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

JANELLE BASICH-MUSTAFA, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

DESIGNER FRAGRANCES & COSMETICS
COMPANY, a California corporation d/b/a
NYX Professional Makeup; and DOES 1
through 100,

Defendants.

Case No.: 20STCV16314

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS**
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);
- (2) **FAILURE TO PAY ALL OVERTIME
WAGES** (LABOR CODE §§ 204, 510,
558, 1194, 1198);
- (3) **MEAL PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 512, 558);
- (4) **REST PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 516);
- (5) **WAGE STATEMENT VIOLATIONS**
(LABOR CODE § 226 *et seq.*);
- (6) **WAITING TIME PENALTIES**
(LABOR CODE §§ 201-203);
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); AND**

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Superior Court of California
County of Los Angeles

JUL 14 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

**(8) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

Plaintiff Janelle Basich-Mustafa (“Plaintiff”) on behalf of herself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint (“Complaint”) against Designer Fragrances & Cosmetics Company, a California corporation doing business as Nyx Professional Makeup; and DOES 1 to 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this action for recovery of unpaid wages and penalties under California Labor Code sections 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, and 2698 *et seq.*, and Business and Professions Code section 17200 *et. seq.* (“Unfair Competition Law”), and Industrial Welfare Commission Wage Order 7-2001 (“Wage Order 7”), in addition to seeking declaratory relief and restitution. This action is brought pursuant to California Code of Civil Procedure section 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code because the amount in controversy exceeds this Court's jurisdictional minimum.

2. This Court has jurisdiction over Defendants because, upon information and belief, Defendants have sufficient minimum contacts in California, or otherwise intentionally avails itself/themselves to the California market so as to render the exercise of jurisdiction over it/them by the California courts consistent with the traditional notions of fair play and substantial justice.

VENUE

3. Venue is proper in this judicial district pursuant to California Code of Civil Procedure sections 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the County of Los Angeles. Defendants own, maintain offices, transact business, have an agent or agents within the County of Los Angeles, and/or otherwise are found within the County of Los Angeles, and Defendants are within the jurisdiction of this Court for

1 purposes of service of process.

2 **PARTIES**

3 4. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
4 Plaintiff was and currently is, a California resident. During the four years immediately preceding
5 the filing of this action and within the statute of limitations periods applicable to each cause of
6 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
7 was, and is, a victim of Defendants' policies and/or practices complained of herein, lost money
8 and/or property, and has been deprived of the rights guaranteed by Labor Code sections 201-204,
9 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, and 2698 *et seq.*,
10 California's Unfair Competition Law, and Wage Order 7, which sets employment standards for
11 the mercantile industry.

12 5. Plaintiff is informed and believes, and based thereon alleges, that during the four
13 years preceding the filing this action and continuing to the present, Defendants did (and continue
14 to do) business within the County of Los Angeles and the State of California by operating makeup
15 retail stores and warehouse(s), and therefore, were (and are) doing business in the County of Los
16 Angeles and the State of California.

17 6. Plaintiff does not know the true names or capacities, whether individual, partner,
18 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
19 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
20 further amend this Complaint when such true names and capacities are discovered. Plaintiff is
21 informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether
22 individual, partners, or corporate, were responsible in some manner for the acts and omissions
23 alleged herein, and proximately caused Plaintiff and the Classes (as defined herein) to be subject
24 to the unlawful employment practices, wrongs, injuries and damages complained of herein.

25 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
26 mentioned herein, Defendants were and are the employers of Plaintiff and all members of the
27 Classes.

28 8. At all times herein mentioned, each of said Defendants participated in the doing

1 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
2 Defendants, and each of them, were the agents, servants, and employees of each and every one of
3 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
4 were acting within the course and scope of said agency and employment. Defendants, and each
5 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
6 omissions complained of herein.

7 9. At all times mentioned herein, Defendants, and each of them, were members of
8 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
9 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
10 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
11 members of the Classes.

12 **GENERAL FACTUAL ALLEGATIONS**

13 10. Defendants operate a cosmetics brand with several retail stores, warehouse(s) and
14 offices throughout California. Plaintiff was employed by Defendants as a non-exempt Sales
15 Associate/Key Holder from approximately February 2019 to August 1, 2019 at its retail store
16 located in Sherman Oaks, California.

17 11. During Plaintiff's employment with Defendants, Defendants required Plaintiff and
18 other non-exempt employees to undergo security checks off-the-clock. Specifically, at the end of
19 each shift and before employees were allowed to leave the facility, Plaintiff and other non-exempt
20 employees were required to clock out and then have their bag checked by a manager under a
21 security camera. As the employee's shifts often ended at around the same time and there were
22 limited managers/security cameras, these security checks often took between 4 to 5 minutes.
23 Defendants did not compensate Plaintiff and other employees for this time that they were subject
24 to the control of the employer. On information and belief, employees working in the warehouse(s)
25 and offices were similarly required to undergo security and bag checks off-the-clock and were
26 not compensated for this time. As a result of Defendants' failure to compensate for time spent
27 undergoing security and bag checks, Defendants failed to compensate Plaintiff and other non-
28 exempt employees all wages owed, including minimum wages and overtimes wages.

1 12. Defendants also failed to provide Plaintiff and other non-exempt employees with
2 all legally compliant meal periods due to Defendants' meal period policies/practices of requiring
3 Plaintiff and other non-exempt employees to assist its customers without adequately staffing their
4 stores. As a result of these policies/practices, Plaintiff and other nonexempt employees
5 occasionally were required to take their meal periods after the fifth hour of work and/or were not
6 able to take a full 30-minute meal period. Due to Defendants' policy/practice of requiring at least
7 one manager and/or one key holder employee to be present at the store at all times, Plaintiff and
8 other non-exempt key holder employees and managers were required to remain on-premises at
9 all times during their shift, and therefore remain on duty during meal periods. Defendants did not
10 compensate their employees for this time spent working off-the-clock during their meal periods.
11 Moreover, on those occasions when Plaintiff and other nonexempt employees were not provided
12 with all legally-required and compliant meal periods to which they were entitled, Defendants
13 failed to compensate them with the required meal period premium for each workday in which
14 they experienced a meal period violation as mandated by Labor Code § 226.7. Upon information
15 and belief, during at least a portion of the relevant time period, Defendants failed to maintain pay
16 codes for the payment of meal period premium payments as required by Labor Code section
17 226.7.

18 13. Defendants failed to permit and authorize Plaintiff and other key holder and
19 management level employees to take all required and legally-compliant rest periods due to
20 Defendants' policy and practice of requiring at least one key holder employee to remain at the
21 store at all times. As Plaintiff was often the only key holder staffed during her shift, Plaintiff was
22 required to remain at the store during the entirety of her shift and was unable to take off-duty rest
23 periods of at least ten minutes. On occasions when Plaintiff and other nonexempt employees were
24 not permitted to take all legally-required and compliant rest periods to which they were entitled,
25 Defendants failed to compensate them with the required rest period premium for each workday
26 in which she experienced a rest period violation as mandated by Labor Code § 226.7. Upon
27 information and belief, during at least a portion of the putative class period, Defendants
28 maintained no payroll code for paying rest period premiums under Labor Code § 226.7.

1 14. As a result of Defendants' failure to pay all minimum wages owed, overtime wages
2 owed, and meal and rest period premium wages owed, Defendants failed to timely pay Plaintiff
3 and other non-exempt employees all wages owed at the time of their respective separations from
4 employment, maintained inaccurate payroll records, and issued inaccurate wage statements to
5 Plaintiff and other non-exempt employees.

6 **CLASS ACTION ALLEGATIONS**

7 15. **Class Definitions:** Plaintiff brings this action on behalf of herself and the
8 following Classes pursuant to section 382 of the Code of Civil Procedure:

9 a. The Minimum Wage Class consists of all of Defendants' current and former non-
10 exempt employees in California who were: (1) subject to Defendants' security/bag
11 check policies and/or practices; and/or (ii) were subject to Defendants' meal period
12 practices for non-exempt key holder and management level employees, during the
13 four years immediately preceding the filing of this lawsuit through the present.

14 b. The Overtime Class consists of all of Defendants' current and former non-exempt
15 employees in California who worked in excess of 8 hours per day and/or 40 hours
16 per workweek and: (i) were subject to Defendants' security/bag check policies
17 and/or practices; and/or (ii) were subject to Defendants' meal period practices for
18 non-exempt key holder and management level employees, during the four years
19 immediately preceding the filing of this lawsuit through the present.

20 c. The Meal Period Class consists of all Defendants' current and former non-exempt
21 employees who: (i) worked at one of Defendants' retail stores in California and
22 worked at least one shift in excess of 5.0 hours and/or (ii) were subject to
23 Defendants' meal period practices for non-exempt key holder and management
24 level employees, during the four years immediately preceding the filing of this
25 lawsuit through the present.

26 d. The Rest Period Class consists of all Defendants' current and former non-exempt
27 key holder and management level employees in California who worked at least
28 one shift in excess of 3.5 hours, during the four years immediately preceding the

filing of this action through the present.

e. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, Meal Period Class and/or Rest Period Class who received a wage statement from Defendants, during the one year immediately preceding the filing of this action through the present.

f. The Waiting Time Class consists of all members of the Minimum Wage Class, Overtime Class, Meal Period Class and/or Rest Period Class who separated their employment with Defendants during the three years immediately preceding the filing of this action through the present.

16. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

17. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated non-exempt employees, which predominate over questions affecting only individual members including, without limitation to:

i. Whether Defendants failed to pay members of the Minimum Wage Class at least the statutory minimum wage for all hours worked, pursuant to Labor Code sections 1182.12, 1194, 1194.2 and 1197;

ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, sections 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;

iii. Whether Defendants' security check policies/practices resulted in the failure to compensate members of the Minimum Wage and/or Overtime Class for all hours worked;

- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code sections 226.7 and 512;
- v. Whether Defendants authorized and permitted all lawful rest periods to members of the Rest Period Class pursuant to Labor Code sections 226.7 and 516;
- vi. Whether Defendants correctly paid meal and/or rest period premium payments for non-compliant meal and/or rest periods pursuant to Labor Code section 226.7;
- vii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code section 226; and
- viii. Whether Defendants paid all wages/compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code sections 201-203.

18. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform security check policies/practices and meal and rest period policies/practices. As such, common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

19. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all minimum and overtime wages owed, was not provided all required meal periods, was not authorized and permitted to take all required rest periods, was not provided with accurate, itemized wage statements, and did not receive all final wages owed at the time of her separation of employment.

20. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-

and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

21. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified herein are maintainable as a Class under § 382 of the Code of Civil Procedure.

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FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

22. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23. Wage Order 7, section 4 and California Labor Code sections 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code sections 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code section 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

24. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 7.

25. California Labor Code section 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code sections 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

26. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 7.

27. The foregoing practices and policies are unlawful and create an entitlement to recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages owing, including interest thereon, liquidated damages, statutory and

civil penalties, attorney's fees, and costs of suit according to California Labor Code sections 204, 558, 1194, 1197, and 1198, Wage Order 7, and Code of Civil Procedure section 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

29. This cause of action is brought pursuant to Labor Code sections 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

30. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code section 1194 and Wage Order 7. Wage Order 7, section 3 requires an employer to pay an employee one and one-half (1½) times the employee's regular rate of pay for the first 8 hours worked on the seventh consecutive day of work in a workweek. Wage Order 7, section 3 also requires an employer to pay an employee double the employee's regular rate of pay for work in excess of 8 hours on the seventh consecutive day of work in a workweek.

31. At all times relevant herein, Defendants caused Plaintiff and other non-exempt employees to work overtime hours but did not compensate Plaintiff or members of the Overtime Class at one and one-half times their regular rate of pay for such hours.

32. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory and civil penalties, attorney's fees, and costs of suit according to California Labor Code sections 204, 510, 558, 1194, and 1198, Wage Order 7, and Code of Civil Procedure section 1021.5.

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THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 7, section 11, for the reasons set forth in the factual allegations and class definitions sections of this Complaint.

35. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code sections 226.7, 512, and 558, Wage Order 7, and Code of Civil Procedure section 1021.5.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

36. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

37. Wage Order 7, section 12 and Labor Code sections 226.7 and 516 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof.

38. As alleged herein, and due to Defendants' unlawful rest period policies and/or practices, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all lawful rest periods to which they were legally entitled. Despite Defendants' violations, Defendants failed to pay an additional hour of premium pay to Plaintiff and members of the Rest Period Class at their respective regular rates of pay for each violation, as required by California Labor Code section 226.7.

39. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums

owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor Code sections 226.7, 516, and 558, Wage Order 7, and Code of Civil Procedure section 1021.5.

FIFTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

41. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of the Wage Statement Class with complete and accurate wage statements that included, among other requirements, all overtime and minimum wages earned, and all meal and rest period premium wages owed in violation of Labor Code sections 226 *et seq.*

42. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages owed, all meal and rest period premium wages owed, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

43. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code sections 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code section 226 *et seq.*

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

44. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

45. This cause of action is brought pursuant to Labor Code sections 201-203, which require an employer to pay all wages earned immediately at the time of separation of employment in the event the employer discharges the employee, or if the employee provides at least 72 hours

1 of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice
2 of his/her intent to quit, said employee's wages become due and payable not later than 72 hours
3 upon said employee's last date of employment.

4 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
6 at the time of their separation including, among other things, underpaid minimum and overtime
7 wages owed, and meal and rest period premium wages. Further, Plaintiff is informed and
8 believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants
9 continue to fail to pay members of the Waiting Time Class all earned wages at the end of
10 employment in a timely manner pursuant to the requirements of Labor Code sections 201-203.
11 Defendants' failure to pay all final wages was willful within the meaning of Labor Code section
12 203.

13 47. Defendants' willful failure to timely pay Plaintiff and members of the Waiting
14 Time Class all earned wages upon separation from employment results in a continued payment
15 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
16 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code section
17 203, plus reasonable attorneys' fees and costs of suit.

18 **SEVENTH CAUSE OF ACTION**

19 **UNFAIR COMPETITION**

20 **(AGAINST ALL DEFENDANTS)**

21 48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22 49. Defendants have engaged and continue to engage in unfair and/or unlawful
23 business practices in California in violation of California Business and Professions Code section
24 17200 *et seq.* by, amongst other things, failing to pay Plaintiff and the Classes all minimum and
25 overtime wages owed; failing to pay all required meal and rest period premium wages owed;
26 knowingly failing to furnish complete and accurate, itemized wage statements; and failing to pay
27 all final wages at the time of separation from employment.

28 50. Defendants' utilization of these unfair and/or unlawful business practices deprived

1 Plaintiff, and continues to deprive members of the Classes, of compensation to which they are
2 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
3 over Defendants' competitors who have been and/or are currently employing workers and
4 attempting to do so in honest compliance with applicable wage and hour laws.

5 51. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
6 herein, Plaintiff, for herself and on behalf of the members of the Classes, seeks full restitution of
7 monies as necessary and according to proof to restore any and all monies withheld, acquired
8 and/or converted by Defendants pursuant to Business and Professions Code sections 17203 and
9 17208.

10 52. The acts complained of herein occurred within the last four years immediately
11 preceding the filing this action.

12 53. Plaintiff was compelled to retain the services of counsel to file this court action to
13 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf
14 of Defendants' current non-exempt employees, and to enforce important rights affecting the
15 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
16 which she is entitled to recover under Code of Civil Procedure section 1021.5.

17 **EIGHTH CAUSE OF ACTION**

18 **PRIVATE ATTORNEYS GENERAL ACT**

19 **(AGAINST ALL DEFENDANTS)**

20 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 55. Defendants have committed several Labor Code violations against Plaintiff,
22 members of the Classes, and other aggrieved employees. Plaintiff, as an "aggrieved employee"
23 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved
24 employees, brings this representative action against Defendants to recover the civil penalties due
25 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
26 according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited
27 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for
28 each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for

1 each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for
2 each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per
3 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
4 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
5 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
6 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each
7 subsequent violation per employee per pay period for those violations of the Labor Code for
8 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 9 a. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
10 wage for all hours worked in violation of Labor Code §§ 1182.12, 1194,
11 1194.2, 1197;
- 12 b. Failing to pay Plaintiff and other aggrieved employees all overtime
13 compensation earned in violation of Labor Code §§ 204, 510, 558, 1194, and
14 1198;
- 15 c. Failing to provide meal periods as required by law and failing to pay meal
16 period premiums to Plaintiff and other aggrieved employees at the employees'
17 respective regular rates of compensation for meal period violations in
18 violation of Labor Code §§ 226.7, 512, and 558;
- 19 d. Failing to authorize and permit Plaintiff and other aggrieved employees all
20 required rest periods and failing to pay rest period premiums to Ms. Basich-
21 Mustafa and other aggrieved employees at these employees' respective regular
22 rates of compensation for rest period violations in violation of Labor Code §§
23 226.7, 516, and 558;
- 24 e. Failing to furnish Ms. Basich-Mustafa and other aggrieved employees with
25 accurate and compliant itemized wage statements in violation of Labor Code
26 § 226;
- 27 f. Failing to timely pay all final wages due to Plaintiff and other aggrieved
28 employees in violation of Labor Code §§ 201, 202, and 203;

- 1 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 2 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
3 damages, and penalties owed according to proof pursuant to Labor Code sections 1182.12, 1194,
4 1194.2 and 1197;
- 5 5. Upon the Second Cause of Action, for compensatory, consequential, general and
6 special damages according to proof pursuant to Labor Code sections 204, 510, 558, 1194, and
7 1198;
- 8 6. Upon the Third Cause of Action, for compensatory, consequential, general and
9 special damages according to proof pursuant to Labor Code sections 226.7, 512 and 558;
- 10 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
11 special damages according to proof pursuant to Labor Code sections 226.7, 516, and 558;
- 12 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code
13 section 226 *et. seq.*;
- 14 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
15 Labor Code sections 201-203;
- 16 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
17 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
18 practices declared by this Court to be in violation of California Business and Professions Code
19 section 17200 *et seq.*;
- 20 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other
21 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
22 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
23 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
24 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
25 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
26 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
27 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
28 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each

subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the violations of Labor Code sections identified in Paragraph 55 (a)-(i) above.

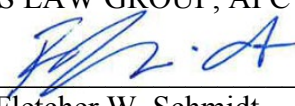
12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code sections 3287 and 3289;

13. On all causes of action, for attorneys' fees and costs as provided by Labor Code sections 218.5, 226, 1194 *et seq.*, 2802, and 2698 *et seq.*, and Code of Civil Procedure section 1021.5; and

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

Dated: July 14, 2020

Respectfully submitted,
HAINES LAW GROUP, APC

By: 
Fletcher W. Schmidt
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: July 14, 2020

Respectfully submitted,
HAINES LAW GROUP, APC

By: 
Fletcher W. Schmidt
Attorneys for Plaintiff