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County of Los Angeles

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

YVONNE LABRA, individually, on a
representative basis, and on behalf of all others
similarly situated;

Plaintiff,

vs.

SUTTER STREET MANUFACTURING,
INC., a California Corporation; WILLIAMS-
SONOMA, INC., a Delaware Corporation; and
DOES 1 through 20, inclusive;

Defendants.

Case No. **20STCV18751**

COMPLAINT

CLASS ACTION CLAIMS

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Timely Pay Final Wages;
- (6) Failure to Provide Accurate Itemized Wage Statements;
- (7) Unfair and Unlawful Competition;

PAGA CLAIMS

- (8) Failure to Pay Minimum Wages;
- (9) Failure to Pay Overtime Wages;
- (10) Failure to Provide Meal Periods;
- (11) Failure to Provide Rest Breaks;
- (12) Failure to Timely Pay Wages Each Period;
- (13) Failure to Timely Pay Final Wages;
- (14) Failure to Provide Accurate Itemized Wage Statements;
- (15) Failure to Provide Suitable Seating

CLASS AND REPRESENTATIVE ACTION (PAGA) COMPLAINT

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1 Plaintiff Yvonne Labra (“Plaintiff”) on behalf of herself, on a representative basis, and on
2 behalf of others similarly situated, complains and alleges as follows.

3 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

4 1. Plaintiff brings this action against her former employer(s), Defendants Sutter
5 Street Manufacturing, Inc., Williams-Sonoma, Inc., and DOES 1 through 20, inclusive,
6 (collectively, “Defendants”) on behalf of all current and former nonexempt employees employed
7 by Defendants in California (the “Class” or “Represented Employees”), for California Labor
8 Code violations stemming from Defendants’ failure to pay minimum wages, failure to pay
9 overtime wages, failure to provide meal periods, failure to provide rest breaks, failure to timely
10 pay wages, failure to timely pay final wages upon separation of employment, failure to provide
11 accurate itemized wage statements, and failure to provide suitable seating.

12 2. Plaintiff was employed by Defendants from approximately April through June
13 2019.

14 3. Plaintiff alleges on information and belief that the Represented Employees were
15 subjected to the same policies, working conditions, and corresponding wage and hour violations
16 to which Plaintiff was subjected during her employment.

17 4. Plaintiff and the Represented Employees were not provided proper minimum and
18 overtime wages due to Defendants’ failure to accurately record and compensate for all hours
19 worked. As one specific example, Plaintiff and the Represented Employees were required to
20 undergo security checks when entering the facility and at the end of their shifts. However,
21 despite that Plaintiff and the Represented Employees were subject to Defendants’ control while
22 waiting to go through the security checkpoint, Defendants did not provide any compensation for
23 the time it took to complete the process. These exact issues were found unlawful in the
24 California Supreme Court’s landmark decision of *Troester v. Starbucks Corporation* (2018) 5
25 Cal.5th 829 (California law “do[es] not allow employers to require employees to routinely work
26 for minutes off the clock without compensation”). This practice, among others, resulted in
27 unpaid minimum and overtime wages.
28

1 5. Also, at all relevant times, Defendants utilized a rounding policy and practice that
2 routinely undercompensated the Represented Employees and resulted in a net benefit to
3 Defendants. In other words, Defendants' rounding policy is not neutral and systematically
4 undercompensates the Represented Employees, leading to a failure to pay proper minimum,
5 regular, and overtime wages.

6 6. Defendants also failed to properly calculate the regular rate of pay, and
7 corresponding overtime rate and wages, on occasions that Plaintiff and the Represented
8 Employees earned hourly wages and additional nondiscretionary bonuses during a workweek.
9 For instance, during her employment, Plaintiff was paid a base hourly rate, but she was also paid
10 earned bonuses. However, during workweeks when Plaintiff worked overtime hours and earned
11 bonus compensation, Defendants only calculated and paid overtime at 1.5 times the base rate of
12 pay. Therefore, Defendants failed to pay proper overtime compensation for hours worked in
13 excess of 8 and/or 12 per day and/or 40 per week on such occasions.

14 7. Also, at all relevant times, Plaintiff and the Represented Employees were denied
15 30-minute off-duty meal periods, as mandated by California law, during their employment with
16 Defendants. As a result of Defendants' policies and practices, Plaintiff and the Represented
17 Employees were subjected to meal period violations when they were: (1) unable to take meal
18 periods due to workload, (2) forced to take on-duty meal period while under the control of
19 Defendants, (3) forced to take meal periods, if such a meal occurred, after the 5th hour of work,
20 and (4) not provided a mandated second meal period for shifts in excess of 10 hours.

21 8. Defendants also failed to provide Plaintiff and the Represented Employees with
22 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
23 mandated by California law. Defendants did not schedule rest breaks and the Represented
24 Employees were often not authorized and/or permitted to take mandated rest breaks due to being
25 overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the
26 Represented Employees worked in excess of 10 hours in a shift, Defendants failed to authorize
27 and/or permit a third mandated rest break.
28

1 9. Plaintiff also alleges that she and the Represented Employees were not paid all
2 wages due and owing each pay period (Labor Code § 204) and upon separation of employment
3 within the time required by Labor Code §§ 201 – 203. Plaintiff further alleges that Defendants
4 engaged in the practice of failing to pay all wages due and owing to Plaintiff and the Represented
5 Employees at the time their employment ended with Defendants, including, but not limited to
6 minimum, regular, and overtime wages, wage premiums, among others.

7 10. Plaintiff further alleges that Defendants failed to provide accurate itemized wage
8 statements that fully complied with the requirements of Labor Code § 226(a).

9 11. Finally, Plaintiff also alleges that Defendants failed to comply with California’s
10 mandate to provide employees “with suitable seats when the nature of the work reasonably
11 permits the use of seats.”

12 12. Plaintiff alleges that Defendants’ violations of the wage and hour components of
13 the Labor Code and IWC Wage Orders enabled it to decrease expenses and to increase its level
14 of productivity and profits, thereby allowing Defendants to gain an unfair advantage over its
15 competitors.

16 13. At all material times, Defendants and DOES 1 through 20 were and/or are the
17 Represented Employees’ employers or persons acting on behalf of the Represented Employees’
18 employer, within the meaning of California Labor Code § 558, who violated or caused to be
19 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
20 hours and days of work in any Order of the Industrial Welfare Commission and, as such, are
21 subject to penalties for each underpaid employee as set forth in Labor Code § 558 and under
22 California law.

23 14. Plaintiff brings this lawsuit seeking declaratory, injunctive, equitable, and
24 monetary relief against Defendants and each of them, on behalf of herself and the Represented
25 Employees to recover, among other things, unpaid wages and benefits, interest, attorneys’ fees,
26 penalties, costs and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 204,
27 218.6, 221, 223, 226, 226.3, 226.7, 256, 510, 512, 558, 1194, 1194.2, among possibly other
28

sections inadvertently omitted. Plaintiff also reserves the right to name additional representatives throughout the State of California

15. Pursuant to Labor Code § 2699.3(a), on May 13, 2020, Plaintiff gave written notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff is currently complying with the procedures for bringing suit specified in California Labor Code § 2699.3, and this Complaint will be deemed amended to include the PAGA allegations enumerated below when more than sixty-five (65) days have passed since the Notice was mailed to Defendants and the LWDA chooses not to investigate the allegations herein.

II. JURISDICTION

16. This Court has jurisdiction over the claims for relief of Plaintiff and the Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

III. VENUE

17. Venue as to each Defendant is proper in this Court pursuant to Code of Civil Procedure § 395(a). Defendants transact business in Los Angeles County and the unlawful acts alleged herein have a direct effect on Plaintiff and the Represented Employees in Los Angeles County. Furthermore, Defendants employed or employ Plaintiff and Represented Employees in Los Angeles County.

IV. PARTIES

Plaintiff

18. Plaintiff and Class Representative Yvonne Labra was employed by Defendants from approximately April through June 2019 and performed work for Defendants in Los Angeles County.

Defendants

19. Plaintiff is informed and believes and thereon alleges that Defendant Sutter Street Manufacturing, Inc. is a California corporation authorized to and doing business in Los Angeles

County, California, and is and/or was the legal employer of Plaintiff and the Represented Employees during the applicable statutory periods.

20. Plaintiff is informed and believes and thereon alleges that Defendant Williams-Sonoma, Inc., is a Delaware corporation with its principal place of business and principal executive office located in California. Furthermore, Plaintiff is informed and believes and thereon alleges that Defendant Williams-Sonoma, Inc. is authorized to and doing business in Los Angeles County, California, and is and/or was the legal employer of Plaintiff and the Represented Employees during the applicable statutory periods.

21. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20, inclusive, but on information and belief alleges that those Defendants are legally responsible for the payment of penalties and damages to Plaintiff and all Represented Employees by virtue of Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE Defendants when ascertained.

22. Plaintiff is informed and believes and thereon alleges that she and the Represented Employees worked under the joint direction and control of Defendants and that Defendants, and each of them, acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. On information and belief, a unity of interest and ownership between each Defendant exists such that all Defendants acted as a single employer of Plaintiff and other Represented Employees.

23. Furthermore, Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are an integrated enterprise and should be treated as a single employer because these entities share an interrelation of operations, with common human resources and personnel policies and shared common offices and facilities. Additionally, Defendants also have a shared website, common management, a centralized control of labor operations, and common ownership or financial control.

1 24. Plaintiff is informed and believes and thereon alleges that, in conducting
2 themselves in the manner described herein, Defendants, and each of them, were acting in active
3 concert with one another such that the acts of each were and are fully attributable to the others in
4 all material respects. Plaintiff is further informed and believes that at all relevant times
5 Defendants and each of them are now, and at all material times herein mentioned were, the
6 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
7 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
8 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
9 their remaining co-Defendants.

10 **V. CLASS ACTION ALLEGATIONS**

11 25. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
12 alleged herein.

13 26. Plaintiff brings this action on behalf of herself and all others similarly situated as
14 a class action, pursuant to Code of Civil Procedure § 382.

15 27. The relevant time period for this class action is defined as the time period
16 beginning four years prior to the filing of this action until class certification (the “Relevant Time
17 Period”).

18 28. The Class, also referred to as the “Represented Employees,” that Plaintiff seeks to
19 represent is defined as follows:

20 **California Class**

21 All current and former employees nonexempt employed by
22 Defendants at warehouses and/or manufacturing facilities in
23 the State of California during the Relevant Time Period.

24 29. Plaintiff also seeks to represent the following subclasses:

25 **Security Check Subclass**

26 All Represented Employees who were required to go
27 through a security checkpoint during a meal period or at the
28 beginning or end of shift during the Relevant Time Period.

Rounding Policy Subclass

All Represented Employees who were subjected to Defendants' rounding policy and practice during the Relevant Time Period.

Bonus OT Subclass

All Represented Employees who earned hourly wages and additional nondiscretionary compensation in the same workweek on at least one occasion during the Relevant Time Period.

Meal Break Subclass

All Represented Employees who worked a shift in excess of 5 hours during the Relevant Time Period.

Rest Break Subclass

All Represented Employees who worked a shift of at least 3.5 hours during the Relevant Time Period.

Waiting Time Penalties Subclass

All Represented Employees who separated from their employment with Defendants during the period three years before the filing of this action and ending when final judgment is entered.

Wage Statement Penalties Subclass

All Represented Employees during the period one year before the filing of this action and ending when final judgment is entered.

30. Plaintiff reserves the right to amend or modify the class description with greater specificity or further division into subclasses or limitation to particular issues as appropriate.

31. Plaintiff, as Class Representative, is a member of the class and subclasses that she seeks to represent.

1 32. This action has been brought and may properly be maintained as a class action
2 under Code of Civil Procedure § 382 because there is a well-defined community of interest in the
3 litigation and the proposed class is easily ascertainable from Defendants' personnel and payroll
4 records.

5 33. **Numerosity:** The potential members of the Class as defined are so numerous that
6 a joinder of all Represented Employees is impracticable. Although the exact number is currently
7 unknown to Plaintiff, this information is easily ascertainable from Defendants' payroll and
8 personnel records.

9 34. **Commonality:** There are questions of law and fact common to the class which
10 predominate over any questions affecting only individual members of the class, including
11 without limitation:

12 i. Whether Defendants violated the California Labor Code and applicable
13 IWC Wage Order by failing to pay proper minimum and overtime wages to Plaintiff and the
14 Security Check Subclass for all hours worked;

15 ii. Whether Defendants violated the California Labor Code and applicable
16 IWC Wage Order by failing to pay proper minimum and overtime wages to Plaintiff and the
17 Rounding Policy Subclass for all hours worked;

18 iii. Whether Defendants violated the California Labor Code and applicable
19 IWC Wage Order by failing to pay proper overtime wages to Plaintiff and the Bonus OT
20 Subclass for hours above 8 and/or 12 per day and/or 40 per week;

21 iv. Whether Defendants violated the California Labor Code and applicable
22 IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break
23 Subclass and whether Defendants failed to compensate Plaintiff and the Meal Break Subclass
24 with one additional hour of wages at the regular rate of pay for each instance when a compliant
25 meal period was not provided;

26 v. Whether Defendants violated the California Labor Code and applicable
27 IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break
28 Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass

1 with one additional hour of wages at the regular rate of pay for each instance when a paid rest
2 break was not provided;

3 vi. Whether Defendants violated the California Labor Code by failing to
4 timely pay all wages due upon separation of employment between Defendants and Plaintiff and
5 the Waiting Time Penalties Subclass, whether such separation was voluntary or involuntary;

6 vii. Whether Defendants violated the California Labor Code by failing to
7 provide Plaintiff and the Wage Statement Penalties Subclass with complete, accurate, itemized
8 wage statements;

9 viii. Whether Defendants violated California Business & Professions Code §§
10 17200 *et seq.* due to the: failure to pay all minimum and overtime wages owed, failure to provide
11 mandated paid rest breaks, failure to provide mandated meal periods, and failure to timely pay
12 final wages; and

13 ix. Whether Plaintiff and Represented Employees are entitled to equitable
14 relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

15 35. **Typicality:** Plaintiff's claims, as the Class Representative, are typical of the
16 claims of The Class. Plaintiff, like other members of The Class, was subjected to Defendants'
17 ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all
18 wages owed, failure to provide mandated meal periods and rest breaks, failure to timely pay final
19 wages, and failure to provide accurate itemized wage statements.

20 36. **Adequacy of Representation.** Plaintiff, as the Class Representative, will fairly
21 and adequately represent and protect the interests of the Class. Plaintiff's interests are not in
22 conflict with those of the Class. Class Representative's counsel are competent and experienced in
23 litigating large employment class actions and other complex litigation matters, including cases
24 like this case.

25 37. **Superiority of Class Action.** Class certification is appropriate because a class
26 action is superior to other available means for the fair and efficient adjudication of this
27 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
28 law and fact common to the Class predominate over any questions affecting only individual

1 members of the Class. Each Represented Employee has been damaged and is entitled to
2 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
3 treatment will allow those similarly situated persons to litigate their claims in the manner that is
4 most efficient and economical for the parties and the judicial system.

5 **FIRST CAUSE OF ACTION**

6 **FAILURE TO PAY MINIMUM WAGES**

7 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

8 *Plaintiff, the Security Check Subclass, and the Rounding Policy Subclass Against All Defendants*

9 38. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
10 alleged herein.

11 39. Plaintiff, the Security Check Subclass, and the Rounding Policy Subclass were
12 not exempt from the requirement to be paid at least the applicable California minimum wage
13 throughout the statutory period for each hour worked.

14 40. Plaintiff, the Security Check Subclass, and the Rounding Policy Subclass were
15 not provided proper minimum and regular wages due to Defendants' failure to accurately record
16 and compensate for all hours worked.

17 41. Plaintiff and the Security Check Subclass were frequently required to undergo
18 security checks when entering the facility and at the end of their shifts. However, despite that
19 Plaintiff and the Represented Employees were subject to Defendants' control while waiting to go
20 through the security checkpoint, Defendants did not provide any compensation for the time it
21 took to complete the process.

22 42. Also, at all relevant times, Defendants utilized a rounding policy and practice that
23 routinely undercompensated Plaintiff and the Rounding Policy Subclass and resulted in a net
24 benefit to Defendants. In other words, Defendants' rounding policy is not neutral and
25 systematically undercompensates the Rounding Policy Subclass, leading to a failure to pay
26 proper minimum and regular wages.

1 43. As a result of Defendants' policies or practices described above, Plaintiff, the
2 Security Check Subclass, and the Rounding Policy Subclass were required to perform off-the-
3 clock work that Defendants either knew or should have known they were performing.

4 44. Consequently, Defendants violated California Labor Code laws and minimum
5 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
6 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

7 45. Plaintiff is informed and believes and thereon alleges that Defendants
8 intentionally, willfully, and improperly failed to pay wages to Plaintiff, the Security Check
9 Subclass, and the Rounding Policy Subclass for each hour worked in violation of Labor Code §§
10 221-223, 1194 and 1197.

11 46. Defendants' conduct was willful, as Defendants knew that Plaintiff, the Security
12 Check Subclass, and the Rounding Policy Subclass were entitled to be paid wages throughout the
13 statutory period for each hour worked, including proper minimum wages, yet Defendants chose
14 not to pay them in accordance thereto.

15 47. At all material times, Defendants DOES 1 through 20 were and/or are the
16 employer of Plaintiff, the Security Check Subclass, and the Rounding Policy Subclass or were
17 persons acting on behalf of said employer(s), within the meaning of California Labor Code §
18 558, who violated or caused to be violated Labor Code § 204 and a provision or provisions of
19 Part 2, Chapter 1 of the California Labor Code regulating hours and days of work respectively.

20 48. During employment of Plaintiff, the Security Check Subclass, and the Rounding
21 Policy Subclass, Defendants failed to pay them all wages to which they were entitled, thereby
22 receiving an economic benefit.

23 49. As a result of the Defendants' wrongful conduct, Plaintiff, the Security Check
24 Subclass, and the Rounding Policy Subclass have been damaged in amounts to be proven at trial.

25 50. Plaintiff, on behalf of herself, the Security Check Subclass, and the Rounding
26 Policy Subclass, seeks recovery of all unpaid minimum wages, liquidated damages, penalties,
27 interest, attorneys' fees and costs of suit, pursuant to Labor Code §§ 1194 and 1194.2, against
28 Defendants in an amount to be proven at trial.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

Plaintiff, the Security Check Subclass, the Rounding Policy Subclass, and the Bonus OT Subclass
Against All Defendants

51. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

52. Plaintiff, the Security Check Subclass, the Rounding Policy Subclass, and the Bonus OT Subclass were employees of Defendants who did not receive proper protections and benefits of the laws governing payment of overtime wages.

53. Labor Code § 204 requires that the employer timely pay all overtime wages to its employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12) in one workday shall be compensated at twice the regular rate of pay for an employee.

54. Plaintiff and the Security Check Subclass were frequently required to undergo security checks when entering the facility and at the end of their shifts. However, despite that Plaintiff and the Represented Employees were subject to Defendants' control while waiting to go through the security checkpoint, Defendants did not provide any compensation for the time it took to complete the process, leading to a failure to pay proper overtime wages.

55. Also, at all relevant times, Defendants utilized a rounding policy and practice that routinely undercompensated Plaintiff and the Rounding Policy Subclass and resulted in a net benefit to Defendants. In other words, Defendants' rounding policy is not neutral and systematically undercompensates the Rounding Policy Subclass, leading to a failure to pay proper overtime wages.

56. Defendants also failed to properly calculate the regular rate of pay, and corresponding overtime rate and wages, on occasions that Plaintiff and the Bonus OT Subclass

1 earned hourly wages and additional nondiscretionary compensation during a workweek. For
2 instance, during her employment, Plaintiff was paid a base hourly rate, but she was also paid
3 earned bonuses. However, during workweeks when Plaintiff worked overtime hours and earned
4 bonus compensation, Defendants only calculated and paid overtime at 1.5 times the base rate of
5 pay. Therefore, Defendants failed to pay proper overtime compensation for hours worked in
6 excess of 8 and/or 12 per day and/or 40 per week on such occasions.

7 57. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
8 Order § 3(A) every pay period with respect to Plaintiff, the Represented Employees, the
9 Rounding Policy Subclass, and the Overtime Subclass because Defendants required its
10 employees to work hours in excess of 8 and/or 12 per day and/or 40 per week without proper
11 overtime compensation.

12 58. Plaintiff is informed and believes and thereon alleges that Defendants
13 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff, the
14 Security Check Subclass, the Rounding Policy Subclass, and the Bonus OT Subclass in violation
15 of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

16 59. Defendants' conduct was willful, as Defendants knew that Plaintiff, the Security
17 Check Subclass, the Rounding Policy Subclass, and the Bonus OT Subclass were entitled to be
18 paid proper overtime wages throughout the statutory period, yet Defendants chose not to pay
19 them in accordance thereto.

20 60. At all material times, Defendants DOES 1 through 10 were and/or are the
21 employer of Plaintiff, the Security Check Subclass, the Rounding Policy Subclass, and the Bonus
22 OT Subclass or were persons acting on behalf of said employer(s), within the meaning of
23 California Labor Code § 558, who violated or caused to be violated Labor Code § 204 and a
24 provision or provisions of Part 2, Chapter 1 of the California Labor Code regulating hours and
25 days of work respectively.

26 61. During the employment of Plaintiff, the Security Check Subclass, the Rounding
27 Policy Subclass, and the Bonus OT Subclass, Defendants failed to pay them all wages to which
28 they were entitled, thereby receiving an economic benefit.

62. As a result of Defendants' wrongful conduct, Plaintiff, the Security Check Subclass, the Rounding Policy Subclass, and the Bonus OT Subclass have been damaged in amounts to be proven at trial.

63. Plaintiff, on behalf of herself, the Security Check Subclass, the Rounding Policy Subclass, and the Bonus OT Subclass, seeks recovery of all unpaid overtime wages, penalties, interest, attorneys' fees, and costs of suit against Defendants in an amount to be proven at trial.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

Plaintiff and the Meal Break Subclass Against All Defendants

64. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

65. Plaintiff and the Meal Break Subclass are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory meal periods.

66. Labor Code § 226.7 requires employers, including Defendants, to provide employees with meal periods as mandated by the Industrial Welfare Commission.

67. Labor Code § 512(a), in part, provides that employers, including Defendants, may not employ an employee for a work period of more than five hours per day without providing an employee the opportunity to take an uninterrupted meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and the employee. Employers may not employ an employee for a work period more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.

68. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B), Defendants shall pay an employee one additional hour of pay at the employee's regular rate of pay for each meal period that is missed.

69. At all relevant times herein, Plaintiff and the Meal Break Subclass were denied the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and practices, Plaintiff and the Meal Break Subclass were subjected to meal period violations when they were: (1) unable to take meal periods due to workload, (2) forced to take on-duty meal period while under the control of Defendants, (3) forced to take meal periods, if such a meal occurred, after the 5th hour of work, and (4) not provided a mandated second meal period for shifts in excess of 10 hours.

70. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay period because Plaintiff and the Meal Break Subclass were not provided with all mandatory meal periods and Defendants failed to pay Plaintiff and the Meal Break Subclass one additional hour of compensation at the regular rate of pay in lieu thereof.

71. At all relevant times herein, Defendants failed to provide Plaintiff and the Meal Break Subclass all mandated meal periods and failed to pay wage premiums in lieu of mandated meal or rest periods, thereby receiving an economic benefit.

72. On information and belief, Plaintiff and the Meal Break Subclass did not voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers obtained from Plaintiff and the Meal Break Subclass were not willfully obtained, were not voluntarily agreed to, were a condition of employment, or were a part of a contract of an unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Meal Break Subclass to take meal periods in accordance with California law.

73. By their failure to provide Plaintiff and the Meal Break Subclass with meal periods as required by California law, and failing to pay one hour of additional wages in lieu of each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage Order § 11. Accordingly, Defendants are liable for one hour of additional wages at the employee's regular rate of compensation for each work day that a meal period was not lawfully provided in an amount to be proven at time of trial.

74. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512, and IWC Wage Order § 11, Defendants, and each of them, are liable to Plaintiff and the Meal Break Subclass for unpaid wage premiums, penalties, costs, and interest.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REST BREAKS

(Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

Plaintiff and the Rest Break Subclass Against All Defendants

75. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

76. Plaintiff and the Rest Break Subclass are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

77. Labor Code § 226.7 requires employers, including Defendants, to provide rest breaks to its employees as mandated by Order of the Industrial Welfare Commission.

78. The IWC Wage Order § 12 states, in part, that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Employees shall receive a 10-minute rest period every four hours or major fraction thereof that they are required to work. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

79. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage Order, Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay at her regular rate of compensation for each day that the rest period is not provided.

80. At all relevant times, Defendants also failed to provide Plaintiff and the Rest Break Subclass with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the Rest Break Subclass were often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by their hectic workload. Additionally, Plaintiff and the Rest Break Subclass were often not permitted to leave the premises for rest breaks, in violation of California

1 law. Furthermore, on occasions when Plaintiff and the Rest Break Subclass worked in excess of
2 10 hours in a shift, Defendants failed to authorize and/or permit a third mandated rest break.

3 81. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
4 Order every pay period because Plaintiff and the Rest Break Subclass were not provided with all
5 mandatory rest periods and Defendants failed to pay Plaintiff and the Represented Employees
6 one additional hour of compensation in lieu thereof.

7 82. At all relevant times herein, Defendants failed to provide Plaintiff and the Rest
8 Break Subclass all mandated rest breaks and failed to pay wage premiums in lieu of mandated
9 rest periods, thereby receiving an economic benefit.

10 83. By their failure to provide Plaintiff and the Rest Break Subclass with rest breaks
11 as required by California law, and failing to pay one hour of additional wages in lieu of each rest
12 break not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage
13 Order § 12. Accordingly, Defendants are liable for one hour of additional wages at the
14 employee's regular rate of compensation for each workday that a paid rest break was not
15 lawfully provided in an amount to be proven at time of trial.

16 84. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
17 and IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiff and the Rest
18 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO TIMELY PAY FINAL WAGES**

21 (Labor Code §§ 201 – 203)

22 *Plaintiff and the Waiting Time Penalties Subclass against All Defendants*

23 85. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
24 alleged herein.

25 86. Plaintiff and the Waiting Time Penalties Subclass are and/or were employees of
26 Defendants who did not receive proper protections and benefits of the laws governing the timing
27 and payment of wages.
28

3 88. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
4 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
5 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

6 89. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
7 penalty from the due date thereof at the same rate until paid or until an action therefore is
8 commenced, but the wages shall not continue for more than thirty (30) days.

9 90. At all relevant times, Defendants employed a policy and practice whereby
10 Plaintiff and the Waiting Time Penalties Subclass were not paid all wages due and owing upon
11 separation of employment within the time required by Labor Code §§ 201 and 202.

12 91. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
13 wages due and owing to Plaintiff and the Waiting Time Penalties Subclass upon separation of
14 employment, including, but not limited to, minimum, regular, and overtime wages, as well as
15 meal and rest period premiums.

92. Plaintiff alleges that, at all times material to this action, Defendants had a planned pattern and practice of failing to timely pay Plaintiff and the Waiting Time Penalties Subclass all wages due and owing upon separation of employment as required by Labor Code §§ 201 and 202. Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiff and the Waiting Time Penalties Subclass the above-described waiting time penalty, all in an amount to be shown according to proof at trial and within the jurisdiction of this Court.

SIXTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code § 226)

Plaintiff and the Wage Statement Penalties Subclass against All Defendants

26 93. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
27 alleged herein.

1 94. Plaintiff and the Wage Statement Penalties Subclass are and/or were employees of
2 Defendants who did not receive proper protections and benefits of the laws governing the
3 provision of accurate itemized wage statements.

4 95. Labor Code § 226(a) requires an employer to provide its employees with itemized
5 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
6 inclusive dates of the pay period, the employee's name and the last four digits of his or her
7 Social Security number (or employee identification number), the name and address of the legal
8 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
9 corresponding number of hours worked at each hourly rate by the employee.

10 96. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
11 and the Wage Statement Penalties Subclass because Defendants failed to provide a wage
12 statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
13 requirements of Labor Code § 226(a). Specifically, Defendants' wage statements failed to
14 accurately state total hours worked, the hours worked at each hourly rate, the accurate hourly
15 rates, gross wages earned, all deductions, and net wages earned.

16 97. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
17 to Plaintiff and the Wage Statement Penalties Subclass because Defendants failed to provide a
18 wage statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
19 requirements of Labor Code § 226.2(a)(2).

20 98. Defendants' failure to provide the required writing deprived Plaintiff and the
21 Wage Statement Penalties Subclass of the ability to know, understand, and question the
22 calculation and rate of pay and hours used to calculate the wages paid by Defendants. Therefore,
23 Plaintiff and the Wage Statement Penalties Subclass had no way to dispute the resulting
24 miscalculation of wages, all of which resulted in an unjustified economic enrichment to said
25 Defendants. As a direct result, Plaintiff and the Wage Statement Penalties Subclass have suffered
26 and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost
27 interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully
28

1 perform its obligation under state law, all to their respective damages in amounts according to
2 proof at trial.

3 99. As a result of Defendants' knowing and intentional failure to comply with Labor
4 Code § 226(a), Plaintiff and the Wage Statement Penalties Subclass have suffered an injury in
5 that each was prevented from knowing, understanding and disputing the wage payments paid to
6 them. Furthermore, Plaintiff and the Wage Statement Penalties Subclass have each suffered an
7 injury in that the failure to show all wages earned on the itemized wage statements resulted in
8 Plaintiff and the Represented Employees being denied all necessary deductions, payments, and
9 withholdings owed by the employer, including, but not limited to, the failure to make all
10 necessary contributions for unemployment benefits, social security benefits, proper payment of
11 taxes and withholdings, and other mandated state and federal benefits.

12 100. Plaintiff has also been injured as a result of having to bring this action to attempt
13 to obtain correct wage information following Defendants' refusal to comply with many of the
14 mandates of California's Labor Code and related laws and regulations.

15 101. Labor Code § 226(e) requires Defendants to pay the greater of all actual damages
16 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
17 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
18 attorney's fees and costs, to Plaintiff and the Wage Statement Penalties Subclass who were
19 injured by Defendants' failure to comply with Labor Code § 226(a). The exact amount of the
20 applicable penalty is all in an amount to be shown according to proof at trial.

21 **SEVENTH CAUSE OF ACTION**

22 **UNFAIR AND UNLAWFUL COMPETITION**

23 (Business and Professions Code § 17200 *et seq.*)

24 *Plaintiff and the Represented Employees against All Defendants*

25 102. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
26 alleged herein.

27 103. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
28 competition, which includes any "unlawful, unfair or fraudulent business act or practice." The

1 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
2 due to the unfair and unlawful business practices of Defendants as alleged herein.

3 104. Defendants, and each of them, are “persons” as defined under Business &
4 Professions Code § 17021.

5 105. As alleged herein, Defendants engaged in conduct that violated California’s wage
6 and hour laws, including failure to pay minimum, regular, overtime, failure to provide mandated
7 meal periods and rest breaks, and failure to timely pay final wages, all to decrease their costs and
8 increase their profits.

9 106. At all times relevant herein, Defendants did not pay Plaintiff and the Represented
10 Employees wages and monies and other financial obligations to which they were entitled.

11 107. As a result of Defendants’ failure to comply with the Labor Code and IWC
12 Orders, Represented Employees, including Plaintiff, suffered a loss of wages and monies, all in
13 an amount to be shown according to proof at trial. Defendants’ ongoing violations of the
14 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

15 108. Defendants’ violations of the California Labor Code and IWC Wage Orders and
16 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
17 practices because it was done in a systematic manner over a period of time to the detriment of the
18 Plaintiff and all others similarly-situated.

19 109. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
20 unlawful, and harmful to Plaintiff, other Represented Employees, and to the general public.
21 Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code
22 of Civil Procedure § 1021.5.

23 110. A violation of California Business & Professions Code § 17200, *et seq.* may be
24 predicated on the violation of any state or federal law. All of the acts described herein as
25 violations of, among other things, the California Labor Code and IWC Wage Orders, are
26 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
27 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
28 practices in violation of California Business and Professions Code §§ 17200, *et seq.*

1 111. Plaintiff, individually, and on behalf of the Represented Employees, has no plain,
2 speedy, and/or adequate remedy at law to redress the injuries which they have suffered as a
3 consequence of Defendants' unfair, unlawful and/or fraudulent business practices. As a result of
4 the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually,
5 and on behalf of the Represented Employees, has suffered and will continue to suffer irreparable
6 harm unless Defendants, and each of them, are restrained from continuing to engage in said
7 unfair, unlawful and/or fraudulent business practices.

8 112. Plaintiff, individually, and on behalf of the Represented Employees, is entitled to,
9 and does, seek such relief as may be necessary to disgorge the profits which Defendants have
10 acquired, or of which Plaintiff and Represented Employees have been deprived, by means of the
11 above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the
12 Represented Employees are not obligated to establish individual knowledge of the unfair
13 practices of Defendants in order to recover restitution.

14 113. Plaintiff, individually, and on behalf of the Represented Employees, is further
15 entitled to and does seek a declaration that the above described business practices are unfair,
16 unlawful and/or fraudulent, and injunctive relief restraining Defendants, and each of them, from
17 engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in
18 the future.

19 114. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiff and
20 Represented Employees are entitled to restitution of the wages withheld and retained by
21 Defendants during a period that commences four years prior to the filing of this complaint; a
22 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
23 Represented Employees; an award of attorneys' fees pursuant to California Code of Civil
24 Procedure § 1021.5 and other applicable laws; and an award of costs.

25 **VI. LABOR CODE PRIVATE ATTORNEYS GENERAL ACT CAUSES OF ACTION**
26 **(Cal. Lab. Code. §§ 2698 – 2699.5)**

27 115. Plaintiff is an "aggrieved employee" under the PAGA as she was employed by
28 Defendants during the applicable statutory period and suffered one or more of the Labor Code

violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil action filed on behalf of herself and all other similarly situated current and former aggrieved employees in California against whom one or more of the alleged violations was committed (hereinafter the “Aggrieved Employees”).

116. Pursuant to Labor Code § 2699.3(a), on May 13, 2020, Plaintiff gave written notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

117. Therefore, once more than sixty-five (65) days have passed since that date, Plaintiff will have fully satisfied the administrative prerequisites to suit under the PAGA and this Complaint will be deemed amended to include the PAGA allegations enumerated below. Once this occurs, Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by PAGA through a representative action pursuant to the PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Plaintiff is not required to, nor does she, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

EIGHTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES

(Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

Plaintiff and the Aggrieved Employees against All Defendants

118. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

119. Plaintiff and the Aggrieved Employees were not exempt from the requirement to be paid at least the applicable California minimum wage throughout the statutory period for each hour worked.

120. Plaintiff and the Aggrieved Employees were not provided proper minimum and regular due to Defendants’ failure to accurately record and compensate for all hours worked.

1 121. Plaintiff and the Aggrieved Employees were frequently required to undergo
2 security checks when entering the facility and at the end of their shifts. However, despite that
3 Plaintiff and the Aggrieved Employees were subject to Defendants' control while waiting to go
4 through the security checkpoint, Defendants did not provide any compensation for the time it
5 took to complete the process.

6 122. Also, at all relevant times, Defendants utilized a rounding policy and practice that
7 routinely undercompensated Plaintiff and the Aggrieved Employees and resulted in a net benefit
8 to Defendants. In other words, Defendants' rounding policy is not neutral and systematically
9 undercompensates the Aggrieved Employees, leading to a failure to pay proper minimum and
10 regular wages.

11 123. As a result of Defendants' policies or practices described above, Plaintiff and the
12 Aggrieved Employees were required to perform off-the-clock work that Defendants either knew
13 or should have known they were performing.

14 124. Consequently, Defendants violated California Labor Code laws and minimum
15 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
16 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

17 125. Plaintiff is informed and believes and thereon alleges that Defendants
18 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
19 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

20 126. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
21 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
22 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

23 **NINTH CAUSE OF ACTION**

24 **PAGA ASSESSMENT FOR FAILURE TO PAY OVERTIME WAGES**

25 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

26 *Plaintiff and the Aggrieved Employees against All Defendants*

27 127. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
28 alleged herein.

1 128. Plaintiff and the Aggrieved Employees were “nonexempt” employees of
2 Defendants who did not receive proper protections and benefits of the laws governing payment
3 of overtime wages.

4 129. Labor Code § 204 requires that the employer timely pay all overtime wages to its
5 employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any
6 work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in
7 any one workweek shall be compensated at the rate of no less than one and one-half times the
8 regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12)
9 in one workday shall be compensated at twice the regular rate of pay for an employee.

10 130. At all relevant times, Plaintiff and the Aggrieved Employees were required by
11 Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, due to
12 Defendants’ failure to accurately record and compensate for all hours worked, Plaintiff and the
13 Aggrieved Employees did not receive proper overtime compensation.

14 131. Moreover, Plaintiff and the Aggrieved Employees were frequently required to
15 undergo security checks when entering the facility and at the end of their shifts. However,
16 despite that Plaintiff and the Aggrieved Employees were subject to Defendants’ control while
17 waiting to go through the security checkpoint, Defendants did not provide any compensation for
18 the time it took to complete the process, leading to a failure to pay proper overtime wages.

19 132. Also, at all relevant times, Defendants utilized a rounding policy and practice that
20 routinely undercompensated Plaintiff and the Aggrieved Employees and resulted in a net benefit
21 to Defendants. In other words, Defendants’ rounding policy is not neutral and systematically
22 undercompensates the Aggrieved Employees, leading to a failure to pay proper overtime wages.

23 133. Defendants also failed to properly calculate the regular rate of pay, and
24 corresponding overtime rate and wages, on occasions that Plaintiff and the Aggrieved Employees
25 earned hourly wages and additional nondiscretionary compensation during a workweek. For
26 instance, during her employment, Plaintiff was paid a base hourly rate, but she was also paid
27 earned bonuses. However, during workweeks when Plaintiff worked overtime hours and earned
28 bonus compensation, Defendants only calculated and paid overtime at 1.5 times the base rate of

1 pay. Therefore, Defendants failed to pay proper overtime compensation for hours worked in
2 excess of 8 and/or 12 per day and/or 40 per week on such occasions.

3 134. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
4 Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because
5 Defendants failed to pay Plaintiff and the Aggrieved Employees for all overtime hours worked,
6 and required Plaintiff and the Aggrieved Employees to work without being properly
7 compensated for all overtime wages earned.

8 135. Plaintiff is informed and believes and thereon alleges that Defendants
9 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
10 Employees for each hour worked in violation of Labor Code §§ 204, 221-223, 510, 1194 and
11 1197.

12 136. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
13 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
14 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

15 **TENTH CAUSE OF ACTION**

16 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE COMPLIANT MEAL PERIODS**

17 (Labor Code § 226.7 and 512; IWC Wage Order § 11, 12)

18 *Plaintiff and the Aggrieved Employees against All Defendants*

19 137. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
20 alleged herein.

21 138. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
22 who did not receive proper protections and benefits of the laws governing mandatory meal
23 periods.

24 139. Labor Code § 226.7 requires employers, including Defendants, to provide
25 employees with meal periods as mandated by the Industrial Welfare Commission.

26 140. Labor Code § 512(a), in part, provides that employers, including Defendants, may
27 not employ an employee for a work period of more than five hours per day without providing an
28 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,

1 except that if the total work period per day of the employee is no more than six hours, the meal
2 period may be waived by mutual consent of both the employer and the employee. Employers
3 may not employ an employee for a work period more than 10 hours per day without providing
4 the employee with a second meal period of not less than 30 minutes.

5 141. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
6 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
7 pay for each meal period that is missed.

8 142. At all relevant times herein, Plaintiff and the Aggrieved Employees were denied
9 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
10 practices, Plaintiff and the Aggrieved Employees were subjected to meal period violations when
11 they were: (1) unable to take meal periods due to workload, (2) forced to take on-duty meal
12 period while under the control of Defendants, (3) forced to take meal periods, if such a meal
13 occurred, after the 5th hour of work, and (4) not provided a mandated second meal period for
14 shifts in excess of 10 hours.

15 143. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
16 Order every pay period with respect to Plaintiff and the Aggrieved Employees because Plaintiff
17 and the Aggrieved Employees were not provided with all mandatory meal periods and
18 Defendants failed to pay Plaintiff and the Aggrieved Employees one additional hour of
19 compensation at the regular rate of pay in lieu thereof.

20 144. On information and belief, Plaintiff and the Aggrieved Employees did not
21 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
22 obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not
23 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
24 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved
25 Employees to take meal periods in accordance with California law.

26 145. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
27 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
28 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

ELEVENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS

(Labor Code § 226.7 and 512; IWC Wage Order § 12)

Plaintiff and the Aggrieved Employees against All Defendants

146. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

147. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

148. Labor Code § 226.7 requires employers, including Defendants, to provide rest breaks to its employees as mandated by Order of the Industrial Welfare Commission.

149. The IWC Wage Order § 12 states, in part, that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Employees shall receive a 10-minute rest period every four hours or major fraction thereof that they are required to work. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

150. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage Order, Defendants shall pay Plaintiff and the Aggrieved Employees one additional hour of pay at her regular rate of compensation for each day that the rest period is not provided.

151. Defendants failed to provide Plaintiff and the Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the Aggrieved Employees were often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the Aggrieved Employees worked in excess of 10 hours in a shift, Defendants failed to authorize and/or permit a third mandated rest break.

152. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay period with respect to Plaintiff and the Aggrieved Employees because Plaintiff and the Aggrieved Employees were not provided with all mandatory rest periods and Defendants

1 failed to pay Plaintiff and the Aggrieved Employees one additional hour of compensation in lieu
2 thereof.

3 153. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
4 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
5 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

6 **TWELFTH CAUSE OF ACTION**

7 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

8 (Labor Code § 204)

9 *Plaintiff and the Aggrieved Employees against All Defendants*

10 154. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
11 alleged herein.

12 155. Plaintiff and the Aggrieved Employees are and/or were "nonexempt" employees
13 of Defendants who did not receive proper protections and benefits of the laws regarding the
14 timing of payment of wages each period.

15 156. Labor Code § 204(a) states that all wages earned by a person are due and payable
16 twice during each calendar month, and further states that wages earned during the first through
17 fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that
18 wages earned between the sixteenth and last day of the month must be paid by the tenth day of
19 the following month.

20 157. Furthermore, Labor Code § 204(d) states "[t]he requirements of this section shall
21 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
22 the wages are paid not more than seven calendar days following the close of the payroll period."

23 158. At all relevant times herein, Defendants did not provide Plaintiff and the
24 Aggrieved Employees with all wages due and owing each period within the time required by
25 Labor Code § 204. Moreover, Defendants did not provide Plaintiff and the Aggrieved
26 Employees with all wages due and owing each pay period, including, but not limited to,
27 minimum, regular, and overtime wages, as well as meal and rest period premiums, within the
28 time specified by Labor Code § 204.

1 159. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **THIRTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

6 (Labor Code §§ 201 – 203)

7 *Plaintiff and the Aggrieved Employees against All Defendants*

8 160. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
9 alleged herein.

10 161. Plaintiff and the Aggrieved Employees are and/or were “non-exempt” employees
11 of Defendants who did not receive proper protections and benefits of the laws governing the
12 timing and payment of final wages.

13 162. Labor Code § 201 requires that the employer immediately pay any wages, without
14 abatement or reduction, to any employee who is discharged.

15 163. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
16 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
17 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

18 164. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
19 penalty from the due date thereof at the same rate until paid or until an action therefore is
20 commenced, but the wages shall not continue for more than thirty (30) days.

21 165. At all relevant times here, Defendants did not provide Plaintiff and the Aggrieved
22 Employees with all wages due and owing upon separation of employment, including, but not
23 limited to, minimum, regular, overtime, as well as meal and rest period premiums, within the
24 time specified by Labor Code §§ 201 – 203.

25 166. Plaintiff alleges that, at all times material to this action, Defendants had a planned
26 pattern and practice of failing to timely pay to Plaintiff and the Aggrieved Employees all wages
27 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.
28

1 167. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **FOURTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR**
6 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

7 (Labor Code § 226)

8 *Plaintiff and the Aggrieved Employees against All Defendants*

9 168. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
10 alleged herein.

11 169. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
12 who did not receive proper protections and benefits of the laws governing the provision of
13 accurate itemized wage statements.

14 170. Labor Code § 226(a) requires an employer to provide its employees with itemized
15 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
16 inclusive dates of the pay period, the employee's name and the last four digits of his or her
17 Social Security number (or employee identification number), the name and address of the legal
18 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the employee.

20 171. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
21 and the Aggrieved Employees because Defendants failed to provide a wage statement to Plaintiff
22 and the Aggrieved Employees that complied with the requirements of Labor Code § 226(a).
23 Specifically, Defendants' wage statements failed to accurately state total hours worked, the hours
24 worked at each hourly rate, the accurate hourly rates, gross wages earned, all deductions, and net
25 wages earned.

26 172. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
27 to Plaintiff and the Aggrieved Employees because Defendants failed to provide complete and
28

1 accurate wage statements to Plaintiff and the Aggrieved Employees that complied with the
2 requirements of Labor Code § 226(a).

3 173. As a result of the Defendants' violations of Labor Code §226(a)(9), Plaintiff seeks
4 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
5 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.
6 See *Raines v. Coastal Pacific Food Distributors, Inc.* (2018) 23 Cal.App.5th 667, 675 ("Section
7 226.3 provides the civil penalty for failure to comply" with Labor Code § 226).

8 **FIFTEENTH CAUSE OF ACTION**

9 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE SUITABLE SEATING**

10 (Labor Code §§ 1198, 1199; IWC Wage Order § 14)

11 *Plaintiff and the Aggrieved Employees against All Defendants*

12 174. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
13 alleged.

14 175. Section 14 of the applicable IWC Wage Order states: "All working employees
15 shall be provided with suitable seats when the nature of the work reasonably permits the use of
16 seats." Furthermore, "[w]hen employees are not engaged in the active duties of their
17 employment and the nature of the work requires standing, an adequate number of suitable seats
18 shall be placed in reasonable proximity to the work area and employees shall be permitted to use
19 such seats when it does not interfere with the performance of their duties."

20 176. Here, Defendants failed to provide suitable seating to Plaintiff and the Aggrieved
21 Employees, in violation of IWC Wage Order § 14.

22 177. Penalties for the failure to provide suitable can be enforced both through Labor
23 Code §§ 1198 and 1199.

24 178. Labor Code § 1198 states that the "standard conditions of labor fixed by the
25 commission shall be the ... standard conditions of labor for employees. The employment of any
26 employee ... under conditions of labor prohibited by the order is unlawful."
27
28

1 179. Labor Code § 1199 makes it unlawful for an employer to work under conditions
2 of labor prohibited by an IWC Wage Order. Labor Code § 1199 also makes it unlawful for an
3 employer to violate, refuse, or neglect to comply with any provision of the IWC Wage Orders.

4 180. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to
5 which the civil penalties under the PAGA apply.

6 181. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
7 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
8 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

9 **VII. PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, on behalf of herself, on a representative basis, and all others
11 similarly situated, prays for judgment and relief against Defendants, jointly and severally, as
12 follows:

13 1. As to the Eighth through Fifteenth Causes of Action, the assessment of all
14 applicable and available remedies under the PAGA;

15 2. For reasonable attorneys' fees and costs as permitted under the PAGA;

16 3. That the First through Seventh Causes of Action be certified as a class action;

17 4. That Plaintiff be appointed as Class Representative;

18 5. That counsel for Plaintiff be appointed Class Counsel;

19 6. For all applicable statutory penalties recoverable under the First through Seventh
20 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and
21 Orders of the Industrial Welfare Commission;

22 7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by
23 law, including those pursuant to the Labor Code;

24 8. For injunctive relief and/or restitution as provided by the Labor Code and
25 Business and Professions Code § 17200, *et seq.*;

26 9. For a declaratory judgment that Defendants have violated Labor Code §§ 200,
27 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.3, 226.7, 256, 510, 512, 558, 1194, 1198, and
28 1199, among other sections inadvertently omitted;

1 10. For an award of damages in the amount of unpaid compensation including, but
2 not limited to, unpaid wages, benefits, and penalties according to proof, including interest
3 thereon;

4 11. For pre- and post-judgment interest; and

5 12. For such other relief as the Court deems just and proper.

6 **DEMAND FOR JURY TRIAL**

7 WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, hereby
8 demands a jury trial as to the First through Fifteenth Causes of Action pled herein.

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10 Dated: May 14, 2020

FERNANDEZ & LAUBY LLP

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12 BY:



13 Brian J. Mankin, Esq.
14 Peter J. Carlson, Esq.
15 Attorneys for Plaintiff
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