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Attorneys for Plaintiff LIZZETE GONYA, individually and on
behalf of all similarly situated and/or aggrieved employees of
Defendants in the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO – HALL OF JUSTICE

LIZZETE GONYA, individually and on
behalf of all similarly situated and/or
aggrieved employees of Defendants in
the State of California,

Plaintiffs,

vs.

99 CENTS ONLY STORES, LLC, a
California limited liability company, and
DOES 1 to 50,

Defendants.

CASE NO. 37-2020-00024701-CU-OE-CTL

**CLASS ACTION COMPLAINT FOR
DAMAGES AND JURY DEMAND**

- 1) **FAILURE TO PAY MINIMUM AND
REGULAR WAGES (Labor Code §§
1194, 1197, 1197.1)**
- 2) **FAILURE TO PAY OVERTIME
WAGES (Labor Code §§ 223, 510, 1194,
1198 and Applicable Wage Order)**
- 3) **FAILURE TO PROVIDE MEAL
PERIODS (Labor Code §§ 226.7, 512
and Applicable Wage Order)**
- 4) **FAILURE TO PROVIDE REST
PERIODS (Labor Code §§ 226.7, 512
and Applicable Wage Order)**
- 5) **FAILURE TO MAKE PAYMENTS
(Labor Code §§ 204, 210)**
- 6) **FAILURE TO TIMELY PAY
WAGES DUE UPON SEPARATION
(Labor Code §§ 201, 203)**
- 7) **FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS
(Labor Code § 226)**
- 8) **FAILURE TO MAINTAIN
ACCURATE RECORDS**
- 9) **FAILURE TO FURNISH ACCURATE
NOTICES TO EMPLOYEES (Labor
Code § 2810.5)**
- 10) **FAILURE TO TIMELY PRODUCE
PERSONNEL AND PAYROLL
RECORDS (Labor Code §§ 226(c),
1198.5(b))**
- 11) **UNFAIR COMPETITION (Bus. &
Prof. Code § 17200 et seq.)**

**12) California Labor Code Private
Attorneys General Act (PAGA) (Labor
Code § 2698 et seq.)**

COMES now Plaintiff LIZZETE GONYA (hereinafter “Plaintiff”) who, on behalf of herself and all other similarly situated and/or aggrieved employees, by and through her counsel, hereby files this Complaint against Defendant 99 CENTS ONLY STORES, LLC, a California limited liability company, (“99 CENTS ONLY”), and DOES 1 to 50, inclusive (collectively “Defendants”), and each of them, and complains and alleges as follows:

INTRODUCTION

1. This case is brought as a class action pursuant to California Code of Civil Procedure § 382.

2. Plaintiff brings this putative class action against Defendants for engaging in a pattern of wage and hour violations under the California Labor Code and the Industrial Welfare Commission (“IWC”) Wage Orders, and the California Business & Professions Code.

3. Plaintiff brings this action on behalf of all current and former non-exempt employees who were employed by Defendants in the State of California during the applicable relevant time period, (hereinafter “similarly situated employees”).

4. Plaintiff also brings this representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. (“PAGA”) against Defendants for engaging in a pattern of wage and hour violations under the California Labor Code and the applicable IWC Wage Order. Plaintiff brings this action on behalf of all other current and former non-exempt employees of Defendants in the State of California who have suffered at least one of the Labor Code violations described herein during the applicable relevant time period (hereinafter “aggrieved employees”).

5. Plaintiff is informed and believes, and on that basis alleges, that Defendants decreased their employment-related costs by systematically violating California wage and hour laws and engaging in unlawful and unfair business practices.

6. Defendants' systematic pattern of Labor Code and IWC Wage Order violations toward Plaintiff and other similarly situated employees in California include, but are not limited to: Failure to pay all overtime wages, failure to pay all minimum and regular wages for all hours worked; failure to provide a first off-duty meal period of at least 30-minutes before the commencement of the sixth hour of work, failure to authorize and permit off-duty paid rest periods, failure to provide accurate itemized wage statements, failure to maintain accurate records, and failure to timely pay all earned wages due upon separation of employment.

JURISDICTION & VENUE

7. Venue is proper in San Diego County because Plaintiff resides in San Diego County, Defendants were conducting their business in San Diego County, and all of the events, transactions and injuries giving rise to the causes of action stated herein took place in San Diego County.

8. The causes of action and damages stated herein entitle Plaintiff to recover in excess of \$25,000.00 and are thus within the jurisdiction of this Court.

9. Plaintiff has exhausted her administrative remedies pursuant to California Labor Code § 2699.3. On or about May 11, 2020, Plaintiff gave written notice of her intent to seek penalties pursuant to Labor Code § 2698 by filing her notice online with the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiff and certain current and former employees of Defendants, including the facts and theories to support the violations. Plaintiff also paid the filing fee required under Labor Code § 2699.3. On July 15, 2020, more than 65 days had elapsed since the filing of Plaintiff's May 11, 2020 notice and the Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil action to recover penalties for herself and other current and former employees under Labor Code § 2699, pursuant to Labor Code § 2699.3.

THE PARTIES

10. Plaintiff is a natural person who is, and at all relevant times was, a resident of San Diego County, California. Plaintiff is currently employed by Defendants at Store #212 located at 265 Marketplace Avenue, San Diego, CA 92113 in San Diego County.

1 11. Plaintiff is an “aggrieved employee” within the meaning of Labor Code § 2699(c)
2 because she is employed by Defendants and has suffered one or more of the Labor Code violations
3 committed by Defendants.

4 12. At all relevant times, Plaintiff and, on information and belief, other similarly situated
5 and/or aggrieved employees of Defendants in California, were subject to the same policies,
6 practices, and procedures governing their employment and their payment of wages and hours
7 worked.

8 13. Plaintiff is informed and believes, and based thereon alleges, that Defendant 99
9 CENTS ONLY STORES, LLC (hereinafter “99 CENTS ONLY”) is a California limited liability
10 company licensed to do business in the State of California with its principal place of business
11 located at 4000 E. Union Pacific Avenue, City of Commerce, CA 90023. During all relevant times,
12 99 CENTS ONLY was conducting business at its Store #212 located at 265 Marketplace Avenue,
13 San Diego, CA 92113 in San Diego County. Defendant 99 CENTS ONLY employs numerous
14 individuals in the State of California, including Plaintiff and other similarly situated and aggrieved
15 employees.

16 14. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
17 associate, or otherwise, of defendants sued herein as DOES 1 through 50, inclusive, and therefore
18 sues these defendants by such fictitious names pursuant to California Code of Civil Procedure §
19 474. Plaintiff will amend the complaint to allege their true names and capacities when ascertained.
20 Plaintiff is informed and believes, and based thereon alleges, that each of the fictitiously named
21 defendants was intentionally, negligently, or in some other manner responsible for the occurrences
22 alleged herein, and that Plaintiff’s injuries and damages as alleged herein were proximately caused
23 by such acts. Plaintiff is further informed and believes, and based thereon alleges, that each of the
24 fictitiously named defendants is personally liable for occurrences alleged herein, pursuant to
25 California Labor Code § 558.1.

26 15. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
27 mentioned, each Defendant was the agent, principal and/or employee of each other Defendant in
28 the acts and conduct alleged herein and therefore incurred liability to Plaintiff for the acts alleged

below. Plaintiff is further informed and believes, and based thereon alleges, that at all times herein mentioned, all Defendants acted within the course and scope of their employment and/or said agency.

CLASS ALLEGATIONS

16. This action is maintainable as a class action pursuant to California Code of Civil Procedure § 382 as to the claims for overtime wages, rest period and meal period violations, failure to provide accurate itemized wage statement violations, failure to timely pay wages, and attorneys' fees and costs under the California Labor Code and the California Business & Professions Code. Plaintiff brings this action on behalf of herself and all other similarly situated individuals because there is a well-defined community of interest in the litigation and the proposed class is easily ascertainable.

17. Plaintiff seeks to represent the following Classes, which are defined as:

The Non-Exempt Employee Class:

"All current and former non-exempt employees who worked for Defendants in the State of California at any time within four (4) years of the date of commencement of this action through the date of final disposition of this action (the "Non-Exempt Employee Class").

The Wage Statement Class:

All current and former exempt and non-exempt employees who worked for Defendants in the State of California and received wage statements from Defendants within four (4) years of the date of commencement of this action through the date of final disposition of this action (the "Wage Statement Class").

The Non-Exempt Employee Class and Wage Statement Class are collectively referred to hereinafter as "the Class."

18. Plaintiff also seeks to represent the following subclass, which is defined as:

The Waiting Time Penalties Subclass:

"All members of the Non-Exempt Class whose employment with Defendants ended at any time within four (4) years of the date of commencement of this action through the date of final disposition of this action (the "Subclass").

1 19. **Reservation of Rights:** Pursuant to California Rule of Court 3.765(b), Plaintiff
2 reserves the right to amend or modify the class definitions with greater specificity, by further
3 division into subclasses, and/or limitation to particular issues.

4 20. Causes of Action One through Nine and Eleven are appropriately suited for class
5 wide litigation pursuant to § 382 of the Code of Civil Procedure because the following requirements
6 are met:

7 a. **Numerosity:** The members of the Class are sufficiently numerous to render
8 the joinder of all their members impractical, if not impossible. While Plaintiff has not yet
9 determined the precise number of members of the Class, Plaintiff are informed and believe that the
10 Class likely consists of over 25 individuals. Although the exact number is currently unknown to
11 Plaintiff, this information is easily ascertainable from Defendants' time and payroll records and
12 other personnel records.

13 b. **Adequacy of Representation:** Plaintiff has no fundamental conflict of
14 interest with the Class she seeks to represent. Plaintiff will adequately protect the interests of all
15 class members because it is in Plaintiff's best interest to prosecute the claims alleged herein to
16 obtain full compensation and penalties due to her and putative class members. The named Plaintiff
17 is fully prepared to take all necessary steps to represent, fairly and adequately, the interests of the
18 above-defined class. Plaintiff's attorneys are experienced employment law litigations with
19 significant wage and hour and class action experience in the California state courts. Plaintiff's
20 attorneys are ready, willing, and able to fully and adequately represent Plaintiff, the Class, and the
21 Aggrieved Employees.

22 c. **Commonality and Predominance:** Plaintiff is informed and believes, and
23 based thereon alleges, that Defendants had a consistent and uniform policy, practice, and/or
24 procedure of willfully failing to comply with Labor Code §§ 223, 226, 226.7, 227.3, 510, 512,
25 1194, 1197, 1197.1 and 1198, as well as the governing Wage Orders and Regulations. Common
26 questions of law and fact exist as to all class members and predominate over any questions affecting
27 only individual members of the Class. There are no individualized factual or legal issues for the
28

1 Court to resolve. The common questions of law and fact that predominate include, but are not
2 limited to:

- 3 i. Whether Defendants failed to pay Non-Exempt Employee Class
4 Members at least minimum wages and/or all regular wages owed for all
5 hours or fractions of an hour worked and under the control of
6 Defendants;
- 7 ii. Whether Defendants failed to pay Non-Exempt Employee Class
8 Members all overtime wages for all hours, or fraction of hours, worked
9 and under the control of Defendants;
- 10 iii. Whether Defendants failed to permit Non-Exempt Employee Class
11 Members to take duty-free, thirty-minute meal periods before the
12 commencement of their sixth hour of work;
- 13 iv. Whether Defendants failed to permit Non-Exempt Employee Class
14 Members to take off-duty and paid rest periods of at least 10 minutes for
15 every four hours worked, or major fraction thereof;
- 16 v. Whether Defendants failed to pay one additional hour of pay at the non-
17 exempt employees' regular rate of compensation to Non-Exempt
18 Employee Class Members when they were not provided with compliant
19 and timely meal and rest periods; Whether Defendants failed to provide
20 Non-Exempt Employee Class Members with accurate itemized wage
21 statements showing, among other things, the total regular and overtime
22 hours worked during the pay period, the applicable hourly rates,
23 including the accurate overtime rate, and the corresponding number of
24 hours worked at each hourly rate, the correct amount of gross and net
25 wages earned, the one-hour additional rate of regular pay for not taking
26 compliant meal and/or rest periods;

- 1 vi. Whether Defendants failed to properly and accurately record and
2 maintain records of all hours worked and wages earned by Non-Exempt
3 Employee Class Members;
- 4 vii. Whether Defendants failed to pay Non-Exempt Employee Class
5 Members all of their wages owed within the required time frames upon
6 separation of employment.
- 7 viii. Whether Defendants' policies and/or practices, as described herein,
8 constituted unfair business practices;
- 9 ix. Whether Plaintiff and other Class members are entitled to damages,
10 restitution, wages, statutory penalties, premium wages, declaratory
11 relief, attorneys' fees, interest, and costs, and other relief pursuant to
12 California Labor Code and applicable Wage Orders, and California
13 Business & Professions §§ 17200 *et seq.*; and
- 14 x. The nature and extent of class-wide injuries and the measure of damages,
15 restitution, and disgorgement for the injuries.

16 d. **Typicality:** The claims of Plaintiff are typical of the claims of all Class
17 members because Plaintiff and all class members' claims arise from the same event, practice and/or
18 course of conduct of Defendants. Plaintiff and all class members sustained injuries and damages as
19 a result of Defendants' illegal policies, practices and/or common course of conduct in violation of
20 California wage and hour laws and/or illegal, unfair, or fraudulent business practices. Furthermore,
21 Plaintiff's claims under the Labor Code and the applicable IWC Wage Order are typical of the
22 Class and Subclass because Defendants' failure to comply with the provisions of California's wage
23 and hour laws entitles Plaintiff and each class member to similar pay, benefits, and other relief.
24 Accordingly, the legal theories underlying each cause of action are the same and the remedies
25 sought by Plaintiff and all class members are the same.

26 e. **Superiority of Class Action:** Plaintiff believes a class action is a superior
27 method of litigation for the fair and efficient adjudication of this controversy. Individual joinder of
28 all class members is not practicable. Class action treatment will allow similarly situated employees

1 to litigate their claims in the manner that is most efficient and economical for the parties and the
2 judicial system. Plaintiff knows of no difficulty that might be encountered in the management of
3 this suit, which would preclude maintenance as a class action.

4 21. If Plaintiff and each member of the putative class were required to file an individual
5 lawsuit, Defendants would necessarily gain an unconscionable advantage because they would be
6 able to exploit and overwhelm the limited resources of each individual plaintiff with their superior
7 financial and legal resources. Requiring each class member to pursue an individual remedy would
8 also discourage the assertion of lawful claims by workers who would be disinclined to file an action
9 against their former and/or current employer for real and justifiable fear of retaliation and
10 permanent damage to their careers at subsequent employments.

11 22. The prosecution of separate actions by the individual Class members, even if
12 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to
13 individual class members against Defendants and which would establish potentially incompatible
14 standards of conduct for Defendants, and/or (b) adjudications with respect to individual Class
15 members which would, as a practical matter, be dispositive of the interests of other Class members
16 not parties to the adjudications or which would substantially impair or impede the ability of the
17 Class members to protect their interests. Further, the claims of the individual Class members are
18 not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant
19 costs and expenses. Such a pattern, practice, and uniform administration of enterprise-wide policies
20 and practices regarding illegal and improper compensation, as described herein, creates an
21 entitlement to recovery by Plaintiff, the Class, and the Aggrieved Employees identified herein, in
22 a civil action, for the unpaid balance of the full amount of unpaid and/or withheld compensation,
23 including interest thereon, applicable penalties and premium pay, reasonable attorneys' fees, and
24 costs of suit according to the mandates of Labor Code §§ 226, 1194, and Code of Civil Procedure
25 § 1021.5.

26 23. Proof of common business practices and/or factual patterns, which the named
27 Plaintiff experienced and is representative of, will establish the right of each of the members of the
28 proposed Class to recovery on the causes of action alleged herein.

1 24. The Class is commonly entitled to a specific fund with respect to the compensation
2 illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those
3 funds being improperly withheld by Defendants. This action is brought for the benefit of the entire
4 Class and will result in the creation of a common fund.

5 **FACTUAL BACKGROUND**

6 25. Plaintiff brings this action on behalf of herself and a class of employees employed
7 by, or formerly employed by, Defendants during the applicable liability period.

8 26. 99 CENTS ONLY is a retailer with store locations throughout California, Nevada,
9 Arizona, and Texas. Plaintiff is informed and believes, and based thereon alleges, that 99 CENTS
10 ONLY owns and operates its store locations throughout California, such as Store #212 located at
11 265 Marketplace Avenue, San Diego, CA 92113 in San Diego County (“Store #212”), where
12 Plaintiff presently works.

13 27. Plaintiff is informed and believes, and based thereon alleges, Defendants currently
14 employ a substantial number of employees in the State of California.

15 28. Plaintiff is a current non-exempt employee of Defendants who commenced
16 employment with 99 CENTS ONLY as a “stocker” on December 2, 2016 at Store #212.

17 29. On December 5, 2016, Plaintiff participated in 99 CENTS ONLY’s New Hire
18 Orientation. She was provided all of 99 CENTS ONLY’s new employee paperwork (which was
19 provided only in English). Plaintiff is not proficient in English – her native language is Spanish.

20 30. Plaintiff was promoted to “key holder” in or around October 2017 at Store #212.

21 31. In or around March 2018, Plaintiff again promoted, to “front end leader,” at Store
22 #212. Then, in or around July 2018, Plaintiff became an “assistant manager” at Store #212.

23 32. Plaintiff is presently employed as an assistant manager at Store #212.

24 33. At all times relevant to this action, Plaintiff was (and still is) paid on an hourly basis.
25 She typically works four to five days a week, and regularly works more than 8 hours per day and
26 in excess of 40 hours per week.

27 34. Defendants denied Plaintiff and, on information and belief, other similarly-situated
28 and/or aggrieved employees of Defendants, certain rights afforded to them under the California

1 Labor Code and Industrial Welfare Commission Wage Orders. Specifically, Defendants did not
2 properly compensate Plaintiff and other similarly situated and/or aggrieved employees for all hours
3 worked, failed to provide compliant meal and rest periods, failed to provide accurate itemized wage
4 statements and maintain accurate records, and failed to pay all wages due and owing by the times
5 set forth by law, including, upon the separation of employment.

6 35. Plaintiff and, on information and belief, other similarly situated and/or aggrieved
7 employees of Defendants, did not sign a valid on-duty meal period agreement at any point during
8 their employment with Defendants, nor did they properly waive any of their meal periods.

9 36. Defendants maintain a pattern and practice of not providing Plaintiff and, on
10 information and belief, other similarly situated and/or aggrieved employees of Defendants, with
11 legally compliant meal periods, even though Plaintiff and other similarly situated and/or aggrieved
12 employees work and/or worked more than six (6) hours during their workday.

13 37. Pursuant to Defendants' unwritten policies and practices, Plaintiff and, on
14 information and belief, other similarly situated and/or aggrieved employees of Defendants, were
15 regularly required by Defendants to remain on duty at all times during their shift, including during
16 their meal period(s). Moreover, Defendants also required Plaintiff and, on information and belief,
17 other similarly situated and/or aggrieved employees of Defendants, to constantly monitor calls from
18 supervisors and other personnel at all times to return to work, including during their meal periods.

19 38. In addition, Defendants regularly scheduled Plaintiff's and, on information and
20 belief, other similarly situated and/or aggrieved employees' work schedules such that there was
21 often no one to relieve Plaintiff or other similarly situated and/or aggrieved employees of all duties
22 during their meal period, thereby regularly requiring Plaintiff, and, on information and belief, other
23 similarly situated and/or aggrieved employees of Defendants, to remain on duty and continue
24 working though their meal periods.

25 39. Due to their workload and Defendants' chronic understaffing, Plaintiff and, on
26 information and belief, other similarly situated and/or aggrieved employees of Defendants, were
27 regularly required to work through their meal periods, take a meal break more than five hours after
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1 they started working, or take a meal period that was less than thirty minutes long, but never received
2 any compensation in lieu thereof.

3 40. Thus, as a result of Defendants' illegal policies, Plaintiff and, on information and
4 belief, other similarly situated and/or aggrieved employees of Defendants, were denied the
5 opportunity to take legally compliant meal periods, in violation of California law including the
6 applicable Wage Order.

7 41. Defendants had a pattern and practice of failing to authorize and permit Plaintiff
8 and, on information and belief, other similarly situated and/or aggrieved employees of Defendants,
9 to take legally compliant rest periods of at least 10 minutes for every four-hour work period, or
10 major fraction thereof, because Defendants' policies and procedures required Plaintiff and other
11 similarly situated and/or aggrieved employees to remain on duty at all times during their shift,
12 including their rest periods, because, when Plaintiff would attempt to take rest periods, she would
13 be directed to perform tasks instead of being permitted to take legally compliant rest periods.
14 Although Defendants' policies permitted a break if there was someone to relieve Plaintiff and, other
15 similarly situated and/or aggrieved employees, Defendants regularly scheduled Plaintiff's and, on
16 information and belief, other similarly situated and/or aggrieved employees' work schedules such
17 that there was often no one to relieve them of all duties during their rest periods, thereby regularly
18 requiring Plaintiff and other similarly situated and/or aggrieved employees to remain on duty and
19 continue working though their rest periods.

20 42. Thus, as a result of Defendants' illegal policies, Plaintiff and, on information and
21 belief, other similarly situated and/or aggrieved employees were not authorized or permitted to take
22 legally compliant rest periods, in violation of the applicable Wage Order. Despite the fact that
23 Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees' meal
24 and rest periods were regularly interrupted, and/or they were forced to take on-duty meal and rest
25 periods, Defendants did not compensate Plaintiff and, on information and belief, other similarly
26 situated and/or aggrieved employees of Defendants, an additional hour of pay at their applicable
27 regular rate of pay on those shifts that Plaintiff and other similarly situated and/or aggrieved
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1 employees were not authorized or permitted to take a compliant meal or rest period, in violation of
2 Labor Code § 226.7.

3 43. Plaintiff and, on information and belief, other similarly situated and/or aggrieved
4 employees of Defendants, regularly worked more than eight hours a day and/or more than forty
5 hours a week.

6 44. Defendants failed to properly pay Plaintiff and, on information and belief, other
7 similarly situated and/or aggrieved employees of Defendants, at least minimum, regular and
8 overtime wages owed for all time suffered or permitted to work, in violation of the Labor Code.
9 Even though Plaintiff and, on information and belief, other similarly situated and/or aggrieved
10 employees had to work during their meal periods, Defendants did not count this time as hours
11 worked and Defendants did not pay for this time as time worked. As a result, Plaintiff and, on
12 information and belief, other similarly situated and/or aggrieved employees did not receive the
13 statutory minimum wage for all time suffered or permitted to work because they were not properly
14 compensated at their regular rate of pay for those hours they worked during their meal periods. In
15 addition, on those occasions when Plaintiff and, on information and belief, other similarly situated
16 and/or aggrieved employees of Defendants, worked more than eight hours a day and/or more than
17 forty hours a week, they did not receive proper overtime compensation for all hours worked.

18 45. Moreover, Defendants also failed to pay Plaintiff and, on information and belief,
19 other similarly situated and/or aggrieved employees of Defendants, all minimum, regular, and
20 overtime wages because Defendants failed to pay them for the time they spent constantly
21 monitoring their company radios. Specifically, Plaintiff and, on information and belief, other
22 similarly situated and/or aggrieved employees regularly received radio calls from Defendants and
23 coworkers during meal and/or rest breaks regarding work-related issues. Plaintiff and, on
24 information and belief, other similarly situated and/or aggrieved employees of Defendants, were
25 required to monitor and/or answer these work-related radio calls during their meal and/or rest
26 breaks, all of which was not properly compensated as hours worked, in violation of law.

27 46. At all times relevant to this action, 99 CENTS ONLY also failed to provide adequate
28 Labor Code section 2810.5 Notices to Employees to Plaintiff, the Class, and the Aggrieved

1 Employees to notify them of their rates of pay and basis thereof in the language normally used to
2 communicate employment-related information (Spanish). As a direct consequence of Defendants'
3 illegal policies, Defendants did not keep accurate records of the actual hours that Plaintiff and, on
4 information and belief, other similarly situated and/or aggrieved employees of Defendants, were
5 under the control of Defendants, as well as all wages earned. On information and belief, Defendants
6 failed to keep accurate records of Plaintiff's and other similarly situated and/or aggrieved
7 employees' hours worked when Defendants failed to record the proper beginning and ending of
8 each work and meal period, in addition to the total hours worked during the pay period, among
9 others.

10 47. Defendants similarly failed to provide Plaintiff and, on information and belief, other
11 similarly situated and/or aggrieved employees of Defendants, with accurate itemized wage
12 statements. For example, during the applicable statutory period, Defendants failed to furnish
13 Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees, with
14 itemized wage statements that included the total regular and overtime hours worked during the pay
15 period, the applicable hourly rates, including the accurate overtime rate, and the corresponding
16 number of hours worked at each hourly rate, the correct amount of gross and net wages earned, and
17 the one-hour additional rate of regular pay for not taking compliant meal and/or rest periods.

18 48. On information and belief, the wage statement omissions and inaccuracies were not
19 a result of an isolated and unintentional payroll error due to an inadvertent mistake, but rather a
20 result of knowing and intentional omissions by Defendants. In addition, and as a result of these
21 omissions and inaccuracies, Plaintiff and, on information and belief, other similarly situated and/or
22 aggrieved employees of Defendants, were not promptly and easily able to determine the correct
23 hours worked and/or determine the accurate wages due and owing without reference to other
24 documents and information.

25 49. To this date, Defendants have not paid Plaintiff and, on information and belief, other
26 similarly situated and/or aggrieved employees of Defendants, all wages owed, including all
27 minimum, regular and overtime wages, as well as meal and rest period premium wages.
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1 50. On information and belief, Defendants maintained a pattern and practice of failing
2 to pay other similarly situated and/or aggrieved employees all wages due and owing at the time of
3 their separation of employment within the time specified by Labor Code §§ 201, 202, and 203
4 because Defendants failed to pay Plaintiff and, on information and belief, other similarly situated
5 and/or aggrieved employees of Defendants, all wages due and owing at the time of separation from
6 their employment.

7 51. Based on the foregoing violations of the Labor Code and the applicable IWC Wage
8 Order, Defendants engaged in unfair business practices in California and willingly and knowingly
9 engaged in an employment pattern and practice that violated Business & Professions Code § 17200
10 et seq. Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees
11 of Defendants, suffered damages due to Defendants' unfair, unlawful and/or fraudulent actions.

12 52. This action seeks recovery of wages and compensation due and owing to Plaintiff,
13 the Class, and the Aggrieved Employees under California law and for the maximum period allowed.

14 **PRIVATE ATTORNEYS GENERAL ACT ("PAGA") ALLEGATIONS**

15 53. The Causes of Action alleged herein warrant a Labor Code Private Attorneys
16 General Act of 2004 ("PAGA") claim because:

17 54. Pursuant to California Labor Code § 2699(a), any provision of the Labor Code that
18 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
19 Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a
20 violation of the California Labor Code, may, as an alternative, be recovered through a civil action
21 brought by an aggrieved employee on behalf of himself or herself and all other current or former
22 employees pursuant to the procedures specified in § 2699;

23 55. This action involves allegations of violations of provisions of the California Labor
24 Code that provide or do not provide for a civil penalty to be assessed and collected by the LWDA
25 or any departments, divisions, commissions, boards, agencies or employees;

26 56. Plaintiff is an "aggrieved employee" because she is employed by the alleged
27 violators and had one or more of the alleged violations committed against her;

1 57. On May 11, 2020, Plaintiff satisfied the procedural requirements of § 2699.3 by
2 serving the LWDA electronically and Defendant 99 CENTS ONLY via Certified Mail with their
3 notice for wage and hour violations and penalties, including the facts and theories to support each
4 violation. A true and correct copy of Plaintiff's notice is attached as "**EXHIBIT A.**"

5 58. More than 65 calendar days have passed since Plaintiff served notice via Certified
6 Mail to the LWDA and her employer. Therefore, Plaintiff satisfied all the administrative
7 requirements to pursue civil penalties against Defendants pursuant to Labor Code § 2698, et seq.

8 59. Plaintiff filed this action pursuant to Labor Code § 2699(a) and (f), on behalf of
9 herself and all other aggrieved employees of Defendants to recover civil penalties, including unpaid
10 wages, which are to be paid to the affected employees pursuant to Labor Code §§ 558 and 1197.1.

11 60. Defendants are Plaintiff's employer or person acting on behalf of Plaintiff's
12 employer, within the meaning of California Labor Code § 558, who violated or caused to be
13 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
14 hours and days of work in any order of the Industrial Welfare Commission and, as such, is subject
15 to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant
16 times.

17 61. Defendants are Plaintiff's employer or person acting on behalf of Plaintiff's
18 employer either individually or as an officer, agent, or employee of another person, within the
19 meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage
20 less than the minimum fixed by California state law, and as such, is subject to civil penalties for
21 each underpaid employee, as well as liquidated damages pursuant to Labor Code § 1194.2, and any
22 applicable penalties imposed pursuant to Labor Code § 203.

23 62. Plaintiff seeks to recover all applicable civil penalties under PAGA on behalf of
24 herself and all other aggrieved employees of Defendants in California, but only those civil penalties
25 that are required to be shared with the LWDA and no individual relief or underpaid wages.

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FIRST CAUSE OF ACTION
Failure to Pay Minimum and Regular Wages
Violation of Labor Code §§ 1194, 1197, and 1198 and the “Minimum Wages” section of the
Applicable IWC Wage Order
(By Plaintiff Individually, On Behalf of the Non-Exempt Class, and the Aggrieved
Employees Against All Defendants)

63. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of this complaint, as though fully set forth in full at this point.

64. Plaintiff, the Class, and the Aggrieved Employees were and are non-exempt employees of Defendants in California within the meaning of the Labor Code and the applicable IWC Wage Order because Defendants engaged, suffered, or permitted Plaintiff, the Class, and the Aggrieved Employees to work for them and exercised significant control over their wages, hours of work, and working conditions.

65. Labor Code Section 1197 provides, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum wage so fixed is unlawful.”

66. The “Minimum Wage” section of the applicable IWC Wage Order provides that an employer may not pay non-exempt employees less than the applicable minimum for all hours worked.

67. The applicable IWC Wage Order defines the term “hours worked” as “the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

68. The “Meal Period” section of the applicable Industrial Welfare Commission Wage Order, states, in relevant part, “unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an on-duty meal period and counted as hours worked.”

69. Furthermore, pursuant to Labor Code Section 1198, the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The employment of any employee under conditions of labor prohibited by the IWC Wage Order is unlawful.

70. Defendants failed to pay Plaintiff and, upon information and belief alleges, Non-Exempt Class members and Aggrieved Employees, at least applicable minimum wages for all time

1 spent working and under the control of Defendants in violation of Labor Code §§ 1194 and 1197.
2 For example, Plaintiff, and on information and belief, other non-exempt employees of Defendants,
3 were not fully compensated for all work performed during their missed meal and rest periods.

4 71. Labor Code Section 1194 provides, in part, that any employee receiving less than
5 the minimum wage is entitled to recover in a civil action the unpaid balance of the minimum wage,
6 including interest thereon, reasonable attorney's fees, and costs of suit.

7 72. Labor Code § 1194.2, subdivision (a), states: "In any action under § ... 1194... to
8 recover wages because of the payment of a wage less than the minimum wage fixed by an order of
9 the commission or by statute, an employee shall be entitled to recover liquidated damages in an
10 amount equal to the wages unlawfully unpaid and interest thereon."

11 73. Insofar as Defendants, and each of them, failed to pay Plaintiff, the Class, and the
12 Aggrieved Employees an amount that was at least the same as the applicable minimum wage,
13 Defendants, and each of them, were and are in violation of Labor Code §§ 1194 and 1197 and
14 Plaintiff, the Class, and the Aggrieved Employees are entitled to recover damages pursuant to Labor
15 Code § 1194.2(a).

16 74. Plaintiff seeks all available remedies for Defendants' violations including, but not
17 limited to, any and all wages due, monies, interest, liquidated damages, attorney's fees, and costs
18 to the extent permitted by law.

19 **SECOND CAUSE OF ACTION**

20 **Failure to Pay All Overtime Wages** 21 **Violation of Labor Code §§ 223, 510, 1194, 1198,** 22 **and the "Hours and Days of Work" section of the Applicable IWC Wage Order** 23 **(By Plaintiff Individually, On Behalf of the Non-Exempt Class, and the Aggrieved** 24 **Employees Against All Defendants)**

25 75. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of
26 this complaint, as though fully set forth in full at this point.

27 76. Plaintiff and, on information and belief, the Non-Exempt Class members and the
28 Aggrieved Employees were and are non-exempt employees of Defendants in California within the
meaning of the Labor Code and the applicable IWC Wage Order.

1 77. Labor Code Section 510 provides, “[a]ny work in excess of eight hours in one
2 workday and any work in excess of 40 hours in any one workweek and the first eight hours worked
3 on the seventh day of work in any one workweek shall be compensated at the rate of no less than
4 one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in
5 one day shall be compensated at the rate of no less than twice the regular rate of pay for an
6 employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall
7 be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor
8 Code Section 1194 provides that any employee receiving less than the legal overtime compensation
9 applicable to the employee is entitled to recover in a civil action the unpaid balance of the amount
10 of this overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of
11 suit.

12 78. Furthermore, pursuant to Labor Code Section 1198, the standard conditions of labor
13 fixed by the commission shall be the standard conditions of labor for employees. The employment
14 of any employee under conditions of labor prohibited by the IWC Wage Order is unlawful.

15 79. The applicable Wage Order of the Industrial Welfare Commission requires every
16 employer, including Defendants, to pay to each non-exempt employee wages not less than one and
17 one-half times the regular rate of pay for an employee for any hours worked in excess of eight hours
18 in one workday and any work in excess of 40 hours in one workweek and the first eight hours
19 worked on the seventh day of work in any one workweek. Any work in excess of 12 hours in one
20 day shall be compensated at a rate of no less than twice the regular rate of pay for an employee.
21 Any work in excess of eight hours on any seventh day of a workweek shall be compensated at the
22 rate of no less than twice the regular rate of pay of an employee.

23 80. The applicable IWC Wage Order defines the term “hours worked” as “the time
24 during which an employee is subject to the control of an employer and includes all the time the
25 employee is suffered or permitted to work, whether or not required to do so.”

26 81. Plaintiff and, on information and belief, the Non-Exempt Class, and the Aggrieved
27 Employees regularly worked over eight hours a day and 40 hours per week while employed by
28 Defendants. Plaintiff and, on information and belief, the Non-Exempt Class members and the

1 Aggrieved Employees did not receive all overtime compensation owed for all overtime hours
2 worked over 8 hours per day and/or 40 hours per week during their employment with Defendants.

3 82. On information and belief, this occurred primarily because Defendants' policies and
4 procedures, required that Plaintiff and, on information and belief, the Non-Exempt Class and the
5 Aggrieved Employees monitor and answer work-related radio calls during their meal and rest
6 periods, all of which was not properly compensated as overtime hours worked.

7 83. Plaintiff and, on information and belief, the Non-Exempt Class members and the
8 Aggrieved Employees suffered and continue to suffer losses related to the use and enjoyment of
9 compensation due and owing to them as a direct result of Defendants' unlawful acts and Labor
10 Code violations in an amount to be shown according to proof at trial and within the jurisdictional
11 limitations of this Court.

12 84. Plaintiff, the Non-Exempt Class, and the Aggrieved Employees are entitled to
13 recover their unpaid overtime wages, including interest thereon, reasonable attorneys' fees, and
14 costs of suit, pursuant to Labor Code § 1194(a).

15 **THIRD CAUSE OF ACTION**

16 **Failure to Provide Meal Periods in Violation of Labor Code §§ 226.7, 512, and the "Meal 17 Periods" section of the IWC Wage Order 7-2001 § 11 (By Plaintiff Individually, On Behalf of the Non-Exempt Class, and the Aggrieved 18 Employees Against All Defendants)**

19 85. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of
20 this complaint, as though fully set forth in full at this point.

21 86. Plaintiff and, on information and belief, the Non-Exempt Class members and the
22 Aggrieved Employees were and are non-exempt employees of Defendants in California within the
23 meaning of the Labor Code and the applicable IWC Wage Order.

24 87. Labor Code Section 512(a) provides, in part, that employers, including Defendants,
25 "may not employ an employee for a work period of more than five hours per day without providing
26 an employee with a meal period of not less than 30 minutes, and may not employ an employee for
27 a work period of more than 10 hours per day without providing the employee with a second meal
28 period of not less than 30 minutes."

1 88. California Labor Code § 226.7 requires that an employer, including Defendants,
2 provide their non-exempt employees an off-duty, uninterrupted meal period in compliance with the
3 applicable Wage Order of the Industrial Welfare Commission, and prohibits employers from
4 requiring any employee “to work during any meal or rest period mandated by an applicable order
5 of the Industrial Welfare Commission.”

6 89. Labor Code Section 1198 states that the maximum hours of work and standard
7 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
8 conditions of labor for employees. The employment of any employee for longer hours than those
9 fixed by the order or under conditions of labor prohibited by the order is unlawful.

10 90. The “Meal Period” section of the IWC Wage Order states, “[i]f an employer fails
11 to provide an employee a meal period in accordance with the applicable provision of this order, the
12 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
13 for each workday that the meal period is not provided.” On information and belief, Plaintiff and,
14 on information and belief, the Non-Exempt Class members and the Aggrieved Employees were
15 subject to the same policies, practices, and procedures governing the scheduling of meal periods.

16 91. On information and belief, Defendants have a pattern and practice of not providing
17 Plaintiff and the Non-Exempt Class with legally compliant 30-minute off-duty meal periods during
18 their shifts, even though they worked more than 6 hours during their workday.

19 92. Plaintiff and, on information and belief, the Non-Exempt Class members and the
20 Aggrieved Employees were unable to take compliant meal periods because they were regularly
21 required to remain on-duty at all times. Defendants required Plaintiff, and, on information and
22 belief, other non-exempt employees, to listen for radio calls from supervisors and other personnel
23 during their meal periods. Thus, as a result of Defendants’ policies, Plaintiff’s and other non-
24 exempt employees’ meal periods were often late, short, interrupted, or not provided at all.

25 93. Plaintiff and, based upon information and belief, the Non-Exempt Class and
26 Aggrieved Employees did not sign a valid on-duty meal period agreement at any point during their
27 employment with Defendants. Any express or implied waivers obtained from Plaintiff, Class
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1 members, and/or Aggrieved Employees were not willfully obtained, were not voluntarily agreed
2 to, or were a condition of employment, or made part of an unlawful contract of adhesion.

3 94. Plaintiff and, on information and belief, the Non-Exempt Class members and the
4 Aggrieved Employees typically worked more than 6 hours per day and did not properly waive any
5 of their meal periods.

6 95. Therefore, as a result of Defendants' conduct, including the conduct alleged herein,
7 Defendants violated Labor Code Sections 226.7, 512, and 1198, as well as the applicable IWC
8 Wage Order when Defendants failed to provide Plaintiff and, on information and belief, the Non-
9 Exempt Class members and the Aggrieved Employees a 30-minute, uninterrupted, duty-free meal
10 period before the commencement of their sixth hour of work.

11 96. Consequently, pursuant to Labor Code Section 226.7(b) and the "Meal Periods"
12 section of the Wage Order, Defendants were required to pay Plaintiff and, on information and
13 belief, the Non-Exempt Class members and the Aggrieved Employees one additional hour of pay
14 at their regular rate of compensation for each day that Defendants did not provide Plaintiff and, on
15 information and belief, the Non-Exempt Class members and the Aggrieved Employees with a 30-
16 minute, uninterrupted, duty-free meal period before the commencement of their sixth hour of work.

17 97. Despite this obligation, Defendants did not pay Plaintiff and, on information and
18 belief, the Non-Exempt Class members and the Aggrieved Employees one additional hour of pay
19 at each employee's regular rate of compensation for each day that Defendants did not provide
20 Plaintiff and, on information and belief, the Non-Exempt Class members and the Aggrieved
21 Employees with a 30-minute, uninterrupted, duty-free meal period before the commencement of
22 their sixth hour of work.

23 98. As a result of Defendants' intentional failure to perform their obligations to provide
24 meal periods and further failure to compensate Plaintiff and the Non-Exempt Class with all owed
25 meal premium wages as set forth by IWC Wage Order 7-2001 and California Labor Code §
26 226.7(b), Plaintiff, the Class, and the Aggrieved Employees are entitled to be compensated for one
27 hour of additional pay at the regular rate of compensation for each day that a meal period was not
28 provided. Plaintiff, the Class, and the Aggrieved Employees are further entitled to restitution in

1 the amount of 30 minutes of pay time for each off-duty meal period that Defendants did not
2 authorize or permit.

3 **FOURTH CAUSE OF ACTION**

4 **Failure to Provide Rest Periods in Violation of Labor Code §§ 226.7, 512, IWC Wage Order
7-2001 § 12**

5 **(By Plaintiff Individually, on Behalf of the Non-Exempt Class, and the Aggrieved
Employees Against All Defendants)**

6 99. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of
7 this complaint, as though fully set forth in full at this point.

8 100. Plaintiff and, on information and belief, the Non-Exempt Class members and the
9 Aggrieved Employees were and are non-exempt employees of
10 Defendants in California within the meaning of the Labor Code and the applicable IWC Wage
11 Order.

12 101. Labor Code Section § 226.7 requires employers, including Defendants, to provide to
13 their non-exempt employees, including Plaintiff, paid rest periods as mandated by the IWC Wage
14 Orders.

15 102. Labor Code Section 1198 states that the maximum hours of work and standard
16 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
17 conditions of labor for employees. The employment of any employee for longer hours than those
18 fixed by the order or under conditions of labor prohibited by the order is unlawful.

19 103. By Order of the Industrial Welfare Commission, every employer shall authorize and
20 permit all employees to take paid rest periods, which insofar as practicable shall be in the middle
21 of each work period. The authorized rest period shall be based on the total hours worked daily at
22 the rate of ten (10) minutes rest time per four (4) hours, or major fraction thereof. Authorized rest
23 period time shall be counted as hours worked, for which there shall be no deduction from wages.

24 104. On information and belief, Plaintiff and, on information and belief, the Non-Exempt
25 Class members and the Aggrieved Employees were subject to the same policies, practices, and
26 procedures governing the scheduling of rest periods.

27 105. Plaintiff and, on information and belief, the Non-Exempt Class members and the
28 Aggrieved Employees were not authorized and permitted to take compliant rest periods because

1 they were regularly required to remain on-duty at all times. Specifically, Defendants required
2 Plaintiff and, on information and belief, the Non-Exempt Class members and the Aggrieved
3 Employees to listen for radio calls from supervisors and other personnel during their rest periods.
4 Thus, as a result of Defendants' policies, Plaintiff's and, on information and belief, the Non-Exempt
5 Class members' and the Aggrieved Employees' rest periods were often late, short, interrupted, or
6 not provided at all.

7 106. Pursuant to California Labor Code § 226.7 and Section 12 of the applicable Wage
8 Order, employers are prohibited from requiring employees to work during required rest periods and
9 employers are required to pay non-exempt employees a premium wage equivalent to one hour of
10 pay at the employees' regular rate of pay on each workday that the employee is not provided with
11 the required rest period.

12 107. Although Plaintiff and, on information and belief, the Non-Exempt Class members
13 and the Aggrieved Employees were not authorized and permitted to take off-duty rest periods,
14 Defendants did not pay Plaintiff and the Non-Exempt Class appropriate rest period premium wages
15 for each day in which Defendants did not authorize and permit Plaintiff and the Non-Exempt Class
16 to take compliant rest periods, in violation of Labor Code 226.7 and applicable IWC Wage Order.

17 108. On information and belief, Defendants have a common policy, pattern, and practice
18 of failing to compensate Plaintiff and, on information and belief, the Non-Exempt Class members
19 and the Aggrieved Employees with an hour of pay at their regular rate of pay for the times that
20 Plaintiff and, on information and belief, the Non-Exempt Class members and the Aggrieved
21 Employees were not authorized to take rest periods of at least 10 minutes for each four-hour work
22 period, or major fraction thereof.

23 109. As a result of Defendants' failure to comply with rest period regulations set forth in
24 IWC Wage Order 7-2001 and California Labor Code § 226.7, Plaintiff, the Non-Exempt Class, and
25 the Aggrieved Employees are entitled to be compensated for one hour of additional pay at the
26 regular rate of compensation for each day a rest period was not provided. Plaintiff, the Non-Exempt
27 Class, and the Aggrieved Employees are further entitled to restitution in the amount of ten minutes
28 of pay time for each rest period that Defendants did not authorize or permit.

110. Plaintiff seeks all available remedies for Defendants' violations including, but not limited to any and all wages due, monies, interest, attorney's fees, and costs to the extent permitted by law.

FIFTH CAUSE OF ACTION

**Failure to Pay Wages in Violation of Labor Code §§ 204, 210
(By Plaintiff, the Class, and the Aggrieved Employees Against All Defendants)**

111. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of this complaint, as though fully set forth in full at this point.

112. California Labor Code § 204, subdivision (a) states that all wages earned are due and payable twice during each calendar month on days designated in advance by the employers.

113. Plaintiff and, upon information and belief alleges, the Class, and the Aggrieved Employees were not compensated by Defendants for all hours that they worked, including the occasions when Defendants interrupted and caused Plaintiff, the Class, and the Aggrieved Employees' meal periods to be interrupted and/or shortened, which affected the calculation of Plaintiff, the Class, and the Aggrieved Employees' regular and overtime wages.

114. Plaintiff and, upon information and belief alleges, the Class and the Aggrieved Employees regularly worked more than eight hours a day and more than 40 hours per workweek. Plaintiff alleges that she nor, upon information and belief alleges, the Class or the Aggrieved Employees received the appropriate overtime wages for the time worked in excess of eight hours a day or in excess of 40 hours a week.

115. Plaintiff and, upon information and belief alleges, the Class and the Aggrieved Employees are entitled to recover their unpaid minimum and overtime wages, including interest thereon, reasonable attorneys' fees, and costs of suit, pursuant to Labor Code § 1194(a).

116. Plaintiff and, upon information and belief alleges, the Class and the Aggrieved Employees were or are not authorized and permitted to take rest periods and/or meal periods during their employment by Defendants.

117. Plaintiff and, upon information and belief alleges, the Class and the Aggrieved Employees are entitled to premium paid for all rest periods and meal periods they were and are unable to take because they were and are not authorized and permitted to take off-duty,

1 uninterrupted rest periods and/or meal periods. Plaintiff and, upon information and belief alleges,
2 the Class and the Aggrieved Employees never received payment for said missed, shortened, and
3 on-duty rest periods and/or meal periods.

4 118. Defendants willfully failed to timely pay Plaintiff and, upon information and belief
5 alleges, the Class and the Aggrieved Employees all wages due for work performed and this failure
6 continued through the time in which they were employed by Defendants. As a result, Defendants
7 violated California Labor Code § 204.

8 119. California Labor Code § 210 states that employers who fail to pay wages in
9 accordance with Labor Code § 204 shall be subjected to a civil penalty that is recoverable in a civil
10 action.

11 120. Plaintiff, the Class, and the Aggrieved Employees seek their unpaid wages and
12 penalties pursuant to California Labor Code § 210 in an amount to be determined at trial and
13 attorneys' fees, costs, and interest pursuant to California Labor Code § 218.5.

14 **SIXTH CAUSE OF ACTION**
15 **Failure to Timely Pay All Wages Due Upon Separation of Employment**
16 **Violation of Labor Code §§ 201, 202, 203**
(By Plaintiff on behalf of the Waiting Time Penalties Subclass Against All Defendants)

17 121. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of
18 this complaint, as though fully set forth in full at this point.

19 122. Plaintiff and Waiting Time Penalties Subclass members were and are non-exempt
20 employees of Defendants in California within the meaning of the Labor Code and the applicable
21 IWC Wage Order.

22 123. California Labor Code § 201, subdivision (a) provides, in pertinent part: "If an
23 employer discharges an employee, the wages earned and unpaid at the time of discharge are due
24 and payable immediately." Labor Code Section 202 requires Defendants to pay any and all wages
25 due and owing to an employee not having a written contract for a definite period, who quits his or
26 her employment, within 72 hours of the employee quitting his or her employment, unless the
27 employee has given 72 hours' previous notice of his or her intention to quit, in which case the
28 employee is entitled to his or her wages at the time of quitting.

1 124. For violation of Labor Code Sections 201 and 202, Labor Code Section 203 causes
2 the unpaid wages of an employee to continue as a penalty from the date due thereof, at the same
3 rate until paid or until an action is commenced, but the wages shall not continue for more than 30
4 days.

5 125. As a result of Defendants' conduct during the applicable statutory period,
6 Defendants willfully failed to pay Plaintiff and, on information and belief, the Waiting Time
7 Penalties Subclass all wages due and owing to them, including minimum wages, overtime wages,
8 regular wages for all the time they were suffered or permitted to work or were engaged in work
9 under Defendants' control, as well as all meal period premium and rest period premiums owed
10 within the time required by Labor Code Sections 201 and 202, as applicable.

11 126. To date, Plaintiff has not yet received all wages due and payable, including but not
12 limited to, minimum wages, overtime wages, regular wages, and meal and rest premium wages
13 owing to her. On information and belief, the members of the Waiting Time Penalties Subclass have
14 not yet received all minimum wages, overtime wages, regular wages, and meal and rest premium
15 wages due and owing to them.

16 127. On information and belief, Defendants failed to pay the members of the Waiting
17 Time Penalties Subclass all of their wages due and payable at the time of their separation of
18 employment, including unpaid minimum wages, unpaid overtime wages, regular wages, and unpaid
19 meal and rest premium wages.

20 128. At all times pertinent hereto, Defendants had it within their abilities to consult their
21 business records and properly calculate and pay all of the said unpaid wages at the time of each of
22 the Waiting Time Penalties Subclass members' separation. However, Defendants, and each of
23 them, willfully and intentionally failed and refused to pay the earned and unpaid wages to each of
24 the Waiting Time Penalties Subclass members.

25 129. The members of the Waiting Time Penalties Subclass did not hide themselves, or in
26 any manner refuse or obfuscate any attempt by Defendants to tender the balance of the earned and
27 unpaid wages.
28

130. Pursuant to California law, the members of the Waiting Time Penalties Subclass are entitled to a penalty equal to their regular daily rate, up to a maximum of thirty (30) days.

131. Plaintiff, on behalf of the Waiting Time Penalties Subclass, seeks penalties pursuant to California Labor Code § 203 in an amount to be determined at trial and attorneys' fees, costs, and interest pursuant to California Labor Code § 218.5.

SEVENTH CAUSE OF ACTION

**Failure to Provide Accurate, Itemized Wage Statements
Violation of Labor Code §§ 226, 1198 and
the "Records" section of the Applicable IWC Wage Order
(By Plaintiff Individually, On Behalf of the Non-Exempt Class, and the Aggrieved
Employees Against all Defendants)**

132. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of this complaint, as though fully set forth in full at this point.

133. Plaintiff and, on information and belief, the Non-Exempt Class members and the Aggrieved Employees were and are non-exempt employees of Defendants in California within the meaning of the Labor Code and the applicable IWC Wage Order.

134. California Labor Code § 226, subdivision (a) requires employers to furnish to employees, at the time of each payment of wages, an accurate itemized statement showing: (1) gross wages earned; (2) total hours worked by the employee; (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; (5) net wages earned, (6) the pay period; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number; (8) the name and address of the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

135. Labor Code § 226(e), in part, permits employees suffering injury to collect the greater of all actual damages or the amount specified in Labor Code § 226 per violation.

136. Labor Code § 226(e)(2)(B) states, in pertinent part, "an employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the

1 following: (i) The amount of the gross wages or net wages paid to the employee during the pay
2 period or any of the other information required to be provided on the itemized wage statement
3 pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).”

4 137. Labor Code § 226(h) states "An employee may also bring an action for injunctive
5 relief to ensure compliance with this section and is entitled to an award of costs and reasonable
6 attorney's fees."

7 138. Defendants knowingly and intentionally failed to furnish to Plaintiff and, upon
8 information and belief alleges, the Non-Exempt Class and the Aggrieved Employees accurate
9 itemized wage statements with each wage payment as required by Labor Code §226(a). Defendants
10 knowingly and intentionally failed to provide Plaintiff and members of the Non- Exempt Class with
11 each wage payment an accurate wage statement showing, among other things, the total regular and
12 overtime hours worked during the pay period, as well as the corresponding gross and net wages
13 earned, and all applicable hourly rates and the corresponding number of hours worked at each
14 hourly rate.

15 139. Defendants’ failure to provide accurate itemized wage statements constitutes an
16 injury as defined under Labor Code § 226(e)(2)(B). Therefore, Plaintiff and, on information and
17 belief, the Non-Exempt Class members and the Aggrieved Employees have suffered an injury for
18 purposes of Labor Code § 226 and entitled to recover the greater of all actual damages or the amount
19 specified in § 226 per violation. Moreover, Defendants’ failure to provide accurate wage statements
20 left Plaintiff and, on information and belief, the Non-Exempt Class members and the Aggrieved
21 Employees without the ability to know, understand, and question the rate of pay and hours used to
22 calculate the wages paid by Defendants. Therefore, Plaintiff and, on information and belief, the
23 Non-Exempt Class members and the Aggrieved Employees suffered actual damages as a result of
24 Defendants’ failure to provide accurate wage statements.

25 140. Plaintiff, the Non-Exempt Class, and the Aggrieved Employees seek actual damages
26 pursuant to California Labor Code § 226, subdivisions (e) and (g), in addition to interest and
27 reasonable attorneys’ fees and costs pursuant to Labor Code §§ 218.5, 218.6, and 1194(a).

28 ///

EIGHTH CAUSE OF ACTION
Failure to Maintain Accurate Records
Violation of Labor Code § 1174, 1174.5, 1198, and
the “Records” section of the Applicable IWC Wage Order
(By Plaintiff Individually, On Behalf of, the Non-Exempt Class, and the Aggrieved
Employees Against All Defendants)

141. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of this complaint, as though fully set forth in full at this point.

142. Plaintiff and, on information and belief, the Non-Exempt Class members and the Aggrieved Employees were and are non-exempt employees of Defendants in California within the meaning of the Labor Code and the applicable IWC Wage Order.

143. Labor Code section 1174 states, “[e]very person employing labor in this state shall...[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.”

144. The “Records” section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period and meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid each payroll period.

145. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d).

146. Defendants failed to keep accurate information with respect to Plaintiff and, on information and belief, the Non-Exempt Class members and the Aggrieved Employees, including time records showing when the employee begins and ends each work period and meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid each payroll period as required by the “Records” section of the applicable IWC Wage Order. Therefore,

1 Defendants knowingly and intentionally failed to keep and maintain accurate records as required
2 by Labor Code §1174.

3 147. Defendants' failure to maintain accurate and complete records constitutes an injury
4 as defined under Labor Code § 1174. Therefore, Plaintiff and, on information and belief, the Non-
5 Exempt Class members and the Aggrieved Employees have suffered an injury for purposes of
6 Labor Code §§ 1174.5 and 2699 and are entitled to recover the greater of all actual damages or the
7 amount specified in §§ 1174.5 and 2699 per violation.

8 148. Moreover, Defendants' failure to maintain accurate records left Plaintiff and, on
9 information and belief, the Non-Exempt Class members and the Aggrieved Employees without the
10 ability to know, understand, and question the rate of pay and hours used to calculate the wages paid
11 by Defendants. Therefore, Plaintiff and, on information and belief, the Non-Exempt Class members
12 and the Aggrieved Employees suffered actual damages as a result of Defendants' failure to maintain
13 accurate records.

14 **NINTH CAUSE OF ACTION**
15 **Failure to Furnish Accurate Notices to Employees**
16 **Violation of Labor Code § 2810.5**
(By Plaintiff Individually, On Behalf of the Aggrieved Employees, Against All Defendants)

17 149. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of
18 this complaint, as though fully set forth in full at this point.

19 150. Labor Code § 2810.5 requires employers to provide, at the time of hiring or within
20 seven (7) days of any changes to the required categories, to each employee a written notice, in the
21 language the employer normally uses to communicate employment-related information to the
22 employee, with the following information:

- 23 a. The rate or rates of pay and whether paid by the hour, shift, day, week, salary, piece,
24 commission, or otherwise, including any rates for overtime, as applicable;
25 b. Allowances, if any, claimed as part of the minimum wage;
26 c. The regular payday designated by the employer;
27 d. The name of the employer;
28 e. The physical address of the employer's main office;

- 1 f. The telephone number of the employer;
- 2 g. The name, address, and telephone number of the employer's workers' compensation
- 3 insurance carrier;
- 4 h. That an employee: may accrue and use sick leave; has a right to request and use
- 5 accrued paid sick leave; may not be terminated or retaliated against for using or
- 6 requesting the use of accrued paid sick leave; and has the right to file a complaint
- 7 against an employer who retaliates; and
- 8 i. Any other information the Labor Commissioner deems material and necessary.

9 151. Defendants knowingly and intentionally failed to furnish to Plaintiff and, upon

10 information and belief alleges, the Aggrieved Employees written notice of their respective rates of

11 pay and overtime rates of pay in the language that the employer normally uses to communicate

12 employment-related information (Spanish).

13 152. By failing to keep adequate records and furnish written notice as required by

14 California Labor Code § 2810.5, Defendants have injured Plaintiff and the Aggrieved Employees.

15 This failure has injured Plaintiff and the Aggrieved Employees by depriving them of wage and hour

16 earnings information to which they are entitled, making it difficult to calculate the unpaid wages

17 due, causing them to not be paid wages to which they are entitled and violating their rights under

18 California Labor Code § 2810.5.

19 153. Plaintiff and the Aggrieved Employees are entitled to recover civil penalties,

20 attorneys' fees and costs of suit pursuant to California Labor Code § 2698 *et seq.*

21 **TENTH CAUSE OF ACTION**

22 **Failure to Timely Produce Personnel and Payroll Records**

23 **Violation of Labor Code §§ 226(c), 1198.5(b)**
(Plaintiff Against 99 CENTS ONLY and DOES 1-25)

24 154. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of

25 this complaint, as though fully set forth in full at this point.

26 155. Labor Code § 226(b), (c) requires employers to provide former employees the

27 opportunity to inspect their payroll records or mail a copy of the payroll records within twenty-one

28 (21) days of the date the employer receives a written request to do so.

156. Labor Code § 226(f) states, if an employer fails to permit a former employee, or his or her representative, to inspect or provide a copy of the payroll records within twenty-one (21) days, the former employee may recover a penalty from the employer.

157. Labor Code § 1198.5(b), (c) requires employers to provide former employees the opportunity to inspect their personnel records or mail a copy of the personnel records within thirty (30) days of the date the employer receives a written request to do so.

158. Labor Code § 1198.5(k) states, if an employer fails to permit a former employee, or his or her representative, to inspect or provide a copy of the personnel records within thirty (30) days, the former employee may recover a penalty from the employer.

159. On or around February 28, 2020, Plaintiff, by and through her attorneys, requested her personnel file and payroll records from 99 CENTS ONLY, as she is entitled to do as an employee pursuant to California Labor Code §§ 226 and 1198.5.

160. 99 CENTS ONLY, upon information and belief, produced a copy of Plaintiff's personnel file and payroll records on or about May 20, 2020, long after the statutory period for 99 CENTS ONLY to produce complete copies of Plaintiff's personnel file and payroll records expired.

161. 99 CENTS ONLY failed to timely deliver, pursuant to Labor Code §§ 226, 1198.5, Plaintiff's complete personnel and payroll files.

162. As a result of 99 CENTS ONLY's untimely production of Plaintiff's personnel and payroll files, she is entitled to statutory penalties pursuant to Labor Code §§ 226, 1198.5.

ELEVENTH CAUSE OF ACTION
Violation of California Unfair Competition Laws
Business & Professions Code §§ 17200 *et seq.*
(Plaintiff Individually on behalf of the Non-Exempt Class, and the Aggrieved Employees
Against All Defendants)

163. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of this complaint, as though fully set forth in full at this point.

164. California Business & Professions Code Section 17200, *et seq.*, prohibits acts of unfair competition, which includes any "unlawful, unfair or fraudulent business act or practice..."

165. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing, and utilizing the policies,

1 customs, and practices outlined above, including, to wit: (1) failing to pay Plaintiff and the Non-
2 Exempt Class all regular, minimum, and overtime wages for all hours suffered or permitted to work
3 and under the control of Defendants; (2) failing to pay all earned wages in a timely fashion; (3)
4 failing to provide proper meal and rest periods and pay Plaintiff and the Non-Exempt Class
5 premium wages for failure to provide compliant meal and rest periods; (4) failing to maintain
6 accurate records including accurate records of the hours that Plaintiff and the Non-Exempt Class
7 worked while employed by Defendants; (5) failing to provide Plaintiff and the Non-Exempt Class
8 accurate itemized wage statements; and (6) failing to timely pay members of the Waiting Time
9 Penalties Subclass all wages owed upon separation of their employment with Defendants.

10 166. Defendants intentionally avoided paying Plaintiff and, on information and belief,
11 the Non-Exempt Class members and the Aggrieved Employees all wages and/or monies, and other
12 financial obligations attached thereto, to create for Defendants an artificially lower cost of doing
13 business, and thus, undercut their competitors.

14 167. Defendants lowered their costs of doing business by paying Plaintiff and, on
15 information and belief, the Non-Exempt Class members and the Aggrieved Employees an amount
16 less than what requires the California Labor Code and the applicable Wage Order of the Industrial
17 Welfare Commission, thereby unfairly forcing Plaintiff and other non-exempt employees to
18 perform work without fair compensation and benefits.

19 168. Defendants held themselves out to Plaintiff and, on information and belief, the Non-
20 Exempt Class members and the Aggrieved Employees as being knowledgeable about, and adhering
21 to, the employment laws of California at all times relevant herein. Plaintiff and, on information and
22 belief, the Non-Exempt Class members and the Aggrieved Employees relied on and believed in
23 Defendants' representation concerning Defendants' adherence to the California laws, all to their
24 detriment.

25 169. Defendants' scheme to lower their payroll and operation costs and thus profit, by
26 withholding money owed to the class and withholding wages, compensation and benefits, which
27 are all the property of Plaintiff and, on information and belief, the Non-Exempt Class members and
28 the Aggrieved Employees, in violation of the California Labor Code and the IWC Wage Orders, as

1 alleged herein, constitutes an “unlawful, unfair or fraudulent business act or practice,” under the
2 California Business and Professions Code Section 17200, *et seq.* As a result of Defendants’ unfair
3 competition, Plaintiff and, on information and belief, the Non-Exempt Class members and the
4 Aggrieved Employees suffered injury in fact by losing money and/or property.

5 170. Business and Professions Code Section 17204, states, in relevant part, “[a]ctions for
6 relief pursuant to this chapter shall be prosecuted...by...a person who has suffered injury in fact
7 and has lost money or property as a result of the unfair competition.”

8 171. Defendants acquired money and property owed to Plaintiff and the Non-Exempt
9 Class by means of an unlawful practice that constitutes unfair competition as defined by Business
10 and Professions Code Section 17200, *et seq.*

11 172. Plaintiff and, on information and belief, the Non-Exempt Class members and the
12 Aggrieved Employees are persons in interest under Business and Professions Code Section 17203
13 to whom money and property should be restored. Business and Professions Code Section 17203
14 states, in relevant part, that “any person may pursue representative claims or relief on behalf of
15 others only if the claimant meets the standing requirements of Section 17204.”

16 173. Plaintiff is a person who suffered injury in fact and lost money, wages,
17 compensation, and benefits, as a result of Defendants’ unfair competition. Thus, pursuant to
18 Business and Professions Code Sections 17203 and 17204, Plaintiff may pursue representative
19 claims and relief on behalf of herself and the putative classes and the Aggrieved Employees.

20 174. Pursuant to Business and Professions Code Section 17203, “[t]he court may make
21 such orders or judgments, as may be necessary to restore to any person in interest any money or
22 property, real or personal, which may have been acquired by means of such unfair competition.”

23 175. Defendants reaped unfair benefits and illegal profits at the expense of Plaintiff and,
24 on information and belief, the Non-Exempt Class members and the Aggrieved Employees by
25 committing the unlawful acts alleged herein. Thus, Defendants must make restitution and/or be
26 subject to other equitable relief pursuant to Business & Professions Code Section 17203 and restore
27 all unpaid wages to Plaintiff and, on information and belief, the Non-Exempt Class members and
28 the Aggrieved Employees.

176. Plaintiff seeks all available remedies on behalf of herself and on behalf of the Non-Exempt Class and Aggrieved Employees, including, but not limited to, restitution of all wages and all monies owed, all in an amount to be shown according to proof at trial. All such remedies are cumulative of relief available under other laws, pursuant to Business & Professions Code Section 17205.

TWELFTH CAUSE OF ACTION
California Labor Code Private Attorneys General Act
Violation of Labor Code §§ 2698 *et seq.*
(By Plaintiff On Behalf of All Aggrieved Employees of Defendants Against all Defendants)

177. Plaintiff realleges and incorporates by reference all of the preceding paragraphs of this complaint, as though fully set forth in full at this point.

178. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

179. This cause of action involves allegations of violations of Labor Code §§ 201, 202, 204, 221, 223, 224, 225.5, 226(a), 226.7, 510, 512, 1174(d), 1197, 1198, and 2810.5, which, pursuant to Labor Code § 2699.5, provide for a civil penalty to be assessed and collected by the LWDA or recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

180. Defendants employ Plaintiff (and the Aggrieved Employees are current and former employees of Defendants) and Plaintiff has one or more of the alleged violations committed against her. Therefore, Plaintiff is an “aggrieved employee” under PAGA because the alleged violator employs her and she has had one or more of the alleged violations committed against her. As such, Plaintiff is properly suited to represent the interests of other aggrieved employees under the PAGA.

181. Plaintiff seeks to recover civil penalties, but only those civil penalties that are required to be shared with the LWDA and no individual relief or underpaid wages, on behalf of

1 himself and other aggrieved employees for Defendants' violations of the Labor Code, including but
2 not limited to Defendants' violations of Labor Code §§ 201, 202, 204, 221, 223, 224, 225.5, 226(a),
3 226.7, 510, 512, 1174(d), 1197, 1198, and 2810.5.

4 182. For all provisions of the Labor Code for which a civil penalty is not specifically
5 provided, Labor Code § 2699(f) imposes upon Defendants, and each of them, a penalty of one
6 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and
7 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
8 violation.

9 183. Defendants violated Labor Code §§ 226.7, 512, and 1198 by failing to provide
10 Plaintiff and aggrieved employees lawfully compliant meal periods and by failing to pay them meal
11 period premium wages for each day a meal period was not provided. Under Labor Code §
12 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay
13 period for the initial violation of Labor Code §§ 226.7 and 1198, and \$200 for each aggrieved
14 employee per pay period for each subsequent violation.

15 184. Defendants violated Labor Code §§ 226.7 and 1198 by failing to authorize and
16 permit Plaintiff and aggrieved employees to take duty-free rest periods and by failing to pay them
17 rest period premium wages for each day a rest period was not provided. Under Labor Code §
18 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay
19 period for the initial violation of Labor Code §§ 226.7 and 1198, and \$200 for each aggrieved
20 employee per pay period for each subsequent violation.

21 185. Defendants violated Labor Code §§ 223, 1194, 1197, and 1198 by not paying
22 Plaintiff and other Aggrieved Employees at least minimum and regular wages for all the time they
23 were suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged
24 herein. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for
25 each Aggrieved Employee per pay period for the initial violation of Labor Code §§ 223, 1194, and
26 1198, and \$200 for each Aggrieved Employee per pay period for each subsequent violation.

27 186. Defendants violated Labor Code §§ 223, 510, 1194, and 1198, by not paying
28 Plaintiff and other Aggrieved Employees all overtime wages earned for all the time they were

1 suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged herein.
2 At all relevant times, Plaintiff and, on information and belief, other Aggrieved Employees were not
3 paid all overtime when they worked in excess of eight hours a workday or forty hours in a
4 workweek. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100
5 for each Aggrieved Employee per pay period for the initial violation of Labor Code §§ 223, 1194,
6 and 1198, and \$200 for each Aggrieved Employee per pay period for each subsequent violation.

7 187. Defendants violated Labor Code §§ 201, 202, and 1198 by not paying Aggrieved
8 Employees all minimum, regular, and overtime wages owed, and all meal and rest premium wages
9 owed by the time set forth by law upon their separation of employment, as alleged herein. Thus,
10 under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each Aggrieved
11 Employee per pay period for the initial violation of Labor Code §§ 201, 202, and 1198, and \$200
12 for each Aggrieved Employee per pay period for each subsequent violation.

13 188. Defendants violated Labor Code §§ 204 and 1198 by not paying Plaintiff and
14 Aggrieved Employees all minimum, regular, and overtime wages owed, and all meal and rest
15 premium wages owed by the time set forth by law during their employment, as alleged herein.
16 Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each
17 Aggrieved Employee per pay period for the initial violation of Labor Code §§ 204 and 1198, and
18 \$200 for each Aggrieved Employee per pay period for each subsequent violation.

19 189. Defendants violated Labor Code § 2810.5, by failing to provide Plaintiff and
20 Aggrieved Employees, at the time of hiring or within seven days of any changes in the required
21 categories, written notice of their rates of pay, including overtime rates of pay, in the language
22 Defendants normally uses to communicate employment-related information to their employees
23 (Spanish). Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100
24 for each Aggrieved Employee per pay period for the initial violation of Labor Code § 2810.5 and
25 \$200 for each Aggrieved Employee per pay period for each subsequent violation.

26 190. Under Labor Code § 210(a), Defendants, in addition to, and entirely independent
27 and apart from any other penalty, is subject to a civil penalty for failing to pay the wages of each
28 Aggrieved Employee as provided in Labor Code § 204, as follows: (1) For any initial violation, one

1 hundred dollars (\$100) for each failure to pay each Aggrieved Employee. (2) For each subsequent
2 violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay
3 each Aggrieved Employee, plus 25 percent of the amount unlawfully withheld. This amount shall
4 be recovered on behalf of the Labor Commissioner.

5 191. Defendants violated Labor Code §§ 226(a), 1174(d), and 1198 by failing to maintain
6 records detailing the start and end times of meal and rest periods, and knowingly and intentionally
7 failing to maintain and provide Plaintiff and other Aggrieved Employees of Defendants with wage
8 statements itemizing accurately all information required by Labor Code § 226(a), as alleged herein,
9 including the total hours worked, all regular hours worked, all overtime hours worked, the
10 corresponding gross and net wages earned, the applicable hourly rate per hour worked, the
11 corresponding number of hours worked at each hourly rate, any sort of employee identification
12 number, and the address of the legal entity that is the employer. Thus, under Labor Code §
13 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each Aggrieved Employee per pay
14 period for the initial violation of Labor Code §§ 226(a) and 1198, and \$200 for each Aggrieved
15 Employee per pay period for each subsequent violation.

16 192. Alternatively, Labor Code § 226.3 provides for a civil penalty in the amount of \$250
17 per violation in an initial citation and \$1,000 for each violation in a subsequent citation, for which
18 the employer fails to provide the employee a wage deduction statement or fails to keep the records
19 required in subdivision (a) of § 226.

20 193. Labor Code § 1174.5 provides for a civil penalty of \$500 for any person employing
21 labor who willfully fails to maintain accurate and complete records required by subdivision (d) of
22 § 1174.

23 194. Defendants are and were Plaintiff's and Aggrieved Employees' employers or other
24 person(s) acting either individually or as an officer, agent, or employee of another person(s), who
25 pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the
26 Commission, and, as such, are subject to civil penalties for each underpaid employee pursuant to
27 Labor Code § 1197.1.
28

1 195. Labor Code § 1197.1 imposes upon Defendants for each initial violation of Labor
2 Code §1197 by paying or causing an employee to be paid less than the minimum wage, a civil
3 penalty of \$100.00 for each underpaid employee for each pay period for which the employee is
4 underpaid. Furthermore, Labor Code § 1197.1 imposes upon Defendants for each subsequent
5 violation a civil penalty of \$250.00 for each underpaid employee for each pay period for which the
6 employee was underpaid.

7 196. Defendants are and were Plaintiff's and other Aggrieved Employees' employers, or
8 persons acting on their behalf, within the meaning of Labor Code § 558, who violated or caused to
9 be violated, a section of Part 2, Chapter 1 of the Labor Code or any provision regulating hours and
10 days of work in any IWC Wage Order and, as such, is subject to civil penalties for each underpaid
11 employee as set forth in Labor Code § 558.

12 197. Pursuant to Labor Code § 558, Defendants are subject to a civil penalty of \$50.00
13 for an initial violation of Labor Code §§ 510 and 512, for each Aggrieved Employee, for each pay
14 period for which the Aggrieved Employee was not provided with a timely off-duty 30-minute meal
15 period, all overtime wages for all hours worked, and the required days of rest, as alleged herein.
16 Furthermore, Labor Code § 558 imposes upon Defendants for each subsequent violation of Labor
17 Code §§ 510 and 512, a civil penalty of \$100.00 for each Aggrieved Employee for each pay period
18 for which the Aggrieved Employee was not provided with a timely off-duty 30-minute meal period,
19 and all overtime wages for all hours worked, as alleged herein.

20 198. Labor Code § 558 also imposes upon Defendants for each initial violation of the
21 Hours and Days of Work section of the applicable IWC Wage Order a civil penalty of \$50.00 for
22 each Aggrieved Employee for each pay period for which the Aggrieved Employee was not provided
23 with a paid uninterrupted 10-minute rest period, as alleged herein. Furthermore, Labor Code § 558
24 imposes upon Defendants for each subsequent violation of the Hours and Days of Work section of
25 the applicable IWC Wage Order a civil penalty of \$100.00 for each Aggrieved Employee for each
26 pay period for which the Aggrieved Employee was not provided with a paid uninterrupted 10-
27 minute rest period, as alleged herein.

199. For bringing this action, Plaintiff is additionally entitled to attorney's fees and costs incurred herein.

200. Plaintiff seeks to recover civil penalties on behalf of herself and other Aggrieved Employees for Defendants' violations of the Labor Code, including but not limited to Defendants' violations of Labor Code §§ 201, 202, 204, 221, 223, 224, 225.5, 226(a), 226.7, 510, 512, 1174(d), 1197, and 1198, pursuant to Labor Code § 2698, et seq. The exact amount of the applicable penalties is in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

PRAYER

WHEREFORE, Plaintiff, on behalf of herself, the Class, and the Aggrieved Employees, prays for judgment against Defendants, and each of them, as follows:

1. For payment of lost wages, bonuses and benefits as well as other compensatory damages according to proof;
2. For general economic and non-economic damages, including emotional distress damages, in an amount according to proof;
3. For unpaid wages due including minimum wage, overtime, statutory, and statutory prejudgment interest pursuant to California Labor Code §§ 510, 1194, 1197, 1198, 1182.12, and California Business & Professions Code §§ 17200, et seq.;
4. For liquidated damages for non-payment of minimum wages pursuant to California Labor Code § 1194.2;
5. For premium wages for failure to authorize or permit rest breaks pursuant to California Labor Code § 226.7 with statutory prejudgment interest;
6. For premium wages for failure to authorize or permit meal periods pursuant to California Labor Code § 226.7 with statutory prejudgment interest;
7. For damages or penalties for inadequate wage and hour records pursuant to California Labor Code § 1174 in the statutory amount;
8. For damages or penalties pursuant to Labor Code §§ 226, 1198.5;
9. For penalties pursuant to Labor Code § 203;

10. For special damages according to proof;
11. For pre-judgment and post-judgment interest as allowed by law;
12. For injunctive relief on each cause of action for which such injunctive relief is available;
13. For restitutionary relief on each cause of action for which such restitutionary relief is available;
14. For unpaid wages and penalties pursuant to California Labor Code § 558;
15. For penalties pursuant to California Labor Code §§ 2698 *et seq.*;
16. For costs of suit incurred herein;
17. For attorney's fees and expert witness fees as allowed by law;
18. For all civil penalties available at law;
19. For interest on the sum of damages awarded at the maximum legal rate; and
20. For such other and further relief as the Court may deem just and proper.

Dated: July 16, 2020

DUNN DESANTIS WALT & KENDRICK, LLP

By:



David D. Cardone
Christine Y. Dixon
Attorneys for Plaintiff
LIZZETE GONYA, individually and on
behalf of all other similarly situated

EXHIBIT A



DUNN DESANTIS
WALT & KENDRICK^{LLP}
A T T O R N E Y S

DAVID D. CARDONE
DCardone@ddwklaw.com

May 11, 2020

Via Regular Mail and Certified Mail - Return Receipt Requested

LABOR AND WORKFORCE
DEVELOPMENT AGENCY
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Agent for Service of Process for
99 Cents Only Stores, LLC
CT Corporation System
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Re: Notice of Labor Code Violations pursuant to Labor Code section 2699, et seq.,
re: Lizzete Gonya, on behalf of herself and all aggrieved employees

California Labor and Workforce Development Agency and 99 Cents Only Stores, LLC:

The undersigned represents Lizzete Gonya who intends to pursue claims for various California Labor Code violations on behalf of all other aggrieved employees arising from their employment by 99 Cents Only Store, LLC.

Factual Statement

Lizzete Gonya is currently employed by 99 Cents Only Stores, LLC ("99 Cents Store") at its 265 Marketplace Avenue, San Diego, CA 92113 location. As explained herein, 99 Cents Store has over time engaged in a pattern of California Labor Code violations of a variety of obligations to Ms. Gonya in the course of her employment. Ms. Gonya intends to pursue claims against 99 Cents Store on her own behalf and on behalf of all other similarly aggrieved current and former employees of 99 Cents Store.

750 B Street, Suite 2620, San Diego, CA 92101
Tele: (619) 573-4488

Re: Notice of Labor Code Violations pursuant to Labor Code section 2699, et seq., re: Lizzete Gonya, on behalf of herself and all aggrieved employees

This action will primarily be based on the fact that 99 Cents Store has: (1) failed to pay all wages earned by Ms. Gonya and her co-workers, including the required minimum wage for all hours worked; (2) failed to pay overtime wages; (3) failed to provide meal and rest periods, among other Labor Code violations.

99 Cents Store's acts give rise to claims for, at least, the following violations: Labor Code sections 1194, 1194.2, 1197, 1197.1 (failure to pay all wages; minimum wage violations); Labor Code sections 223, 510, 1194, 1198 (failure to pay all overtime wages); Labor Code section 226 (inaccurate wage statements); Labor Code section 226.7 and 512 (failure to provide meal and rest periods); Labor Code section 204 (failure to pay all wages by the appropriate pay period); and Labor Code section 2699, et seq. (PAGA).

Theories of Labor Code Violations and Remedies

Ms. Gonya alleges that while employed by 99 Cents Store, she, as well as her co-workers, were regularly made by supervisors to work "off-the-clock" without being compensated by at least minimum wage. This is in violation of Labor Code sections 1194, 1197, 1197.1, and each instance is actionable under Labor Code section 1194.2.

Ms. Gonya alleges that while employed by 99 Cents Store, she and her co-workers were regularly made to work in excess of eight (8) hours in a workday, and over forty (40) hours in a workweek, without being compensated for all overtime hours worked, in violation of Labor Code sections 223, 510, 1194, and 1198, and that these violations are actionable under Labor Code section 2699.5. Ms. Gonya also alleges that she and her co-workers were not paid an overtime rate of pay for the work they performed in excess of eight (8) hours a day, and in excess of forty (40) hours in a workweek. These violations are also actionable under Labor Code section 2699.5.

Ms. Gonya alleges that while employed by 99 Cents Store, she and her co-workers were regularly forced to forego meal and rest periods in violation of Labor Code sections 226.7 and 512. They were forced to clock-out as though they were taking meal periods, but they were, in fact, forced and expected to continue working during the meal periods at the instruction of 99 Cents Store. Specifically, Ms. Gonya and her co-workers were forced to take a two-way radio with them on their meal periods. They were forced and expected to respond to calls whenever addressed (on the radio), or return to work, during their meal periods. In other words, she and her co-workers were denied uninterrupted meal periods, and not relieved of duties.

LABOR AND WORKFORCE DEVELOPMENT AGENCY

May 11, 2020

Page 3

Re: Notice of Labor Code Violations pursuant to Labor Code section 2699, et seq., re: Lizzete Gonya, on behalf of herself and all aggrieved employees

Ms. Gonya also alleges that she and her co-workers were never permitted to take rest periods. Employees on rest periods were regularly and systematically interrupted and forced to return to work.

99 Cents Store also failed to provide payments for said missed meal and rest periods. Furthermore, Ms. Gonya alleges that the wage statements she and her co-workers received from 99 Cents Store were not compliant with Labor Code section 226 because they did not reflect all hours actually worked nor did they reflect the correct pay, due to the inaccurate hours stated on the pay stubs.

Additionally, Ms. Gonya intends to pursue claims that 99 Cents Store failed to keep accurate payroll records, resulting in Ms. Gonya and her co-workers being aggrieved in that they were denied regular pay and overtime pay, entitling them to penalties pursuant to Labor Code sections 226 and 1174. These violations are actionable under Labor Code section 2699.5.

As a result of 99 Cents Store's policies, and resultant violations of law, Ms. Gonya and her co-workers will pursue claims that 99 Cents Store violated Labor Code section 204 because Ms. Gonya and her co-workers did not timely receive all of their wages earned. Ms. Gonya and her co-workers are entitled to penalties pursuant to Labor Code section 210. These violations are actionable under Labor Code section 2699.5.

In her complaint against 99 Cents Store, Ms. Gonya seeks to represent herself and all similarly aggrieved employees who were and are employed by 99 Cents Store.

Please advise if the Labor and Workforce Development Agency objects to my client pursuing penalties pursuant to Labor Code section 2699, et seq., as outlined herein. Please feel free to contact our office if you have any comments or questions.

Sincerely,



David D. Cardone

DDC/cd