourly and/or non-exempt employees and did not sign an arbitration agreement with class action waiver provision contained from September 4, 2015 to August 15, 2020;
- (ii) Arbitration Class: All individuals who worked for Defendant Bay Equity LLC as hourly and/or non-exempt employees and who signed an arbitration agreement with a class action waiver provision contained from April 20, 2019 to August 15, 2020.

14. Plaintiffs reserve the right to establish subclasses as appropriate.

15. The classes are ascertainable and there are well-defined communities of interest in the litigation:

- a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of both classes is unknown to Plaintiffs at this time; however, the classes are estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- b. Typicality: Plaintiffs' claims are typical of all other class members' claims as demonstrated herein. Plaintiffs will fairly and adequately protect the interests of the other class members with whom they have well-defined communities of interest.
- c. Adequacy: Plaintiffs will fairly and adequately protect the interests of each class member, with whom they have well-defined communities of interest and typicality of claims, as demonstrated herein. 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 during the pendency of this action will continue to incur,

costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

d. 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.

e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

16. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants failed to pay their hourly-paid or non-exempt employees within the State of California for all hours worked, missed meal periods and rest breaks in violation of California law;
- c. Whether Defendants required Plaintiffs and the other class members to work over eight (8) hours per day and/or over forty (40) hours per week and failed to pay the legally required overtime compensation to Plaintiffs and the other class members;
- d. Whether Defendants properly calculated the regular rate for Plaintiffs and the other class members who worked overtime and earned incentive pay;

- 1 e. Whether Defendants deprived Plaintiffs and the other class members of
2 meal and/or rest periods or required Plaintiffs and the other class
3 members to work during meal and/or rest periods without compensation;
- 4 f. Whether Defendants failed to pay minimum wages to Plaintiffs and the
5 other class members for all hours worked, including, with respect to any
6 class members paid on a “commission only” basis, minimum wages for
7 all “non-productive” time;
- 8 g. Whether Defendants failed to pay all wages due to Plaintiffs and the other
9 class members within the required time upon their discharge or
10 resignation;
- 11 h. Whether Defendants failed to timely pay all wages due to Plaintiffs and
12 the other class members during their employment;
- 13 i. Whether Defendants complied with wage reporting as required by the
14 California Labor Code, including, inter alia, section 226;
- 15 j. Whether Defendants failed to reimburse Plaintiffs and the other class
16 members for necessary business-related expenses and costs;
- 17 k. Whether Defendants failed to comply with the requirements of
18 California's Healthy Workplaces, Healthy Families Act (the
19 “HWHFA”), codified at Labor Code section 246, et seq.;
- 20 l. Whether Defendants’ conduct was willful or reckless;
- 21 m. Whether Defendants engaged in unfair business practices in violation of
22 California Business & Professions Code section 17200, et seq.;
- 23 n. The appropriate amount of damages, restitution, and/or monetary
24 penalties resulting from Defendants’ violation of California law; and
- 25 o. Whether Plaintiffs and the other class members are entitled to
26 compensatory damages pursuant to the California Labor Code.

27 ///

28 ///

GENERAL ALLEGATIONS

17. During the relevant time period set forth herein, Defendants employed Plaintiffs and other persons as hourly-paid or non-exempt employees within the State of California.

18. Defendants, jointly and severally, employed Plaintiff Patricia Alcantar from approximately January 2017 to March 2018 and Plaintiff Leah Brown from approximately September 2019 to April 2020, both as hourly-paid, non-exempt employees in the State of California.

19. Defendants had the authority to hire and terminate Plaintiffs and the other class members; to set work rules and conditions governing Plaintiffs' and other class members' employment; and to supervise their daily employment activities.

20. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs and the other class members' employment for them to be joint employers of Plaintiffs and other class members.

21. Defendants directly hired and paid wages and benefits to Plaintiffs and the other class members.

22. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

23. Plaintiffs and other class members worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

24. Plaintiffs are informed and believe, and based thereon allege, that Defendants engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt employees within the State of California. This scheme involved, inter alia, failing to pay them for all hours worked, missed meal periods, and missed rest breaks in violation of California law.

25. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and other class members were entitled to receive certain wages for overtime compensation and that they were not receiving wages for overtime compensation.

1 26. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 failed to provide Plaintiffs and other class members the required rest and meal periods during
3 the relevant time period as required under the Industrial Welfare Commission Wage Orders
4 and thus they are entitled to any and all applicable penalties.

5 27. Plaintiffs are informed and believe, and based thereon allege, that Defendants
6 knew or should have known that Plaintiffs and other class members were entitled to receive
7 all timely and complete meal periods or payment of one additional hour of pay at Plaintiffs'
8 and the other class members' regular rate of pay when a meal period was missed, late or
9 interrupted, and they did not receive all timely and proper meal periods or payment of one
10 additional hour of pay at Plaintiffs' and other class members' regular rate of pay when a meal
11 period was missed.

12 28. Plaintiffs are informed and believe, and based thereon allege, that Defendants
13 knew or should have known that Plaintiffs and other class members were entitled to receive
14 all timely rest periods without interruption or payment of one additional hour of pay at
15 Plaintiffs' and the other class members' regular rate of pay when a rest period was missed,
16 late or interrupted, and they did not receive all rest periods or payment of one additional hour
17 of pay at Plaintiffs' and the other class members' regular rate of pay when a rest period was
18 missed.

19 29. Plaintiffs are informed and believe, and based thereon allege, that Defendants
20 knew or should have known that Plaintiffs and other class members were entitled to receive
21 at least minimum wages for compensation and that they were not receiving at least minimum
22 wages for all hours worked.

23 30. Plaintiffs are informed and believe, and based thereon allege, that Defendants
24 knew or should have known that Plaintiffs and other class members were entitled to receive
25 the wages owed to them upon discharge or resignation, including overtime and minimum
26 wages and meal and rest period premiums, and they did not, in fact, receive such wages owed
27 to them at the time of their discharge or resignation.

28 ///

1 31. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have known that Plaintiffs and other class members were entitled to receive
3 complete and accurate wage statements in accordance with California law, but, in fact, they
4 did not receive complete and accurate wage statements from Defendants. The deficiencies
5 included, inter alia, the failure to include the total number of hours worked by Plaintiffs and
6 other class members.

7 32. Plaintiffs are informed and believe, and based thereon allege, that Defendants
8 knew or should have known that Plaintiffs and the other class members were entitled to
9 reimbursement for necessary business-related expenses.

10 33. Plaintiffs are informed and believe, and based thereon allege, that Defendants
11 knew or should have known that Defendants had to keep complete and accurate payroll records
12 for Plaintiffs and other class members in accordance with California law, but, in fact, did not
13 keep complete and accurate payroll records.

14 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants
15 knew or should have known that they had a duty to compensate Plaintiffs and other class
16 members pursuant to California law, and that Defendants had the financial ability to pay such
17 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
18 represented to Plaintiffs and other class members that they were properly denied wages, all in
19 order to increase Defendants' profits.

20 35. As a pattern and practice, during the relevant time period set forth herein,
21 Defendants failed to pay overtime wages to Plaintiffs and other class members for all hours
22 worked. Plaintiffs and other class members were required to work more than eight (8) hours
23 per day and/or forty (40) hours per week without overtime compensation.

24 36. As a pattern and practice, during the relevant time period set forth herein,
25 Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to
26 Plaintiffs and other class members.

27 ///

28 ///

1 44. Specifically, the applicable IWC Wage Order provides that Defendants are and
2 were required to pay Plaintiffs and other class members employed by Defendants, who
3 work(ed) more than eight (8) hours in a day or more than forty (40) hours in a workweek, at
4 the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more
5 than forty (40) hours in a workweek.

6 45. The applicable IWC Wage Order further provides that Defendants are and were
7 required to pay Plaintiffs and other class members overtime compensation at a rate of two
8 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

9 46. California Labor Code section 510 codifies the right to overtime compensation
10 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
11 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
12 day of work, and overtime compensation at twice the regular hourly rate for hours worked in
13 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
14 of work.

15 47. During the relevant time period set forth herein, Plaintiffs and other class
16 members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in
17 a week.

18 48. As a pattern and practice, during the relevant time period set forth herein,
19 Defendants intentionally and willfully failed to pay and underpaid overtime wages owed to
20 Plaintiffs and other class members by not compensating all time worked and failing to properly
21 calculate the regular rate of pay.

22 49. Defendants' pattern and practice of failing to pay Plaintiffs and other class
23 members the unpaid balance of overtime compensation, as required by California laws,
24 violates the provisions of California Labor Code sections 510 and 1198, and is therefore
25 unlawful.

26 50. Pursuant to California Labor Code section 1194, Plaintiffs and other class
27 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
28 attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against BAY EQUITY LLC and DOES 1 through 100)

51. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 51, and each and every part thereof with the same force and effect as though fully set forth herein.

52. During the relevant time period set forth herein, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiffs' and other class members' employment by Defendants.

53. During the relevant time period set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

54. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

55. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause, or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, 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.

///

///

///

1 56. As a pattern and practice, during the relevant time period set forth herein,
2 Plaintiffs and other class members who were scheduled to work for a period of time no longer
3 than six (6) hours, and who did not waive their legally-mandated meal periods by mutual
4 consent, were required to work for periods longer than five (5) hours without an uninterrupted
5 meal period of not less than thirty (30) minutes and/or without a rest period.

6 57. As a pattern and practice, during the relevant time period set forth herein,
7 Plaintiffs and other class members who were scheduled to work for a period of time in excess
8 of six (6) hours were required to work for periods longer than five (5) hours without an
9 uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

10 58. As a pattern and practice, during the relevant time period set forth herein,
11 Defendants intentionally and willfully required Plaintiffs and other class members to work
12 during meal periods and failed to compensate Plaintiffs and the other class members the full
13 meal period premium for work performed during meal periods.

14 59. As a pattern and practice, during the relevant time period set forth herein,
15 Defendants failed to pay Plaintiffs and other class members the full meal period premium due
16 pursuant to California Labor Code section 226.7.

17 60. Defendants' conduct violates applicable IWC Wage Order and California Labor
18 Code sections 226.7 and 512(a).

19 61. Pursuant to the applicable IWC Wage Order and California Labor Code section
20 226.7(b), Plaintiffs and other class members are entitled to recover from Defendants one
21 additional hour of pay at the employee's regular rate of compensation for each workday that
22 the meal or rest period is not provided.

23 **THIRD CAUSE OF ACTION**

24 **(Violation of California Labor Code § 226.7)**

25 **(Against BAY EQUITY LLC and DOES 1 through 100)**

26 62. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
27 through 62, and each and every part thereof with the same force and effect as though fully set
28 forth herein.

1 63. During the relevant time period set forth herein, the applicable IWC Wage Order
2 and California Labor Code section 226.7 were applicable to Plaintiffs' and other class
3 members' employment by Defendants.

4 64. During the relevant time period set forth herein, California Labor Code section
5 226.7 provides that no employer shall require an employee to work during any rest period
6 mandated by an applicable order of the California IWC.

7 65. During the relevant time period set forth herein, the applicable IWC Wage Order
8 provides that "[e]very employer shall authorize and permit all employees to take rest periods,
9 which insofar as practicable shall be in the middle of each work period" and that the "rest
10 period time shall be based on the total hours worked daily at the rate of ten (10) minutes net
11 rest time per four (4) hours or major fraction thereof" unless the total daily work time is less
12 than three and one-half (3 ½) hours.

13 66. As a pattern and practice, during the relevant time period set forth herein,
14 Defendants required Plaintiffs and other class members to work four (4) or more hours without
15 authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

16 67. As a pattern and practice, during the relevant time period set forth herein,
17 Defendants willfully required Plaintiffs and other class members to work during rest periods
18 and failed to pay Plaintiffs and the other class members the full rest period premium for work
19 performed during rest periods.

20 68. As a pattern and practice, during the relevant time period set forth herein,
21 Defendants failed to pay Plaintiffs and the other class members the full rest period premium
22 due pursuant to California Labor Code section 226.7

23 69. Defendants' conduct violates applicable IWC Wage Orders and California Labor
24 Code section 226.7.

25 70. Pursuant to the applicable IWC Wage Orders and California Labor Code section
26 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one
27 additional hour of pay at the employees' regular hourly rate of compensation for each work
28 day that the rest period was not provided.

1 **FOURTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 1194 and 1197)**

3 **(Against BAY EQUITY LLC and DOES 1 through 100)**

4 71. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
5 through 71 and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 72. During the relevant time period set forth herein, California Labor Code sections
8 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of
9 a lesser wage than the minimum so fixed, is unlawful.

10 73. As a pattern and practice, during the relevant time period set forth herein,
11 Defendants failed to pay minimum wages to Plaintiffs and other class members as required,
12 pursuant to California Labor Code sections 1194 and 1197, including, by failing to pay
13 minimum wages to class members who were paid solely on a commission basis for any non-
14 productive time (including rest breaks).

15 74. Defendants' failure to pay Plaintiffs and other class members the minimum wage
16 as required violates California Labor Code sections 1194 and 1197. Pursuant to those sections,
17 Plaintiffs and other class members are entitled to recover the unpaid balance of their minimum
18 wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in
19 an amount equal to the wages unlawfully unpaid and interest thereon.

20 75. Pursuant to California Labor Code section 1194.2, Plaintiffs and other class
21 members are entitled to recover liquidated damages in an amount equal to the wages
22 unlawfully unpaid and interest thereon.

23 **FIFTH CAUSE OF ACTION**

24 **(Violation of California Labor Code §§ 201 and 202)**

25 **(Against BAY EQUITY LLC and DOES 1 through 100)**

26 76. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
27 through 76, and each and every part thereof with the same force and effect as though fully set
28 forth herein.

77. During the relevant time period set forth herein, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits 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 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.

78. As a pattern and practice, during the relevant time period set forth herein, Defendants intentionally and willfully failed to pay Plaintiffs and other class members (but not all class members) who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

79. Defendants' pattern and practice of failing to pay Plaintiffs and other class members (but not all class members) who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

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

81. Plaintiffs and other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum as provided by Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against BAY EQUITY LLC and DOES 1 through 100)

82. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 82, and each and every part thereof with the same force and effect as though fully set forth herein.

1 83. During the relevant time period set forth herein, California Labor Code section
2 226(a) provides that every employer shall furnish each of his or her employees an accurate
3 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
4 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
5 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
6 on written orders of the employee may be aggregated and shown as one item, (5) net wages
7 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
8 the employee and his or her social security number, (8) the name and address of the legal
9 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period
10 and the corresponding number of hours worked at each hourly rate by the employee. The
11 deductions made from payments of wages shall be recorded in ink or other indelible form,
12 properly dated, showing the month, day, and year, and a copy of the statement or a record of
13 the deductions shall be kept on file by the employer for at least three years at the place of
14 employment or at a central location within the State of California.

15 84. As a pattern and practice, Defendants have intentionally and willfully failed to
16 provide Plaintiffs and other class members (but not all) with complete and accurate wage
17 statements. The deficiencies include but are not limited to: the failure to include the total
18 number of hours worked by Plaintiffs and other class members.

19 85. As a result of Defendants' violation of California Labor Code section 226(a),
20 Plaintiffs and other class members (but not all) have suffered injury and damage to their
21 statutorily protected rights.

22 86. More specifically, Plaintiffs and other class members (but not all) have been
23 injured by Defendants' intentional and willful violation of California Labor Code section
24 226(a) because they were denied both their legal right to receive, and their protected interest
25 in receiving, accurate and itemized wage statements pursuant to California Labor Code section
26 226(a).

27 ///

28 ///

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

88. Plaintiffs and other class members (but not all) are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g).

SEVENTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

(Against BAY EQUITY LLC and DOES 1 through 100)

89. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 89, and each and every part thereof with the same force and effect as though fully set forth herein.

90. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

91. Defendants have intentionally and willfully failed to reimburse Plaintiffs and other class members (but not all) for all necessary business-related expenses and costs. Plaintiffs and other class members (but not all) are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

///

///

///

1 **EIGHTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 2698, et seq.)**

3 **(Against BAY EQUITY LLC and DOES 1 through 100)**

4 93. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
5 through 92, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 94. PAGA expressly establishes that any provision of the California Labor Code
8 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
9 departments, divisions, commissions, boards, agencies or employees for a violation of the
10 California Labor Code, may be recovered through a civil action brought by an aggrieved
11 employee on behalf of himself or herself, and other current or former employees.

12 95. On April 20, 2020, Plaintiff Leah Brown provided written notice to the LWDA
13 and Defendants of the specific provisions of the Labor Code she contends were violated, and
14 the theories supporting her contentions. Attached hereto as **Exhibit 1** and incorporated by
15 reference is a copy of the written notice to the LWDA. On June 24, 2020, the sixty-five (65)
16 days' her administrative remedies.

17 96. Plaintiff and the other hourly-paid or non-exempt employees are "aggrieved
18 employees" as defined by California Labor Code § 2699(c) in that they are all current and
19 former hourly-paid or non-exempt employees of Defendants within the State of California
20 who worked for Defendants at any time during the period from April 20, 2019 to the present,
21 and one or more of the alleged violations was committed against them.

22 **Failure to Pay Minimum and Overtime Wages**

23 97. At all times relevant herein, Defendants were required to compensate their non-
24 exempt employees minimum wages for all hours worked and overtime wages for all hours
25 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
26 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

27 ///

28 ///

1 98. As a pattern and practice, Defendants failed to compensate Plaintiff Brown and
2 other aggrieved current and former employees for all hours worked, resulting in a failure to pay
3 all minimum wages and overtime wages, where applicable.

4 **Failure to Provide Meal Periods and Rest Breaks**

5 99. In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants
6 were required to authorize and permit their non-exempt employees to take a 10-minute rest
7 break for every four (4) hours worked or major fraction thereof, and were further required to
8 provide their non-exempt employees with a 30-minute meal period for every five (5) hours
9 worked.

10 100. As a pattern and practice, Defendants failed to provide Plaintiff Brown and other
11 aggrieved current and former employees with legally-mandated meal periods and rest breaks
12 and failed to pay proper compensation for this failure.

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

14 101. At all times relevant herein, Defendants were required to pay their employees
15 within a specified time period pursuant to the mandate of Labor Code § 204.

16 102. As a pattern and practice, Defendants failed to pay Plaintiff Brown and other
17 aggrieved current and former employees all wages due and owing them within the required time
18 period.

19 **Failure to Timely Pay Wages Upon Termination**

20 103. At all times relevant herein, Defendants were required to pay their employees all
21 wages owed in a timely fashion at the end of employment pursuant to California Labor Code
22 §§ 201 to 204.

23 104. As a result of Defendants' Labor Code violations alleged above, Defendants
24 failed to pay Plaintiff Brown and the other aggrieved former employees their final wages
25 pursuant to Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to
26 Labor Code § 203.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Failure to Provide Complete and Accurate Wage Statements

105. At all times relevant herein, Defendants were required to keep *accurate* records regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174.

106. As a result of Defendants’ various Labor Code violations, Defendants failed to keep accurate records regarding Plaintiff Brown and other aggrieved current and former employees. For example, Defendants failed in their affirmative obligation to keep accurate records regarding Plaintiff Brown and other aggrieved current and former employees’ gross wages earned, total hours worked, all deductions, net wages earned, and all applicable hourly rates and the number of hours worked at each hourly rate.

Failure to Reimburse Business Expenses

107. At all times relevant herein, Defendants were required to reimburse its employees for any and all necessary expenditures or losses incurred by the employees in direct consequences of the discharge or his or her duties pursuant to the mandate of Labor Code §§ 2800 and 2802.

108. As a pattern and practice, Defendants failed to pay Plaintiff Brown and other aggrieved current and former employees all business expenses incurred and owing them within the required time period.

Violations of California Paid Sick Leave Law

109. At all times relevant herein, Defendants were required to provide paid sick leave to Plaintiff Brown and other aggrieved current and former employees under the Healthy Workplace Healthy Family Act of 2014 (HWHFA)(codified at Labor Code § 246, et seq.).

110. As a pattern and practice, Defendants failed to pay Plaintiff Brown and other aggrieved current and former employees paid sick leave in accordance with Labor Code § 246, et seq., for example, by failing to pay employees paid sick leave at the employee’s regular rate of pay as required by Labor Code § 246(l).

///
///
///

Penalties

111. Pursuant to California Labor Code § 2699, Plaintiff Brown, individually, and on behalf of other current and former aggrieved employees, requests and is entitled to recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs, including but not limited to:

- a. Penalties under California Labor Code § 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 § 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code § 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- d. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;
- e. Any and all additional penalties as provided by the Labor Code and/or other statutes; and
- f. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

///

1 **NINTH CAUSE OF ACTION**

2 **(Violation of California Business & Professions Code §§ 17200, *et seq.*)**

3 **(Against BAY EQUITY LLC and DOES 1 through 100)**

4 112. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
5 through 111, and each and every part thereof with the same force and effect as though fully
6 set forth herein.

7 113. Defendants' conduct, as alleged herein, has been, and continues to be unfair,
8 unlawful and harmful to Plaintiffs, other class members, to the general public, and Defendants'
9 competitors. Accordingly, Plaintiffs seek to enforce important rights affecting the public
10 interest within the meaning of Code of Civil Procedure section 1021.5.

11 114. Defendants' activities as alleged herein are violations of California law, and
12 constitute unlawful business acts and practices in violation of California Business &
13 Professions Code section 17200, *et seq.*

14 115. A violation of California Business & Professions Code section 17200, *et seq.*
15 may be predicated on the violation of any state or federal law. In this instant case, Defendants'
16 pattern and practice of requiring Plaintiffs and other class members work overtime hours
17 without paying them proper compensation violate California Labor Code sections 510 and
18 1198. Additionally, Defendants' pattern and practice of requiring Plaintiffs and other class
19 members to work through their meal and rest periods without paying them proper
20 compensation violate California Labor Code sections 226.7 and 512(a). Moreover,
21 Defendants' pattern and practice of failing to timely pay wages to Plaintiffs and other class
22 members violate California Labor Code sections 201 and 202. Defendants also violated
23 California Labor Code sections 226(a), 1194, 1197, 2800 and 2802.

24 116. As a result of the herein described violations of California law, Defendants
25 unlawfully gained an unfair advantage over other businesses.

26 117. Plaintiffs and other class members have been personally injured by Defendants'
27 unlawful business acts and practices as alleged herein, including but not necessarily limited to
28 the loss of money and/or property.

118. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiffs and other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves and on behalf of other members of the general public similarly situated, request a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of all other members of the general public similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiffs be appointed as representatives of the Classes;
3. That counsel for Plaintiffs be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current contact information (address, e-mail and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiffs and the other class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and

1 9. For such other and further relief as the court may deem just and proper.

2 **As to the Second Cause of Action**

3 10. That the Court declare, adjudge and decree that Defendants violated California
4 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
5 provide all meal periods (including second meal periods) to Plaintiffs and the other class
6 members;

7 11. That the Court make an award to Plaintiffs and the other class members of one
8 (1) hour of pay at each employee's regular rate of compensation for each workday that a meal
9 period was not provided;

10 12. For all actual, consequential, and incidental losses and damages, according to
11 proof;

12 13. For premium wages pursuant to California Labor Code section 226.7(b);

13 14. For pre-judgment interest on any unpaid wages from the date such amounts were
14 due;

15 15. For reasonable attorneys' fees and costs of suit incurred herein; and

16 16. For such other and further relief as the court may deem just and proper.

17 **As to the Third Cause of Action**

18 17. That the Court declare, adjudge and decree that Defendants violated California
19 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
20 rest periods to Plaintiffs and the other class members;

21 18. That the Court make an award to Plaintiffs and the other class members of one
22 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
23 period was not provided;

24 19. For all actual, consequential, and incidental losses and damages, according to
25 proof;

26 20. For premium wages pursuant to California Labor Code section 226.7(b);

27 21. For pre-judgment interest on any unpaid wages from the date such amounts were
28 due; and

1 22. For such other and further relief as the court may deem just and proper.

2 **As to the Fourth Cause of Action**

3 23. That the Court declare, adjudge and decree that Defendants violated California
4 Labor Code sections 1194 and 1197 by willfully failing to pay minimum wages to Plaintiffs
5 and the other class members;

6 24. For general unpaid wages and such general and special damages as may be
7 appropriate;

8 25. For pre-judgment interest on any unpaid compensation from the date such
9 amounts were due;

10 26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
11 California Labor Code section 1194(a);

12 27. For liquidated damages pursuant to California Labor Code section 1194.2; and

13 28. For such other and further relief as the court may deem just and proper.

14 **As to the Fifth Cause of Action**

15 29. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at
17 the time of termination of the employment of the other class members no longer employed by
18 Defendants;

19 30. For all actual, consequential, and incidental losses and damages, according to
20 proof;

21 31. For statutory wage penalties pursuant to California Labor Code section 203 for
22 the other class members who have left Defendants' employ;

23 32. For pre-judgment interest on any unpaid compensation from the date such
24 amounts were due; and

25 33. For such other and further relief as the court may deem just and proper.

26 ///

27 ///

28 ///

As to the Sixth Cause of Action

34. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and other class members, and willfully failed to provide accurate itemized wage statements thereto;

35. For actual, consequential and incidental losses and damages, according to proof;

36. For statutory penalties pursuant to California Labor Code section 226(e);

37. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g); and

38. For such other and further relief as the court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For the imposition of civil penalties and/or statutory penalties;

42. For punitive damages and/or exemplary damages according to proof at trial;

43. For reasonable attorneys' fees and costs of suit incurred herein; and

44. For such other and further relief as the court may deem just and proper.

As to the Eighth Cause of Action

45. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2698, *et seq.*, the PAGA, for civil penalties pursuant to Defendants' violations of Labor Code §§ 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198 2800, and 2802;

46. Upon the Cause of Action, for costs and attorneys' fees pursuant to Labor Code Sections 210, 1194, and 2699, and any other applicable statute; and

47. For such other and further relief as the Court may deem just and proper.

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code section 17200, *et seq.* by failing to provide Plaintiffs and other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiffs and the other class members, failing to pay at least minimum wages to Plaintiffs and the other class members, failing to pay Plaintiffs and other class members' wages timely as required by California Labor Code section 201, 202.

49. For restitution of unpaid wages to Plaintiffs and other class members and all pre-judgment interest from the day such amounts were due and payable;

50. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, *et seq.*;

51. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

52. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code section 17200, *et seq.*; and

53. For such other and further relief as the court may deem just and proper.

Dated: July 2, 2020

JUSTICE LAW CORPORATION

By:

Douglas Han
Shunt Tatavos-Gharajeh
Phillip Song
Attorneys for Plaintiffs

EXHIBIT 1

April 20, 2020

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: BAY EQUITY LLC

Dear Representative:

We have been retained to represent Leah Brown against Bay Equity LLC (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "BAY EQUITY").

Ms. Brown is pursuing her California Labor Code sections 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Ms. Brown may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Bay Equity, LLC is a California limited liability company located at 770 Tamalpais Drive, Suite 207, Corte Madera California 94925.

BAY EQUITY employed Ms. Brown as an hourly-paid non-exempt Closer within one year of the date of this letter (until in or about April of 2020) in the State of California. BAY EQUITY directly controlled the wages, hours and working conditions of Ms. Brown's employment.

The "aggrieved employees" that Ms. Brown may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies or labor contractors) of BAY EQUITY within the State of California.

¹ Ms. Brown does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Ms. Brown will amend this notice when the true names and capacities are known. Ms. Brown is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Ms. Brown and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

BAY EQUITY failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Ms. Brown has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at BAY EQUITY, regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

BAY EQUITY has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Ms. Brown and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. BAY EQUITY failed to compensate aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift and during meal breaks. BAY EQUITY also failed to include non-discretionary bonuses and commissions in Ms. Brown and other aggrieved employees' regular rate of pay for purposes of overtime compensation. Therefore, Ms. Brown and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, BAY EQUITY routinely required Ms. Brown and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with BAY EQUITY policies and expectations, and meet production goals. Further, BAY EQUITY failed to authorize and permit Ms. Brown and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, BAY EQUITY failed to compensate Ms. Brown and other aggrieved employees all the premium wages they were owed.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, BAY EQUITY failed to pay Ms. Brown and other aggrieved employees all wages, including for uncompensated off-the-clock work and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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. During the relevant time period, BAY EQUITY failed to pay Ms. Brown and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204.

///

///

///

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, BAY EQUITY did not provide Ms. Brown and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from BAY EQUITY were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Ms. Brown and other aggrieved employees, (2) total hours worked by Ms. Brown and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Ms. Brown and other aggrieved employees (4) all deductions for Ms. Brown and other aggrieved employees, (5) net wages earned by Ms. Brown and other aggrieved employees, (6) the inclusive dates of the period for which Ms. Brown and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Ms. Brown and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any 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. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Ms. Brown and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to 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. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, BAY EQUITY failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Ms. Brown and other aggrieved employees.

///

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, BAY EQUITY did not provide Ms. Brown and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by BAY EQUITY, including for using their personal cellular phones and vehicles for work purposes, purchasing promotional and marketing material, and for licensing fees and costs.

We believe that Ms. Brown and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Ms. Brown will seek these penalties and wages on her own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of BAY EQUITY within one year of the date of this letter, as allowed by law.

///

LWDA
April 20, 2020
Page 6 of 6

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a long horizontal stroke extending to the right.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only)

C T Corporation System
c/o Bay Equity LLC
818 West Seventh Street, Suite 930
Los Angeles, California 90017
Agent for Service of Process for c/o Bay Equity LLC

CC: (By Electronic Mail)

John R. Carrigan Jr.
jcarrigan@cozen.com
COZEN O'CONNOR
Counsel of Record for Bay Equity LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is arivera@justicelawcorp.com

On July 8, 20, I served the foregoing document described as

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

for the following case: **Bay Equity, LLC**
LWDA/Court Case No.: **LWDA-CM-783756-20**
CIV1903376
Marin County Superior Court

on interested parties in this action by electronically submitting as follows:

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

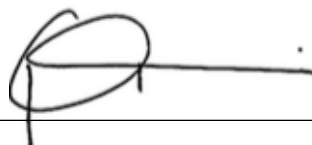
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 8, 2020, at Pasadena, California.



Allana Rivera