

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Steven Kleinfeld

Kevin Mahoney, Esq. (SBN: 235367)
kmahoney@mahoney-law.net
Anna Salusky Mahoney (SBN: 222484)
amahoney@mahoney-law.net
Lilit Tunyan (SBN: 329351)
ltunyan@mahoney-law.net
MAHONEY LAW GROUP, APC
249 E. Ocean Blvd., Ste. 814,
Long Beach, CA 90802
Telephone: (562) 590-5550
Facsimile: (562) 590-8400

Attorneys for Plaintiff KIMBERLY SCHNEIDER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF LOS ANGELES

KIMBERLY SCHNEIDER,

Plaintiff,

v.

NG IMPORTS dba MILANO
COLLECTION WIGS; and DOES 1 through
50, inclusive,

Defendants.

Case No.: **20STCV31332**

COMPLAINT FOR DAMAGES

1. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Failure to Pay All Wages;
2. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Failure to provide Rest Periods;
4. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Failure to Provide Accurate Itemized Wage Statements;
5. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Failure to Pay Wages Due upon Termination of Employment; and
6. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Failure to Indemnify for Expenditures or Losses in Discharge of Duties.

1 Plaintiff KIMBERLY SCHNEIDER (“Plaintiff”) on behalf of herself and all others
2 similarly situated, complain and alleges as follows:

3 **INTRODUCTION**

4 1. This is a representative action brought on behalf of Plaintiff, individually, and on
5 behalf of all non-exempt hourly-paid employees throughout California employed by Defendant
6 NG IMPORTS dba MILANO COLLECTION WIGS during the Relevant Time Period
7 (“Aggrieved Employees”). The Relevant Time Period is defined as one year prior to the filing
8 of Plaintiff’s notice of Labor Code violations with the Labor Workforce and Development
9 Agency (“LWDA”) and certified mailing of said notice to Defendant to the resolution of the
10 action (“Relevant Time Period”). Plaintiff reserves the right to amend this complaint to reflect a
11 different “Relevant Time Period” or modify the definition of “Aggrieved Employees” as further
12 discovery is conducted.

13 2. Plaintiff, individually, and on behalf of the Aggrieved Employees she seeks to
14 represent, seeks relief against Defendants NG IMPORTS DBA MILANO COLLECTION
15 WIGS (“Defendant”), and DOES 1 through 50, inclusive (collectively “Defendants”) for: (1)
16 failure to pay all wages (including minimum, regular, and overtime wages); (2) failure to
17 provide meal and rest periods or compensation in lieu thereof; (3) failure to pay all wages due
18 upon separation of employment to terminated or resigned employees; (4) failure to provide
19 accurate itemized wage statements; and (5) failure to reimburse for necessary expenditures.

20 3. Plaintiff seeks penalties pursuant to Labor Code section 2698 et seq., the Private
21 Attorneys General Act of 2004 (hereinafter “PAGA”) in connection with Defendants’ Labor
22 Code violations.

23 4. At all relevant times herein, Defendant consistently maintained and enforced
24 against Plaintiff and Aggrieved Employees the following unlawful practices and policies: (a)
25 willfully refusing to pay for all hours worked, including minimum, regular, and overtime wages;
26 (b) failing to provide meal and/or rest periods or compensation in lieu thereof; (c) willfully
27 refusing to pay wages due and owing upon separation of employment; (d) willfully refusing to
28 furnish accurate itemized wage statements upon payment of wages; and (e) willfully failing to

1 reimburse business expenses.

2 **JURISDICTION AND VENUE**

3 5. This Court has subject matter jurisdiction over the causes of action alleged in this
4 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
5 excluded from exercising subject matter jurisdiction over said causes of action.

6 6. Venue is proper in this judicial district and the County of Los Angeles, because
7 Defendant maintains their locations and transact business in this county, the obligations and
8 liability arise in this county, and work was performed by Plaintiff in this county.

9 7. The California Superior Court has jurisdiction over this matter because the
10 individual claims are under the seventy-five-thousand-dollar (\$75,000.00) jurisdictional
11 threshold for federal court and this action seeks recovery of civil penalties, among other things.
12 Upon information and belief, Plaintiff is a citizen of the State of California and Defendant is
13 doing business in the State of California.

14 8. Further, there is no federal question at issue as the issues herein are based solely
15 on California statutes and law, including the Labor Code, Industrial Welfare Commission
16 (IWC) Wage Orders, Code of Civil Procedure, and Rules of Court.

17 **THE PARTIES**

18 **A. The Plaintiff**

19 9. Plaintiff, at relevant times herein, was an employee of Defendant and entitled to
20 compensation for all hours worked, including minimum, regular, and overtime wages, and
21 penalties from Defendant. Plaintiff began her employment with Defendant on or around
22 September 2017 and terminated her employment on or around March 6, 2020. Plaintiff was
23 employed by the Defendant during the relevant time period and was a non-exempt, hourly-paid
24 employee. Each of the Aggrieved Employees are identifiable, current and/or formerly similarly
25 situated persons who is and was employed by Defendant as non-exempt, hourly-paid employees
26 in the state of California during the relevant time period.

27 ///

28 ///

1 **B. The Defendants**

2 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant is a
3 California corporation that is a manufacturer of hair wigs, and employed Plaintiff. On
4 information and belief, and based thereon, Plaintiff alleges that Defendant is conducting
5 business in good standing in California and Defendant's primary place of business is 1450 E
6 33rd Street, Signal Hill, California 90755. Defendant is and/or was the employer of Plaintiff and
7 Aggrieved Employees during the Relevant Time Period, as defined in and subject to the
8 California Labor Code and Industrial Welfare Commission ("IWC") Wage Orders, whose
9 employees are and were employed throughout this county and the state of California.

10 11. Plaintiff is ignorant of the true names, capacities, relationships and extent of
11 participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through
12 50, inclusive, but on information and belief alleges that said Defendants are legally responsible
13 in some manner for the unlawful acts referred to herein, and therefore sues these Defendants by
14 such fictitious names. Plaintiff will amend this Complaint to allege the true names and
15 capacities of the DOE Defendants when ascertained.

16 12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
17 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
18 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
19 Defendant legally attributable to the other Defendants.

20 13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
21 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
22 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
23 below was acting, at least in part, within the course and scope of that authority as such agent,
24 proxy, servant, partner, joint venture, single enterprise, joint employer employee, alter-ego,
25 managing agent, and/or principal with the permission and consent of the co-Defendants.
26 Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendants.

27 ///

28 ///

1 14. Plaintiff is informed and believes, and based thereon alleges, that each of the
2 Defendants sued herein was, at all relevant times hereto, the employer, owner, shareholder,
3 principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing
4 agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in
5 part, within the course and scope of such employment and agency, with the express and implied
6 permission, consent and knowledge, approval and/or ratification of the other Defendants. The
7 above co-Defendants, managing agents, and supervisors aided, abetted, condoned, permitted,
8 approved, authorized and/or ratified the unlawful acts described herein.

9 **ADMINISTRATIVE PREREQUISITES**

10 15. By this complaint, Plaintiff brings this case as a representative action seeking
11 penalties for the State of California in a representative capacity, as provided by the Private
12 Attorneys General Act, Labor Code section 2698 et seq. ("PAGA"), as an aggrieved employee
13 who was employed by Defendant because she was employed by the alleged violators and had
14 one or more of the alleged violations committed against her, and therefore is properly suited to
15 represent the interests of all other aggrieved employees.

16 16. Prior to filing this complaint, on April 13, 2020, Plaintiff gave written notice by
17 certified mail to the Labor and Workforce Development Agency ("LWDA") (LWDA Case No.
18 LWDA-CM-782869-20) and to Defendant of the specified provisions alleged to have been
19 violated, including the facts and theories to support the alleged violation as required by Labor
20 Code section 2699.3. A true and correct copy of Plaintiff's letter sent to the LWDA, dated April
21 13, 2020, is attached hereto as Exhibit A.

22 17. More than sixty-five (65) days have passed since Plaintiff submitted notice to the
23 LWDA and Defendant of the specific alleged Labor Code violations and the LWDA has not
24 provided notice to Plaintiff of its intent to investigate such alleged violations. Plaintiff further
25 has received no notice of Defendant's intent to cure any of the alleged violations. Therefore,
26 Plaintiff has satisfied the administrative prerequisites for filing this action.

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

19. During all, or a portion of the Relevant Time Period, Plaintiff and Aggrieved Employees were employed by Defendant and each of them, in the State of California. Plaintiff and each of the Aggrieved Employees were non-exempt employees covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and Labor Code section 510, and/or other applicable wage orders, regulations and statutes, and each Aggrieved Employee was not subject to an exemption for salespersons, executive, administrative and professional employees, which imposed obligations on the part of the Defendant to pay Plaintiff and Aggrieved Employees lawful overtime compensation including overtime at the proper rate. Plaintiff and Aggrieved Employees were covered by one or more Industrial Welfare Commission (IWC) Wage Orders, and Labor Code section 226.7 and other applicable wage orders, regulations and statutes which imposed an obligation on the part of the Defendant to pay Plaintiff and Aggrieved Employees rest and meal period compensation.

21. During the Relevant Time Period, Defendant was obligated to pay Plaintiff and Aggrieved Employees minimum wages for all regular hours worked in violation of Labor Code section 1197. Plaintiff is informed and believes and based thereon alleges that Defendant instituted a policy and practice against its employees wherein regular and overtime wages due were not paid in compliance with California law. Plaintiff and Aggrieved Employees were paid by Defendant on a blend of hourly, piece-rate, and commission pay basis depending on the time period of work. Specifically, Defendant paid Plaintiff and Aggrieved Employees \$5.00 per hour

1 plus commissions or plus commissions and piece rate. During the course of Plaintiff's
2 employment with Defendant, Plaintiff and Aggrieved employees regularly worked in excess of
3 eight (8) hours per day, but were routinely not paid for all hours worked. Often times Plaintiff
4 and Aggrieved employees worked over eight (8) hours in one day, but were not paid at the
5 proper overtime rate of pay, specifically employees were not paid at an hourly rate while they
6 replied to emails, answered calls from Defendant while off-the-clock. Plaintiff and Aggrieved
7 employees were not compensated an hourly rate or commission for performing other tasks such
8 as replying to emails, answering calls from Defendant. Defendant failed to compensate for rest
9 and recovery periods and other non-productive time separate from piece-rate compensation.
10 Further, Plaintiff and Aggrieved Employees regularly worked through meal and rest breaks to
11 attend to patrons, provide consultations, and attend to completing wigs, and were not paid the
12 legally mandated regular or overtime wages for the hours they worked. Thus, Plaintiff and
13 Aggrieved Employees did not receive timely uninterrupted meal and rest periods and were not
14 compensated with premium wages for non-compliant meal and/or rest periods. Plaintiff and
15 Aggrieved Employees were harmed by Defendant's failure to pay all minimum and overtime
16 wages

17 22. During the Relevant Time Period, Defendant was obligated to pay Plaintiff and
18 Aggrieved Employees overtime compensation for all hours worked over eight (8) hours of work
19 in one (1) day or forty (40) hours in one (1) week.

20 23. During the Relevant Time Period, Defendant was obligated to provide Plaintiff
21 and Aggrieved Employees with a work free meal and/or on-duty meal periods, as well as rest
22 period(s). Defendant routinely denied Plaintiff and Aggrieved Employees a full, thirty (30)
23 minute, off-duty meal period when they worked in excess of six (6) hours within the first five
24 (5) hours of their shifts. On information and belief, neither Plaintiff nor Aggrieved Employees
25 waived their lawful meal periods or received compensation from Defendant for their missed
26 meal periods.

27 24. Plaintiff and each Aggrieved Employee primarily performed non-exempt work in
28 excess of the maximum regular rate hours set by the IWC in the applicable Wage Orders,

1 regulations or statutes, and therefore entitled the Plaintiff and Aggrieved Employees to overtime
2 compensation at time and a half rate, and when applicable, double time rates as set forth by the
3 applicable Wage Orders, regulations and/or statutes.

4 25. Aggrieved Employees who ended their employment during the Relevant Time
5 Period but were not timely paid the above due compensation for all hours worked, including
6 minimum wage for regular hours, overtime compensation including overtime at the proper rates,
7 regular pay, reporting time pay, piece rate units earned, and commissions upon the termination
8 of their employment as required by Labor Code sections 201, 202, and 203 are entitled to
9 penalties as provided by Labor Code section 203.

10 26. During the Relevant Time Period, Defendant required Plaintiff and Aggrieved
11 Employees to work off the clock and work beyond the eight hour of their shift without lawful
12 compensation in violation of the various applicable Wage Orders, regulations and statutes, and
13 the Defendant: (1) willfully failed and refused, and continue to fail and refuse to pay
14 compensation for all hours worked, including minimum wage, lawful overtime compensation
15 including overtime at the proper rate, regular pay to Plaintiff and Aggrieved Employees; and (2)
16 willfully failed and refused, and continue to fail and refuse to pay due and owing wages
17 promptly upon termination of employment to Plaintiff and Aggrieved Employees.

18 27. During the Relevant Time Period, Defendant failed and/or refused to schedule
19 Plaintiff and Aggrieved Employees in a manner so as to reasonably provide meal and/or rest
20 breaks and/or shift relief for Plaintiff and Aggrieved Employees, thereby causing Plaintiff and
21 Aggrieved Employees to work without being given paid ten (10) minute rest periods for every
22 four (4) hours or major fraction thereof worked and without being given a thirty (30) minute
23 meal period for shifts of at least five (5) hours and second thirty (30) minute meal periods for
24 shifts of at least ten (10) hours during which Plaintiff and Aggrieved Employees were relieved
25 of all duties and free to leave the premises. Defendant further failed and/or refused to schedule
26 Plaintiff and Aggrieved Employees in a manner so as to reasonably ensure meal and/or rest
27 breaks were taken within the required statutory time frame as required by law. Furthermore,
28 Defendant failed and/or refused to pay any Plaintiff and Aggrieved Employees one (1) hour's

1 pay at the employees' regular rate of pay as premium compensation for failure to provide rest
2 and/or meal periods or to providing such rest and/or meal periods within the statutory time
3 frame as a result of their scheduling policy and work demands. Accordingly, Defendant
4 violated Labor Code sections 226.7, 512, and the applicable Wage Order.

5 28. As a result of Defendant's aforementioned failure to pay all wages to Plaintiff
6 and Aggrieved Employees, among other things, Defendant failed to maintain accurate payroll
7 records showing the accurate number of hours worked, rate of pay for each hour worked,
8 premium wages earned, rest and recovery period compensation and accurate gross and net
9 wages paid in violation of Labor Code sections 226, 1174, and 1174.5.

10 29. Plaintiff and Aggrieved Employees who ended their employment during the
11 Relevant Time Period but were not paid the above due compensation or premium compensation
12 timely upon the termination of their employment as required by Labor Code sections 201 and
13 202, are entitled to penalties as provided by Labor Code section 203.

14 30. Defendant further failed to reimburse Plaintiff and Aggrieved Employees for
15 business expenses. Specifically, but not limited to, Defendant obligated Plaintiff and Aggrieved
16 Employees to use their personal cellphones to provide Defendant's clients consultations via
17 calls, texts or emails as well as use their personal vehicles to drive between Defendant's
18 locations without any reimbursement or stipend in violation of Labor Code section 2802.

19 **FIRST CAUSE OF ACTION**

20 **Violation of PAGA for Failure to Pay All Wages**

21 **(Against Defendant, DOES 1 through 50, and each of them)**

22 31. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
23 preceding paragraphs of this Complaint as if fully set forth herein.

24 32. Any employee receiving less than the legal minimum wage or legal overtime
25 compensation is entitled to recover in a civil action the amount of unpaid wages, attorneys'
26 fees, and costs of suit. (Labor Code section 1194, subd. (a).)

27 33. Labor Code section 1182.12 provides that from January 1, 2019, to December
28 31, 2019, inclusive, the minimum wage for all industries shall not be less than eleven dollars

1 (\$11.00) per hour, and from January 1, 2020, to December 31, 2020, inclusive, the minimum
2 wage for all industries shall not be less than twelve dollars (\$12.00) per hour. For employers
3 who employed 26 or more people from January 1, 2019 to December 31, 2019, the minimum
4 wage rate in California was twelve dollars (\$12.00) per hour., and from January 1, 2020 to
5 December 31, 2020, the minimum wage rate in California was thirteen dollars (\$13.00) per
6 hour.

7 34. Notwithstanding any other provision of the Labor Code, hourly minimum wage
8 rates are set for all industries according to statute. (Lab. Code § 1182.12.) Employers must pay
9 employees no less than minimum wage for each hour worked. (Lab. Code § 1194.)

10 35. In any action to recover payment of wages less than the minimum wage an
11 employee shall be entitled to recover liquidated damages in an amount equal to the wages
12 unlawfully unpaid and interest thereon. (Lab. Code § 1194.2.)

13 36. Any work in excess of eight (8) hours in any workday and any work in excess
14 of forty (40) hours in a workweek, shall be compensated at a rate of no less than one and one-
15 half times the regular rate of pay for an employee. (Lab. Code § 510, subd. (a).) Any work in
16 excess of twelve (12) hours in a workday shall be compensated at the rate of twice the regular
17 rate of pay for an employee. (Lab. Code § 510, subd. (a).)

18 37. All wages earned in employment are due and payable twice during each
19 calendar month on dates designated in advance by the employer. (Lab. Code § 204.)

20 38. In case of a dispute over wages, the employer shall pay, without condition and
21 promptly under the Labor Code all wages conceded due, leaving to the employee all remedies
22 he/she is otherwise entitled to as to any balance claimed. (Lab. Code § 206.)

23 39. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per
24 day and forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees
25 minimum wage for all hours worked and overtime premium for hours worked in excess of over
26 eight (8) hours per day and/or forty (40) hours per week for work performed for the Defendant.
27 Defendant failed to compensate for rest and recovery periods and other non-productive time
28 separate from piece-rate compensation. Defendant failed to pay Plaintiff and Aggrieved

1 Employees overtime premium for hours worked in excess of eight (8) hours per day and forty
2 (40) hours per week for work performed for Defendant. Defendant maintained a uniform
3 practice of requiring Plaintiff and the Aggrieved Employees to work off-the-clock performing
4 tasks not directly related to the making of wigs such as replying to emails, answering calls from
5 Defendant. Further, Plaintiff and Aggrieved Employees regularly worked through meal and rest
6 breaks to attend to patrons, provide consultations, and attend to completing wigs, and were not
7 paid the legally mandated regular or overtime wages for the hours they worked. As such,
8 Plaintiff and Aggrieved Employees seek overtime in an amount according to proof, which they
9 earned and accrued one (1) year prior to filing this complaint, according to proof, as part of the
10 civil penalty pursuant to Labor Code section 558, subdivision (a).

11 40. Further, Defendant has regularly violated the Labor Code with respect to
12 meeting the requirements of paying wages earned, by failing to include all remuneration when
13 calculating the Plaintiff and Plaintiff Class' regular rate of pay for purposes of paying overtime
14 and/or double time.

15 41. Since the LWDA has not indicated that it will be investigating and more than 65
16 days have passed since Plaintiff mailed her letter, and because Defendants took no corrective
17 action to remedy the allegations set forth above, Plaintiff, as a representative of the people of
18 the State of California, will seek any and all penalties otherwise capable of being collected by
19 the Labor Commission, the LWDA and/or the Department of Labor Standards Enforcement
20 ("DLSE"). This includes, but is not limited to, each of the following, as set forth in Labor Code
21 section 2699.5, which provides that section 2699.3, subdivision (a) applies to any alleged
22 violation of the following provisions: 204, 206, 510, 1182.12, 1194, 1194.2 and 1197.

23 42. Plaintiff is informed and believes that Defendants have violated and continue to
24 violate provisions of the California Labor Code and applicable Wage Orders related to the
25 payment of wages.

26 43. Plaintiff, as a personal representative of the general public, will and does seek to
27 recover any and all penalties for each and every violation shown to exist or to have occurred
28 during the Relevant Time Period, in an amount according to proof, as to those penalties that are

otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least 75% of the penalties recovered being reimbursed to the LWDA.

44. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 1194, and prejudgment interest.

SECOND CAUSE OF ACTION

Violation of PAGA for Failure to Provide Meal Periods or Compensation in Lieu Thereof (Labor Code sections 226.7 and 512)

(Against Defendant, DOES 1 through 50, and each of them)

45. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this Complaint as if fully set forth herein.

46. Labor Code sections 226.7 and 512, provides that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than 30 minutes or employ any person for a work period of more than 10 hours without a second meal period of not less than 30 minutes.

47. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section.

48. Defendants, and each of them, failed to make available timely off-duty meal periods to the Plaintiff and Aggrieved Employees. Plaintiff and Aggrieved Employees could not take and/or receive such meal periods within the statutory timeframe and were required to continue working during meal periods. Plaintiff and Aggrieved Employees were often forced to forego meal periods, have them interrupted, and/or shortened. In so doing, Defendants have intentionally and improperly denied meal periods to Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7, 512, the applicable Wage Order, and other regulations and statutes.

1 49. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked
2 more than five (5) hours in a workday.

3 50. By virtue of the Defendants' failure to make available meal periods in
4 accordance with the applicable Wage Order and Labor Codes, Defendants have caused Plaintiff
5 and Aggrieved Employees to suffer, and continue to suffer damages in the amounts which are
6 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
7 ascertained according to proof at trial.

8 51. Plaintiff, individually, and on behalf of the Aggrieved Employees, requests
9 recovery of meal period compensation pursuant to Labor Code section 226.7 which they are
10 owed during the Relevant Time Period as well as the assessment of any statutory penalties
11 against these Defendants, and each of them, in a sum as provided by the Labor Code and/or
12 other statutes.

13 52. Since the LWDA has not indicated that it will be investigating and 65 days have
14 passed since Plaintiff mailed his letter, and because Defendants took no corrective action to
15 remedy the allegations set forth above, Plaintiff, as a representative of the people of the State
16 of California, will seek any and all penalties otherwise capable of being collected by the Labor
17 Commission, the LWDA and/or the Department of Labor Standards Enforcement ("DLSE").
18 This includes, but is not limited to, each of the following, as set forth in Labor Code section
19 2699.5, which provides that section 2699.3 subdivision (a) applies to any alleged violation of
20 the following provisions: 226.7, 510, 512, and 1194.

21 53. Plaintiff is informed and believes that Defendants have violated and continues to
22 violate provisions of the Labor Code and applicable Wage Orders related to the meal period
23 violations.

24 54. Plaintiff, as a personal representative of the general public, will and does seek to
25 recover any and all penalties for each and every violation shown to exist or to have occurred
26 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
27 otherwise only available to public agency enforcement actions. Funds recovered will be
28 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being

1 reimbursed to the LWDA.

2 55. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
3 and costs pursuant to Labor Code sections 2699, subdivision (g)(1), and prejudgment interest.

4 **THIRD CAUSE OF ACTION**

5 **Violation of PAGA for Failure to Provide Rest Period or Compensation in Lieu Thereof**
6 **(Labor Code sections 226.7 and 512)**

7 **(Against Defendant, DOES 1 through 50, and each of them)**

8 56. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
9 preceding paragraphs of this complaint as if fully set forth herein.

10 57. Labor Code section 226.7 provides that employers authorize and permit all
11 employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

12 58. Labor Code section 226.7, subdivision (b) provides that if an employer fails to
13 provide an employee rest periods in accordance with this section, the employer shall pay the
14 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
15 that the rest period is not provided.

16 59. Defendants, and each of them, failed and or refused to implement a relief system
17 by which Plaintiff and Aggrieved Employees could receive proper rest periods. Defendants
18 denied Plaintiff and Aggrieved Employees duty free rest periods by denying rest periods
19 altogether, having them shortened, and/or interrupted. By and through their actions, Defendants
20 intentionally and improperly denied rest periods to the Plaintiff and Aggrieved Employees in
21 violation of Labor Code sections 226.7 and 512.

22 60. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked
23 more than four (4) hours in a workday.

24 61. By virtue of the Defendants' unlawful failure to provide rest periods to Plaintiff
25 and Aggrieved Employees as a result of their scheduling, workload, and shift relief system,
26 Plaintiff and Aggrieved Employees have suffered, and will continue to suffer, damages, in
27 amounts which are presently unknown, but which exceed the jurisdictional limits of this Court
28 and which will be ascertained according to proof at trial.

1 62. Plaintiff by virtue of his employment with Defendants, Defendants' failure to
2 provide Plaintiff and Aggrieved Employees with proper rest breaks, and Defendants' policy of
3 requiring employees to work through their rest periods without receiving compensation in lieu
4 thereof, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
5 has satisfied all prerequisites to serve as a representative of the general public to enforce
6 California's labor laws, and the penalty provisions identified in Labor Code section 2699.5.

7 63. Plaintiff, as a representative of the people of the State of California, will seek any
8 and all penalties otherwise capable of being collected by the Labor Commission, the LWDA
9 and/or the DLSE. This includes, but is not limited to, each of the following, as set forth in Labor
10 Code section 2699.5, which provides that section 2699.3, subdivision (a) applies to any alleged
11 violation of the following provisions: 226.7 and 512.

12 64. Plaintiff, as a personal representative of the general public, will and does seek to
13 recover any and all penalties for each and every violation shown to exist or to have occurred
14 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
15 otherwise only available to public agency enforcement actions. Funds recovered will be
16 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
17 reimbursed to the LWDA.

18 65. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
19 and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

20 **FOURTH CAUSE OF ACTION**

21 **Violation of PAGA for Failure to Provide Accurate Wage Statements**

22 **(Labor Code sections 1174, 1174.5, and 226)**

23 **(Against Defendant, DOES 1 through 50, and each of them)**

24 66. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
25 preceding paragraphs of this complaint as if fully set forth herein.

26 67. Labor Code section 226, subdivision (a) states in pertinent part that, "every
27 employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her
28 employees, either as a detachable part of the check, draft, or voucher paying the employee's

1 wages, or separately when wages are paid by personal check or cash, an accurate itemized
2 statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee .
3 . . . ; (3) the number of piece-rate units earned . . . ; (4) all deductions . . . ; (5) net wages; (6) the
4 inclusive dates of the period for which the employee is paid; (7) the name of the employee and
5 only the last four digits of his or her social security number or an employee identification
6 number other than a social security number; (8) the name and address of the legal entity that is
7 the employer . . . ; and (9) all applicable hourly rates in effect during the pay period and
8 corresponding number of hours worked at each hourly rate by the employee...” (Labor Code
9 section 226.)

10 68. Defendants and each of them knowingly and intentionally failed to provide
11 timely, accurate itemized wage statements to Plaintiff and Aggrieved Employees in accordance
12 with Labor Code section 226, subdivision (a) by failing to record the accurate number of hours
13 worked, rate of pay for each hour worked, premium wages earned, number of piece rate units
14 paid, rate of pay for each piece rate unit paid, compensation for rest and recovery periods,
15 accurate gross and net wages paid Such failure caused injury to Plaintiff and Aggrieved
16 Employees.

17 69. Defendants’ non-compliance with Labor Code section 226 subdivision (a)
18 subject it to the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in
19 which a violation occurs and one-hundred (\$100.00) per employee for each violation in each
20 subsequent pay period, pursuant to Labor Code section 226 subdivision (e).

21 70. Plaintiff by virtue of his employment with Defendants, is an aggrieved employee
22 with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve
23 as a representative of the general public to enforce California’s labor laws, and the penalty
24 provisions identified in Labor Code section 2699.5.

25 71. Plaintiff, as a representative of the people of the state of California, will seek any
26 and all penalties otherwise capable of being collected by the Labor Commission and/or the
27 DLSE. This includes, but is not limited to, each of the following, as set forth in Labor Code
28 section 2699.5, which provides that section 2699.3, subdivision (a) applies to any alleged

violation of the following provisions: 226.

72. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least 75% of the penalties recovered being reimbursed to the LWDA.

73. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

FIFTH CAUSE OF ACTION

Violation of PAGA for Failure to Pay Wages of Terminated or Resigned Employees (Labor Code section 201, 202, & 203)

(Against Defendant, DOES 1 through 50, and each of them)

74. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

75. Plaintiff and certain members of the Aggrieved Employees who ended their employment with Defendants during the Relevant Time Period, were entitled to be promptly paid minimum wages, lawful overtime compensation including overtime at the proper rate, regular pay, reporting time, piece rate units earned, and commissions and other premiums, as required by Labor Code sections 201, 202, and 203.

76. Defendants refused and/or failed to promptly compensate Plaintiff and Aggrieved Employees wages owed as a result of Defendants' failure to provide meal and/or rest periods as well as pay including minimum wages, lawful overtime compensation including overtime at the proper rate, regular pay, reporting time, piece rate units earned, and commissions for work performed for Defendants.

77. Plaintiff by virtue of his employment with Defendants, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the

penalty provisions identified in Labor Code section 2699.5.

78. Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes, but is not limited to, each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a) applies to any alleged violation of the following provisions: 201, 202, and 203.

79. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least 75% of the penalties recovered being reimbursed to the LWDA.

80. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

SIXTH CAUSE OF ACTION

Violation of PAGA for Failure to Reimburse for Necessary Expenditures

(Labor Code section 2802)

(Against Defendant, DOES 1 through 50, and each of them)

81. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

82. Labor Code section 2802 states, "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties..."

83. Plaintiff and the Aggrieved Employees were not reimbursed by Defendants for necessary expenditures as a direct consequence of the discharge of their duties.

84. Defendants knowingly, willingly, and intentionally attempted to offset the cost of doing business on the Plaintiff and Aggrieved Employees.

///

1 85. Defendants had a practice and policy of requiring Plaintiff and Aggrieved
2 Employees to shoulder the burden of Defendants' cost of doing business by failing to reimburse
3 Plaintiff and Aggrieved Employees for necessary business expenditures. Specifically,
4 Defendant failed to reimburse Plaintiff and Aggrieved Employees for using their personal
5 cellphones to provide Defendant's clients consultations via calls, texts or emails as well as their
6 personal vehicles to drive between Defendant's locations.

7 86. Accordingly, Plaintiff and Aggrieved Employees are entitled to an award of
8 "necessary expenditures or losses" that shall include all reasonable costs, including, but not
9 limited to, attorney's fees and interest.

10 87. Plaintiff by virtue of his employment with Defendants and Defendants' policy of
11 requiring Plaintiff and Aggrieved Employees to shoulder the burden of Defendants' cost of
12 doing business by failing to reimburse him for necessary expenditures, is an aggrieved
13 employee with standing to bring an action under the PAGA. Plaintiff has satisfied all
14 prerequisites to serve as a representative of the general public to enforce California's labor
15 laws, and the penalty provisions identified in Labor Code section 2699.5.

16 88. Plaintiff, as a representative of the people of the State of California, will seek any
17 and all penalties otherwise capable of being collected by the Labor Commission and/or the
18 DLSE. This includes, but is not limited to, each of the following, as set forth in Labor Code
19 section 2699.5, which provides that section 2699.3, subdivision (a) applies to any alleged
20 violation of the following provisions: 2800 and 2802.

21 89. Plaintiff, as a personal representative of the general public, will, and does, seek
22 to recover any and all penalties for each and every violation shown to exist or to have occurred
23 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
24 otherwise only available to public agency enforcement actions. Funds recovered will be
25 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
26 reimbursed to the LWDA.

27 90. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
28 and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

- 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

1. For civil penalties for each violation for Plaintiff and each Aggrieved Employee as provided by law, including, but not limited to, those civil penalties provided by statute, provided by PAGA and for unpaid wages pursuant to Labor Code section 558;
2. For costs of suit and expenses incurred herein pursuant to Labor Code sections 2699, subdivision (g) and any other statutory basis or pursuant to the California Rules of Court;
3. For reasonable attorneys' fees pursuant to Labor Code sections 2699, subdivision (g), 2802, Code of Civil Procedure section 1021.5, and any other statutory basis, and;
4. For all such other and further relief as the Court may deem just and proper.

MAHONEY LAW GROUP, APC



Kevin Mahoney, Esq.
Anna Salusky Mahoney, Esq.
Lilit Tunyan, Esq.
Attorneys for Plaintiff KIMBERLY SCHNEIDER
and on behalf of all employees similarly situated

1
2 **DEMAND FOR JURY TRIAL**

3 Plaintiff KIMBERLY SCHNEIDER hereby demands a jury trial on all issues so triable.
4

5 Dated: August 18, 2020

MAHONEY LAW GROUP, APC

6
7 
8

9 _____
10 Kevin Mahoney, Esq.
11 Anna Saluksy Mahoney, Esq.
12 Lilit Tunyan, Esq.
13 Attorneys for Plaintiff KIMBERLY SCHNEIDER
14 and on behalf of all employees similarly situated
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A



Lilit Tunyan
ltunyan@mahoney-law.net
(562) 590-5550 phone
(562) 590-8400 facsimile

April 13, 2020

VIA ELECTRONIC FILLING

LABOR AND WORKFORCE DEVELOPMENT AGENCY
Attn: PAGA Administrator

Via Certified Mail # 7019 0700 0001 7488 6738

Return Receipt Requested

NG Imports
1450 E 33rd Street
Signal Hill, California 90755

Re: *Kimberly Schneider v. NG Imports*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 et. seq.**

To: California Labor and Workforce Development Agency and NG Imports

From: Kimberly Schneider, on behalf of herself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

I. FACTUAL STATEMENT

Please note that the firm, Mahoney Law Group, APC, represents the interests of Kimberly Schneider ("Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA"), on behalf of herself and all other aggrieved employees.

II. THEORIES OF LABOR CODE VIOLATIONS AND REMEDIES

NG Imports ("Employer") is a manufacturer of hair wigs providing their services throughout Los Angeles area and online. Employee alleges Employer violated various sections of the Labor Code, including, but not limited, to sections 201, 202, 203, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1174, 1194, 1197 and 2802 by failing to provide Employee and all other aggrieved employees all wages for all hours worked, failure to pay overtime wages, failure to authorize and permit rest periods or premium wages in lieu thereof, failure to provide meal periods or premium wages in lieu thereof, failure to provide accurate itemized wage statements,

and failure to indemnify employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

Employer failed to pay Employee and other aggrieved employees for all hours worked at the legally mandated wage rates. Employer failed to pay Employee and other aggrieved employees all legally mandated wages, including regular and overtime wages, for all work performed, in violation of California law. Specifically, Employer paid Employee and other aggrieved Employees \$5 per hour plus commissions. During the course of Employee's employment with Employer, Employee and other aggrieved employees regularly worked in excess of eight (8) hours per day, but were routinely not paid for all hours worked. Often times Employee and other aggrieved employees worked over eight (8) hours in one day, but were not paid at the proper overtime rate of pay, specifically employees were not paid at an hourly rate while they replied to emails, answered calls from Employer while off-the-clock. Employee and other aggrieved employees were not compensated an hourly rate or commission for performing other tasks such as replying to emails, answering calls from Employer. As such, Employee and other aggrieved employees were not compensated for the time worked during these periods. Employer's conduct is in violation of Labor Code sections 510, 1182.12, 1194 and 1197, and is actionable under PAGA.

Employer also failed to provide Employee and other aggrieved employees with timely uninterrupted meal and rest periods. Employer had no meal/rest break policy and did nothing to ensure client received meal or rest breaks. As a result, Employee and other aggrieved employees routinely worked through mandatory meal/rest breaks to attend to patrons, provide consultations, and attend to completing wigs. Thus, Employee and her co-workers did not receive timely uninterrupted meal and rest periods and were not compensated with premium wages for non-compliant meal and/or rest periods. Employer's conduct is in violation of Labor Code sections 226.7 and 512, and is also actionable under PAGA.

As a result of Employer's failure to pay all wages owed as described herein, Employer further failed to keep accurate payroll records and failed to provide Employee and other aggrieved employees with complete and accurate wage statements showing the actual hours worked correct premium wages earned per pay period as well as the total hours worked for the pay period. In addition, Employer failed to include Employee's and other aggrieved employees' hourly rate on their pay statements. Employer's conduct is in violation of Labor Code sections 226 and 1174, and is actionable under PAGA.

Employer also failed to indemnify Employee and aggrieved employees all necessary expenditures incurred in direct discharge of their duties. During the course of employment, Employee and her co-workers were required to incur various business expenses at their own cost, including, but not limited to the use of personal cellphone to provide Employer's clients consultations via calls, texts or emails as well as use of the personal vehicle to drive between Employer's locations. Employer failed to provide any reimbursement to Employee and other aggrieved employees for the cost of using their personal cellphone and vehicle in violation of Labor Code section 2802.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its practice and procedure of failing to pay all wages earned to former employees.

Employee will bring her lawsuit on behalf of herself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in her complaint. We look forward to your response. Please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,



Lilit Tunyan, Esq.
MAHONEY LAW GROUP, APC