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13 behalf of herself and all others similarly
14 situated

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

17 MAGGIE BLAND, on behalf of herself
18 and all others similarly situated,

19 Plaintiff,

20 v.

21 MARIN AIRPORTER, a California
22 corporation; LAWRENCE LEPORTE, an
23 individual; and DOES 1-100,

24 Defendants.

Case No.: CIV 2003640

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wage for All Hours Worked [Labor Code §§ 1194 And 1197]
2. Failure to Pay Wages for All Hours Worked at Overtime [Labor Code §§ 226.2, 510, 1194, And 1198]
3. Failure to Provide Meal Periods [Labor Code §§ 512 and 226.7]
4. Failure to Authorize or Permit Rest Periods [Labor Code § 226.7]
5. Failure to Provide Adequate Seating [IWC Wage Orders]
6. Failure to Provide Sick Time
7. Failure to Provide Complete and Accurate Wage Statements [Labor Code § 226]
8. Failure to Pay All Wages Timely Upon Separation of Employment [Labor Code §§ 201, 202, And 203]
9. Unfair Business Practices [Bus. & Prof. Code §§ 17200, Et Seq.]
10. Violation of the Private Attorneys General Act [Labor Code §§ 2698, et

25 FAXED

seq.]
DEMAND FOR JURY TRIAL

GENERAL ALLEGATIONS

1. Plaintiff MAGGIE BLAND (“Plaintiff”) is an individual residing in the State of California. Plaintiff and the Class Members, as set forth below, are all current and former non-exempt employees employed by Defendants in the State of California, at any time beginning four years before the filing of this Complaint (the “Class Period”).

2. Defendant MARIN AIRPORTER is a California corporation, that, at all relevant times, was authorized to do business within the State of California and is doing business in the State of California.

3. Defendant LAWRENCE LEPORTE is an individual residing in the State of California and is, and at all relevant times has been, the CEO of Defendants MARIN AIRPORTER, and had direct control and power over the working conditions and the violations at issue in this Complaint (LAWRENCE LEPORTE and MARIN AIRPORTER. are collectively referred to herein as “Defendants”).

4. On information and belief, Defendants LAWRENCE LEPORTE devised and implemented the policies at issue in this complaint and “caused” these violations as that term is used in Labor Code §§ 558 and 1197.1. Pursuant to Labor code §§558 and 1197.1, LAWRENCE LEPORTE is liable as a person who “caused” the violations to occur.

5. Plaintiff is unaware of the names and capacities of those Defendants sued as DOES 1 through 100 but will amend this complaint when that information becomes known. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each of the defendants, including the DOE defendants, was the officer, director, employee, agent, representative, alter ego, or co-conspirator of each of the other defendants, and in engaging in the conduct alleged herein, was acting in the course and scope of, and in furtherance of, such relationship. Unless otherwise specified, Plaintiff will refer to all Defendants as “Defendants,” and each allegation pertains to each Defendants.

1 6. This Court has jurisdiction over the claims asserted herein as Plaintiff was
2 employed in this County for Defendants and Defendants operate its business within this County.

3 7. Plaintiff is informed and believes, and based thereupon alleges, that at all times
4 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,
5 supervisors, coconspirators, parent corporation, joint employers, alter egos, successors, and/or
6 joint ventures of the other Defendants, and each of them, and in doing the things alleged herein,
7 were acting at least in part within the course and scope of said agency, employment, conspiracy,
8 joint employer, alter ego status, successor status and/or joint venture and with the permission and
9 consent of each of the other Defendants.

10 8. Plaintiff is informed and believes, and based thereupon alleges, that Defendants,
11 and each of them, including those defendants named as DOES 1-20, acted in concert with one
12 another to commit the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or
13 coerced one another in the wrongful acts alleged herein, and/or attempted to do so, including
14 pursuant to Government Code §12940 (i). Plaintiff is further informed and believes, and based
15 thereupon alleges, that Defendants, and each of them, including those defendants named as DOES
16 1-20 and each of them, formed and executed a conspiracy or common plan pursuant to which they
17 would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of
18 and pursuant to said conspiracy, intended to cause and actually causing Plaintiff harm.

19 9. Whenever and wherever reference is made in this complaint to any act or failure to
20 act by a Defendants or co-Defendants, such allegations and references shall also be deemed to
21 mean the acts and/or failures to act by each Defendants acting individually, jointly and severally.

22 **JURISDICTION AND VENUE**

23 10. This Court has jurisdiction over the claims asserted herein as Plaintiff was
24 employed in this County by Defendants and Defendants operate its business within this County.

25 **FACTUAL BACKGROUND**

26 11. Plaintiff resides in the County of Marin. Plaintiff worked for Defendants as a non-
27 exempt employee with a job title of cashier from approximately October 2019 through November
28 2019. During the Class Period, Defendants employed the Class Members, including Plaintiff, on

1 an hourly basis.

2 12. During the Class Period, Plaintiff and the Class Members were required to work by
3 themselves without relief from another employee. This policy and practice of requiring Plaintiff
4 and the Class Members to work through their shift without relief lead to an undercounting of
5 Plaintiff and the Class Member's total hours worked. Defendants used a rounding system that, as
6 applied, worked to detrimentally shave and round time off from Plaintiff and Class Member's
7 workdays. Plaintiff alleges on information and belief that through the operation of Defendants'
8 rounding system, Plaintiff and the Class Members would systematically be deprived of
9 compensable time because the time recording system implemented by Defendants would almost
10 always, if not always, understate actual compensable work time due to the rounding. This time
11 shaving, implemented by and through Defendants' unlawful rounding policies and/or procedures,
12 resulted in not only time recordkeeping violations but also violations of California's minimum and
13 overtime wage laws.

14 13. Besides Defendants' practice of rounding Plaintiff's and the Class Members' total
15 hours worked, Defendants maintained a practice of paying Plaintiff and the Class Members only
16 for their scheduled hours, not total hours worked. Plaintiff and the Class Members would
17 systematically be deprived of compensable time because the system implemented by Defendants
18 would almost always, if not always, understate actual compensable work time due to only
19 counting time scheduled to work, not actual hours worked, by Plaintiff and Class Members. This
20 systemic undercounting resulted in not only time recordkeeping violations but also violations of
21 California's minimum and overtime wage laws.

22 14. Due to the pressures from the job, understaffing and the lack of relief workers
23 availability, commentary from superiors, among other reasons, throughout Plaintiff's and the
24 Class Members' employment, Plaintiff and the Class Members were not permitted to, and not
25 advised of their right to take statutory 10-minute rest breaks for every four hours worked or major
26 fraction thereof. Defendants had no policy, procedure, or practice for Plaintiff and the Class
27 Members to report missed rest breaks, and Defendants had no policy, procedure, or practice to
28 provide one hour of rest premiums for each workday that the rest break was not provided.

1 Defendants also required Plaintiff and the Class Members to remain on-duty, on the premises
2 during rest breaks received, and Plaintiff never received a one hour premium for these on-duty rest
3 periods.

4 15. Defendants regularly scheduled Plaintiff to work four shifts per workweek each
5 lasting ten hours. Defendants did not pay Plaintiff overtime and double time wages during these
6 shifts for any work performed in excess of eight hours. Defendants failed to properly adopt an
7 alternative workweek election pursuant to Labor Code §511 and the IWC Wage Order(s)
8 applicable to these shifts, and as a result, Defendants significantly underpaid Plaintiff his overtime
9 wages owed.

10 16. Due to the pressures from the job, understaffing and the lack of relief workers
11 availability, commentary from superiors, among other reasons, throughout Plaintiff's and the
12 Class Members' employment, Plaintiff and the Class Members did not receive timely,
13 uninterrupted statutory 30-minute meal periods for days on which they worked at least 5 hours,
14 and did not receive a timely, second 30-minute meal period for shifts in excess of 10 hours.
15 Defendants also required Plaintiff and the Class Members to remain on-duty, on the premises
16 during many meal breaks received, and they never received a one hour premium for these on-duty
17 meal periods.

18 17. Upon information and belief, during the Class Period, Defendants routinely failed
19 to maintain records showing accurate and complete records if and when meal periods were taken,
20 as well as accurate and complete start and stop times for shifts. As a result, during the Class
21 Period, Defendants failed to maintain time records as required by California Labor Code Sections
22 1174, 1174.5, 1199, and the pertinent wage order.

23 18. During the Class Period, Plaintiff and the Class Members regularly had to remain
24 on duty during meal breaks on many occasions because of pressure from supervisors and lack of
25 relief.

26 19. During the Class Period, Defendants failed to provide Plaintiff and the Class
27 Members with accurate, itemized wage statements in compliance with California law. As a result
28 of Defendants' failure to pay Plaintiff for all hours worked and compensate him one hour

1 premiums for missed, late, interrupted or on-duty breaks, Defendants' wage statements completely
2 failed to accurately and properly itemize total hours worked, gross and net pay, and all applicable
3 hourly rates in effect.

4 20. As a result of Defendants' failure to pay Plaintiff and the Class Members for all
5 hours worked and compensate him one hour premiums for missed, late, interrupted or on-duty
6 breaks, Defendants failed to timely pay all wage that were due and owing to Plaintiff and the Class
7 Members, including upon separation of employment.

8 21. Plaintiff and the Class Members were required to be on her feet all day and was not
9 provided any seating as a cashier or otherwise by Defendants, even though her position would
10 have permitted it.

11 22. Plaintiff alleges based on information and belief that, in evaluating Plaintiff and the
12 Class Members for employment, Defendants procured or caused to be prepared background
13 reports or "checks." These purported disclosures do not meet the requirements under law because
14 they are embedded with extraneous information, including, but not limited to, a drug and alcohol
15 testing disclosure/consent form, and do not constitute a clear and unambiguous disclosure in a
16 stand-alone document.

17 23. Upon information and belief, Defendants failed to provide Plaintiffs and the Class
18 Members sick pay or post notice in violation of Labor Code § 246.

19 **CLASS ACTION ALLEGATIONS**

20 24. Plaintiff brings this action on behalf of herself and all others similarly situated as a
21 class action pursuant to Code of Civil Procedure section 382. The Class Plaintiff seeks to represent
22 is defined as follows: "All current and former non-exempt employees employed by Defendants in
23 the State of California, at any time beginning four years before the filing of this Complaint" (the
24 "Class Members").

25 25. There is a well-defined community of interest in the litigation and the class is
26 ascertainable.

27 26. **Numerosity:** While the exact number of class members is unknown to Plaintiff at
28 this time, Plaintiff is informed and believes the class consists of at least one hundred individuals.

1 As such, the Plaintiff classes are so numerous that the individual joinder of all members is
2 impractical under the circumstances of this case.

3 27. **Common Questions of Law and Fact:** This lawsuit is suitable for class treatment
4 because common questions of law and fact predominate over individual issues. Common
5 questions include, but are not limited to, the following:

6 (a) Whether Defendants failed to pay Class Members for all hours worked, including
7 all regular and overtime hours as required by California law;

8 (b) Whether Defendants failed to pay Class Members minimum wages as required
9 by California law;

10 (c) Whether Defendants failed to provide Class Members with accurate itemized
11 wages statements as required by Labor Code section 226;

12 (d) Whether Defendants violated California Labor Code section 226.7 and the
13 applicable Wage Order by failing to provide Class Members with required rest periods or paying
14 rest period premiums for missed rest periods;

15 (e) Whether Defendants violated California Labor Code sections 512 and 226.7, as
16 well as, the applicable Wage Order, by failing to provide Class Members with required meal
17 periods or paying meal period premiums for missed meal periods;

18 (f) Whether Defendants violated California Labor Code section 226.7, as well as the
19 applicable Wage Order, by failing to provide Class Members with required rest periods or paying
20 rest period premiums for missed rest periods;

21 (g) Whether Defendants failed to provide all Class Members adequate seating as
22 required by IWC Wage Orders;

23 (h) Whether Defendants failed to provide Plaintiffs and the Class Members sick pay
24 or post notice in violation of Labor Code § 246.

25 (i) Whether Class Members are entitled to unpaid wages, penalties, and other relief
26 pursuant to their claims;

27 (j) Whether, as a consequence of Defendants' unlawful conduct, the Class Members
28 are entitled to restitution, and/or equitable relief;

1 (k) Whether Defendants' affirmative defenses, if any, raise any common issues of
2 law or fact as to Plaintiff and as to the Class Members as a whole;

3 (l) Whether Defendants timely paid all wages that were due and owing to Class
4 Members, including upon separation of employment; and,

5 (m) Whether Defendants committed unlawful business acts or practice within the
6 meaning of Business and Professions Code section 17200 *et seq.*

7 28. **Typicality:** Plaintiff's claims are typical of the claims of the Class Members.
8 Plaintiff and all Class Members sustained injuries and damages arising out of and caused by
9 Defendants' common course of conduct in violation of laws and regulations that have the force
10 and effect of law and statutes as alleged. Plaintiff was subjected to the same uniform policies and
11 practices complained of herein that affected all such employees. Thus, as Plaintiff was subjected
12 to the same unlawful policies and practices as all Class Members, her claims are typical of the
13 class she seeks to represent.

14 29. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the
15 interests of the Class Members. Plaintiff has no interest that is adverse to the interests of the other
16 Class Members.

17 30. **Superiority:** A class action is superior to other available means for the fair and
18 efficient adjudication of this controversy since individual joinder of all members of the class is
19 impractical. Class action treatment will permit a large number of similarly situated persons to
20 prosecute their common claims in a single forum simultaneously, efficiently, and without the
21 unnecessary duplication of effort and expense that numerous individual actions would engender.
22 Furthermore, as the damages suffered by each individual member of the class may be relatively
23 small, the expenses and burden of individual litigation would make it difficult or impossible for
24 individual members of the class to redress the wrongs done to them, while an important public
25 interest will be served by addressing the matter as a class action. The cost to the court system of
26 adjudication of such individualized litigation would be substantial. Individualized litigation would
27 also present the potential for inconsistent or contradictory judgments. Finally, the alternative of
28 filing a claim with the California Labor Commissioner is not superior, given the lack of discovery

1 in such proceedings, the fact that there are fewer available remedies, and the losing party has the
2 right to a trial de novo in the Superior Court.

3 31. **Public Policy Consideration:** Employers throughout the state violate wage and
4 hour laws. Current employees often are afraid to assert their rights out of fear of direct or indirect
5 retaliation. Former employees fear bringing actions because they perceive their former employers
6 can blacklist them in their future endeavors with negative references and by other means. Class
7 actions provide the class members who are not named in the complaint with a type of anonymity
8 that allows for vindication of their rights.

9 **FIRST CAUSE OF ACTION**
10 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**
11 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 226.2, 510, 1194, 1197, 1198**
12 **(As Against Defendants and DOE Defendants by the Class)**

13 32. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
14 in the preceding paragraphs.

15 33. Pursuant to Labor Code sections 1194, 1197, 1197.1 and Wage Orders, Plaintiff
16 and the Class Members are entitled to receive wages for all hours worked, i.e., all time subject to
17 Defendants' control, and those wages must be paid at least at the minimum wage rate in effect
18 during the time the employees earned the wages.

19 34. Labor Code § 226.2. Labor Code Section 226.2 provides formula for calculating an
20 employee's "regular rate" for purposes of paying rest periods.

21 35. Specifically, Labor Code Section 226.2 provides, in relevant part:

22 (3)(A) Employees shall be compensated for rest and recovery
23 periods at a regular hourly rate that is no less than the higher of:

24 (i) An average hourly rate determined by dividing the total
25 compensation for the workweek, exclusive of compensation for rest
26 and recovery periods and any premium compensation for overtime,
27 by the total hours worked during the workweek, exclusive of rest
28 and recovery periods.

(ii) The applicable minimum wage.

36. Defendants' payroll policies and procedures required Plaintiff and the Class
Members to be engaged, suffered, or permitted to work without being paid wages for all the time

1 in which they were subject to Defendants' control. During the Class Period, Defendants failed to
2 pay Plaintiff and the Class Members for each hour worked due to their time-rounding system and
3 Defendants' policy of paying Plaintiff and Class Members only for their scheduled hours rather
4 than total hours worked.

5 37. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
6 suffered damages in an amount subject to proof, to the extent that they were not paid wages at a
7 minimum wage rate for all hours worked.

8 38. Pursuant to California Labor Code Sections 1194 and 1194.2, Plaintiff and the
9 Class Members are entitled to recover unpaid minimum wages, interest thereon, liquidated
10 damages in the amount of their unpaid minimum wage, and attorney's fees and costs

11 **SECOND CAUSE OF ACTION**
12 **FAILURE TO PAY WAGES FOR ALL HOURS WORKED AT OVERTIME IN**
13 **VIOLATION OF LABOR CODE SECTIONS 510, 1194, 1197 and 1198**
14 **(As Against Defendants and DOE Defendants by the Class)**

15 39. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
16 in the preceding paragraphs.

17 40. It is unlawful under California law for an employer to suffer or permit an employee
18 to work in excess of eight hours per workday or 40 hours per workweek without paying premium
19 wages under California Labor Code § 510 and IWC Wage Order 9 § 3. Employees who work more
20 than 12 hours per day are entitled to an overtime premium of twice their regular rate of pay. *Id.* It is
21 also unlawful under California law for an employer to suffer or permit an employee to work in
22 excess of 30 hours per workweek or six hours per day during any seven-day workweek under Labor
23 Code §§550-556, or to suffer or permit an employee to work on the seventh day of a seven-day
24 workweek without paying premium wages under California Labor Code §510 and IWC Wage Order
25 9 § 3.

26 41. California Labor Code §1198 makes employment of an employee for longer hours
27 than the IWC sets or under conditions the IWC prohibits unlawful. California Labor Code §1194(a)
28 entitles an employee to recover in a civil action the unpaid balance of all overtime compensation
due but not paid.

1 42. Labor Code §511(a) states in pertinent part: “Upon the proposal of an employer,
2 the employees of an employer may adopt a regularly scheduled alternative workweek that
3 authorizes work by the affected employees for no longer than 10 hours per day within a 40-hour
4 workweek without the payment to the affected employees of an overtime rate of compensation
5 pursuant to this section. A proposal to adopt an alternative workweek schedule shall be deemed
6 adopted only if it receives approval in a secret ballot election by at least two-thirds of affected
7 employees in a readily identifiable work unit. The regularly scheduled alternative workweek
8 proposed by an employer for adoption by employees may be a single work schedule that would
9 become the standard schedule for workers in the work unit, or a menu of work schedule options,
10 from which each employee in the unit would be entitled to choose.”

11 43. Labor Code §511(e) states: “The results of any election conducted pursuant to this
12 section shall be reported by an employer to the Division of Labor Standards Enforcement within
13 30 days after the results are final.”

14 44. Labor Code §511(b) states in pertinent part: “An affected employee working longer
15 than eight hours but not more than 12 hours in a day pursuant to an alternative workweek schedule
16 adopted pursuant to this section shall be paid an overtime rate of compensation of no less than one
17 and one-half times the regular rate of pay of the employee for any work in excess of the regularly
18 scheduled hours established by the alternative workweek agreement and for any work in excess of
19 40 hours per week. An overtime rate of compensation of no less than double the regular rate of
20 pay of the employee shall be paid for any work in excess of 12 hours per day and for any work in
21 excess of eight hours on those days worked beyond the regularly scheduled workdays established
22 by the alternative workweek agreement.”

23 45. Defendants scheduled Plaintiff and the Class Members to work using an alternative
24 workweek schedule of four 10 hour shifts per week (“4/10”), yet failed to comply with the
25 requirements set forth in Labor Code §511 and the IWC Wage Order(s) for legal alternative
26 workweek schedules with regard to Plaintiff and the class members. As such, Defendants failed to
27 pay Plaintiff and the Class Members legal overtime compensation for all work accomplished in
28 excess of eight (8) hours per day and/or forty (40) hours per week.

46. Further, as alleged herein, Plaintiff and the Class Members were subjected to unlawful time rounding policy, and were required to perform off-the-clock work for which they were not compensated, resulting in unpaid overtime premiums.

47. Based on the foregoing, Plaintiff is informed and believes, and thereon alleges, that during all times mentioned herein Defendants required, allowed, suffered, and/or permitted Plaintiff and Class Members to engage in a variety of uncompensated work resulting in lost overtime and double time wages in accordance with the provisions of California Labor Code Sections 510, 550-556, 1194(a), 1198 and Section 3 of the Industrial Welfare Commission Wage Order 4 and/or any other applicable Wage Order.

48. As such, Plaintiff, individually and on behalf of Class Members, may bring this action for overtime and double time wages, interest, costs of suit, and attorneys' fees pursuant to California Labor Code Sections 1194(a) and 218.5.

THIRD CAUSE OF ACTION
FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF
CALIFORNIA LABOR CODE SECTIONS 512 AND 226.7
(As Against Defendants and DOE Defendants by the Class)

49. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

50. During the Class Period, Plaintiff and the Class Members were non-exempt employees who performed work for Defendants that was covered by California Labor Code sections 512 and 226.7 and all applicable Wage Orders.

51. California law requires an employer to provide an employee an uninterrupted meal period of no less than 30-minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities no later than the employee's sixth hour of work. See Lab. Code §§ 226.7, 512; Wage Order No. 9 §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal. 4th 1004. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second such meal period of not less than 30 minutes by no later than the start of the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period shall be considered

1 an “on duty” meal period and counted as time worked. A paid “on duty” meal period is only
2 permitted when: (1) the nature of the work prevents an employee from being relieved of all duty;
3 and (2) the parties have a written voluntary agreement agreeing to on duty meal periods.

4 52. During the Class Period, Plaintiff and the Class Members worked in shifts long
5 enough to entitle them to first and second meal periods under California law. However, due to the
6 pressures from the job, understaffing and the lack of relief workers availability, commentary from
7 superiors, among other reasons, throughout Plaintiff’s and the Class Members’ employment,
8 Plaintiff and the Class Members did not receive timely, uninterrupted statutory 30-minute meal
9 periods for days on which they worked at least 5 hours, and did not receive a timely, second 30-
10 minute meal period for shifts in excess of 10 hours. Defendants also required Plaintiff and the
11 Class Members to remain on-duty, on the premises during many meal breaks received.

12 53. Moreover, Defendants also failed to provide a one hour premium to Plaintiff and
13 the Class Members to compensate them for workdays they did not receive their legally required
14 duty-free meal period. Defendants employed policies and procedures which ensured Plaintiff and
15 the Class Members would not receive full 30-minute legally required meal periods. Defendants
16 employed policies and procedures which ensured Plaintiff and the Class Members did not receive
17 one hour premiums to compensate them for workdays that they did not receive either a first or a
18 second full meal period, or both. This practice resulted in Plaintiff and the Class Members not
19 receiving one hour premiums to compensate them for workdays which Defendants did not provide
20 them with all required meal periods, in compliance with California law.

21 54. Defendants are therefore liable to Plaintiff and the Class Members for one hour of
22 additional pay at the regular rate of compensation for each workday that the proper meal period
23 was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
24 Order, plus pre-judgment interest.

25 55. Plaintiff, on behalf of herself and the Class Members, seeks damages and all other
26 relief allowable, including a meal period premium wage for each workday Defendants failed to
27 provide all required 30-minute uninterrupted meal periods, plus pre-judgment interest.
28

FOURTH CAUSE OF ACTION
FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF
CALIFORNIA LABOR CODE SECTIONS 226.2 AND 226.7
(As Against Defendants and DOE Defendants by the Class)

56. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

57. During the Class Period, Plaintiff and the Class Members were non-exempt employees who performed work for Defendants that was covered by Labor Code sections 226.2 and 226.7 and the applicable Wage Order.

58. California law requires an employer to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours worked or major fraction thereof. *See* Lab. Code § 226.7; applicable Wage Order. Such rest periods must be in the middle of the four-hour period “insofar as practicable.” *Id.* If the employer fails to provide any required rest period, the employer must pay the employee one hour of pay at the employee’s regular rate of compensation for each workday the employer did not provide at least one legally required rest period. *Id.*

59. Defendants failed to provide Plaintiff and the Class Members all required, timely rest periods and failed to pay premium wages to Plaintiff and similarly situated employees for each workday they did not receive all legally required rest periods. Defendants employed policies and procedures which ensured Plaintiff and the Class Members would not receive all legally required rest periods. Specifically, due to the pressures from the job, understaffing and the lack of relief workers availability, commentary from superiors, among other reasons, throughout Plaintiff’s and the Class Members’ employment, Plaintiff and the Class Members were not permitted to, and not advised of their right to take statutory 10-minute rest breaks for every four hours worked or major fraction thereof. Defendants had no policy, procedure, or practice for Plaintiff and the Class Members to report missed rest breaks, and Defendants had no policy, procedure, or practice to provide one hour of rest premiums for each workday that the rest break was not provided. Defendants also required Plaintiff and the Class Members to remain on-duty, on the premises during rest breaks received, and Plaintiff never received a one hour premium for these on-duty rest periods.

60. Defendants employed policies and procedures which ensured Plaintiff and the

1 Class Members did not receive any one hour premium wages to compensate them for workdays
2 that they did not receive all legally required rest periods.

3 61. This practice resulted in Defendants failing to pay Plaintiff and the Class Members
4 one hour premium wages to compensate them for workdays in which Defendants did not provide
5 the employees with all required rest periods, in violation of California law.

6 62. Defendants are therefore liable to Plaintiff and the Class Members for one hour of
7 additional pay at the regular rate of compensation for each workday that a require rest periods was
8 not provided, pursuant to California Labor Code section 226.7 and the applicable Wage Order,
9 plus pre-judgment interest.

10 63. Plaintiff, on behalf of herself and on behalf of the Class Members, seeks damages
11 and all other relief allowable including: rest period premium wages for each workday the
12 employee was not provided with all required rest periods of ten net minutes; and prejudgment
13 interest.

14 **FIFTH CAUSE OF ACTION**
15 **FAILURE TO PROVIDE SUITABLE SEATING**
16 **(As Against Defendants and DOE Defendants by the Class)**

17 64. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
18 in the preceding paragraphs.

19 65. The California Labor Code provides that employees shall be provided with suitable
20 seats when the nature of the work reasonably permits the use of seats and when they are not
21 engaged in the active work duties that would not permit them to be seated. Defendants' failure,
22 *inter alia*, to provide any seating for Plaintiff and similarly situated aggrieved employees
23 constitutes violations of set the Labor Code and Wage Orders.

24 66. Under Labor Code Section 1198, Plaintiff and the similarly situated employees
25 who no longer are employed with Defendants are entitled to recover the civil penalty is \$100 for
26 each similarly situated employee per pay period for the initial violation, and \$200 for each
27 similarly situated employee per pay period for each subsequent violation for the 12 months prior
28 to filing a lawsuit, plus attorney's fees and cost.

SIXTH CAUSE OF ACTION
FAILURE TO PROVIDE PAID SICK TIME
(As Against Defendants and DOE Defendants by the Class)

67. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

68. California Labor Code §246(1)(1) provides that paid sick time for non-exempt employees be “calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in the workweek.”

69. California Labor Code §246(1)(2) further provides that paid sick time for non-exempt employees be “calculated by dividing the employee’s total hours worked in the full pay periods of the prior 90 days of employment.

70. Defendants failed to provide Plaintiffs and the Class Members sick pay or post notice in violation of Labor Code § 246.

SEVENTH CAUSE OF ACTION
FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN
VIOLATION OF LABOR CODE SECTION 226
(As Against Defendants and DOE Defendants by the Class)

71. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

72. During the Class Period, Plaintiff and the Class Members were non-exempt employees who performed work for Defendants that was covered by California Labor Code section 226.

73. Pursuant to California Labor Code section 226, subdivision (a), Plaintiff and the other members of the class were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the

1 employee and her or her social security number, except that by
2 January 1, 2008, only the last four digits of her or her social security
3 number or an employee identification number other than a social
4 security number may be shown on the itemized statement, (8) the
5 name and address of the legal entity that is the employer, and (9) all
6 applicable hourly rates in effect during the pay period and the
7 corresponding number of hours worked at each hourly rate by the
8 employee.

9 74. As a result of Defendants' failure to compensate Plaintiff and the Class Members
10 for all hours worked and all one hour premium wages owed for missed, late, interrupted or on-
11 duty meal and rest periods, Defendants intentionally failed to provide Plaintiff and the Class with
12 accurate wage statements in compliance with Labor Code section 226, including, but not limited
13 to, failing to identify or include on the wage statement (1) the total hours worked, (2) the overtime
14 hours worked, (3) the proper applicable rates of pay, (4) premium pay for missed meal periods and
15 rest periods, and (5) the correct gross wage earned.

16 75. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
17 suffered injury. The absence of accurate information on their wage statements has prevented
18 earlier challenges to Defendants' unlawful pay practices, will require discovery and mathematical
19 computations to determine the amount of wages owed, and will cause difficulty and expense in
20 attempting to reconstruct time and pay records. Defendants' conduct led to the submission of
21 inaccurate information about wages and amounts deducted from wages to state and federal
22 government agencies. As a result, Plaintiff and the Class Members are required to participate in
23 this lawsuit and create more difficulty and expense for Plaintiff and the Class Members from
24 having to reconstruct time and pay records than if Defendants had complied with its legal
25 obligations.

26 76. Pursuant to California Labor Code section 226(e), Plaintiff and the Class Members
27 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
28 violation occurred and one hundred dollars per employee per violation for each subsequent pay
period, not to exceed an aggregate penalty of four thousand dollars per employee.

77. Pursuant to California Labor Code Section 226(h), Plaintiff and the Class Members
are entitled to bring an action for injunctive relief to ensure Defendants' compliance with

1 California Labor Code section 226(a). Injunctive relief is warranted because Defendants continues
2 to provide currently employed Class Members with inaccurate wage statements in violation of
3 California Labor Code section 226(a) and currently employed Class Members have no adequate
4 legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing
5 unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants'
6 compliance with California Labor Code section 226(a).

7 78. Pursuant to California Labor Code sections 226(e) and 226(h), Plaintiff and the
8 Class Members are entitled to recover the full amount of penalties due under Section 226(e),
9 reasonable attorneys' fees, and costs of suit.

10 **EIGHTH CAUSE OF ACTION**
11 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**
12 **IN VIOLATION OF LABOR CODE SECTIONS 201, 202, and 203**
13 **(As Against Defendants and DOE Defendants by the Class)**

14 79. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
15 in the preceding paragraphs.

16 80. During the Class Period, Plaintiff and the Class Members were non-employees who
17 performed work for Defendants that was covered by California Labor Code sections 201 or 202.

18 81. Pursuant to California Labor Code sections 201 and 202, Plaintiff and the Class
19 Members were entitled upon termination to timely payment of all wages earned and unpaid prior
20 to termination. Discharged employees were entitled to payment of all wages earned and unpaid
21 prior to discharge immediately upon termination. Employees who resigned were entitled to
22 payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of
23 resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages
24 earned and unpaid prior to resignation at the time of resignation.

25 82. As a result of Defendants' failure to compensate Plaintiff and the Class Members
26 for all hours worked and all one hour premium wages owed for missed, late, interrupted or on-
27 duty meal and rest periods, Defendants failed to timely pay Plaintiff and the Class Members all
28 wages earned and unpaid upon separation of employment, in accordance with California Labor
Code sections 201, 202, and 203.

83. Defendants' failure to pay Plaintiff and the Class Members all wages earned prior to separation of employment timely in accordance with California Labor Code sections 201, 202, and 203 was willful. Defendants had the ability to pay all wages earned by non-employees prior to separation of employment in accordance with California Labor Code sections 201, 202, 203, but intentionally adopted policies or practices incompatible with the requirements of California Labor Code sections 201, 202, and 203. As a result of Defendants' conduct, Plaintiff and the Class Members have suffered injuries.

84. Pursuant to California Labor Code section 203, Plaintiff and the Class Members are entitled to continuation of their wages, from the day their earned and unpaid wages were due upon separation until paid, up to a maximum of 30 days.

NINTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES IN VIOLATION OF CALIFORNIA BUSINESS AND
PROFESSIONS CODE SECTION 17200, *ET SEQ.*
(As Against Defendants and DOE Defendants by the Class)

85. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

86. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of California Business and Professions Code Section 17200. This unfair conduct includes Defendants' use of policies and procedures which resulted in: failure to pay minimum and overtime wages; failure to authorize or permit, or provide, all required meal and rest periods or pay premium wages; conducted unlawful background checks; failure to provide proper notice and pay sick time benefits; failure to provide accurate wage and hour statements; and failure to pay all wages due upon termination. Due to its unfair and unlawful business practices in violation of the California Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to authorize or permit rest and meal periods or pay rest period and meal period premium wages, to provide proper notice and accrue and pay all sick leave pay, to provide accurate wage and hour statements, to pay minimum and overtime wages, and to provide all wages due and owing upon separation of employment of their employees.

1 87. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
2 Class Members have suffered injury in fact and lost money or property, as described in more detail
3 above. Pursuant to California Business and Professions Code Section 17203, Plaintiff and Class
4 Members are entitled to restitution of all wages and other monies rightfully belonging to them that
5 Defendants failed to pay and wrongfully retained by means of its unlawful and unfair business
6 practices. Plaintiff also seeks an injunction against Defendants on behalf of the Class Members
7 enjoining Defendants, and any and all persons acting in concert with it, from engaging in each of
8 the unlawful practices, policies and patterns set forth herein.

9 **TENTH CAUSE OF ACTION**
10 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**
11 **LABOR CODE §§ 2698, ET SEQ.**
12 **(Against All Defendants and Doe Defendants by the Class)**

13 88. Plaintiffs hereby incorporate reference to all the allegations contained in this
14 Complaint as if fully alleged herein.

15 89. Plaintiff is an "Aggrieved Employee" under PAGA, as she was employed by
16 Defendants during the applicable statutory limitations period and suffered one or more of the
17 Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself
18 and all other current and former Aggrieved Employees, the civil penalties provided by PAGA,
19 plus reasonable attorney's fees and costs.

20 90. Plaintiff seeks to recover the PAGA civil penalties through a representative action
21 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal. 4th
22 969(2009). Therefore, class certification of the PAGA claims is not required.

23 91. Therefore, the provisions of the California Labor Code that Employer has violated
24 include, but are not limited to, Labor Code sections 201, 202, 203, 204, 216, 221-223, 226, 226.7,
25 226.8, 245, 246, 247, 248, 248.5, 432.5, 432.7, 510, 511, 512, 558, 558.1, 1024.5, 1174, 1194,
26 1197, 1198, 1199, and all applicable IWC Wage Orders. These violations subject Employer to
27 civil penalties as set forth in (1) the foregoing statutes, (2) Labor Code sections 203, 210, 225.5,
28 226.3, 256, 558, 558.1, 1174.5, 1194.2, 1197.1, and 2699, and (3) IWC Wage Order 13-2001 (and
all applicable wage orders), section 20, as well as all interpretations of these laws by California

1 Courts and administrative bodies, as well as any other law that is enforceable through PAGA,
2 Defendants are liable for the following penalties:

- 3 (i) All statutorily specified penalties recoverable under PAGA as enumerated in the
4 relevant California Labor Code provisions listed herein only if permitted by the
5 PAGA statute; and
- 6 (ii) Default PAGA penalties for any violation of the enumerated list of Labor Code
7 violations without a civil penalty recoverable under the PAGA, all in the default
8 amounts provided by Labor Code Section 2699(f).

9 92. The proper measure of penalties under PAGA is the number of violations, whether those
10 violations were committed as against Plaintiff Campbell or any Aggrieved Employee,
11 whether a party to this action or not. Further, as a PAGA action, this claim need not be
12 certified as a class action to proceed with a company-wide recovery. See *Arias v. Superior*
13 *Court*, 46 Cal. 4th 969, 970-75 (2009).

14 93. Pursuant to Labor Code § 2699(g), and/or any and all other applicable laws, Plaintiff
15 Campbell is entitled to recover civil penalties, costs, and attorneys' fees.

16 **PRAYER FOR RELIEF**

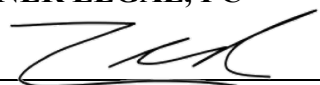
17 WHEREFORE, Plaintiff prays for relief and judgment as follows on behalf of herself and
18 all aggrieved similarly situated employees:

- 19 1. For compensatory damages according to proof;
- 20 2. For an order requiring Defendants to make restitution of all amounts wrongfully
21 withheld from Plaintiff and the Class Members;
- 22 3. For restitution of all monies due Plaintiff and Class Members;
- 23 4. For disgorgement of all profits garnered as a result of Defendants' unlawful
24 practices;
- 25 5. For all penalties allowed by law;
- 26 6. For pre-judgment and post-judgment interest as permitted by law;
- 27 7. An award of civil penalties for and on behalf of Plaintiff and all similarly situated
28 aggrieved employees pursuant to PAGA;

- 1 8. For reasonable attorney’s fees and costs of suit; and
2 9. For such other and further relief as the Court deems just and proper.

3 Dated: December 11, 2020

Respectfully submitted,
CROSNER LEGAL, PC

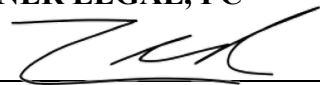
4
5 By: 
Zachary M. Crosner, Esq.
Michael R. Crosner, Esq.
Blake R. Jones, Esq.
Attorneys for Plaintiff
MAGGIE BLAND

9
10 **DEMAND FOR JURY TRIAL**

11 Plaintiff MAGGIE BLAND demands a trial on all claims so triable.

12 Dated: December 11, 2020

Respectfully submitted,
CROSNER LEGAL, PC

13
14 By: 
Zachary M. Crosner, Esq.
Michael R. Crosner, Esq.
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Attorneys for Plaintiff
MAGGIE BLAND