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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF LOS ANGELES

15 NATASHA AMARAL, as an aggrieved
16 employee pursuant to the Private Attorneys
17 General Act ("PAGA"), on behalf of the
18 State of California and other aggrieved
19 employees,

20 Plaintiff,

21 vs.

22 UNIFY FINANCIAL CREDIT UNION, a
23 federally chartered credit union; and DOES
24 1 through 10, inclusive,

25 Defendants.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

SEP 24 2020

Sheri R. Carter, Executive Officer/Clerk of Court

By: Kristina Vargas, Deputy

BY FAX

Case No.: 20STCV36466

COMPLAINT – PAGA ENFORCEMENT
ACTION

- (1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Natasha Amaral, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on July 17, 2020, until judgment (“non-party Aggrieved Employees”).
14 Plaintiff’s share of civil penalties sought in this action does not exceed \$75,000.

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional
22 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
23 in this action given that the State of California, as the real party in interest in this action, is not
24 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
25 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
26 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
27 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the
28 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court because Defendants have designated a principal place of business in Torrance, County of Los Angeles. Cal. Code Civ. P. § 395.5. Further, venue is proper in this Court, because Defendants employ and have employed aggrieved employees in this county, and thus a substantial portion of the transactions, occurrences, and/or violations related to this action occurred in this county.

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Natasha Amaral is a resident of Irvine, in Orange County, California. Defendants employed Plaintiff as an hourly paid, non-exempt Branch Supervisor from approximately May 20, 2019 to January 30, 2020. Plaintiff worked for Defendants based out of their branch location in Irvine, California. Plaintiff typically worked eight (8) hours or more per day, five (5) to six (6) days per week, from 8:00 a.m. to 5:30 p.m. or later. Plaintiff was compensated approximately \$27.88 per hour. Her job duties included, without limitation, providing customer service; opening new accounts for customers; preparing reports on overdrafts and loan accounts; loading cash into the ATMs at the front of the store; and managing the vault by counting money daily and ordering replenishment for vault funds as needed.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute a dispute resolution policy and/or arbitration agreement at the time of their hire or during their employment. On further information and belief, Defendants' dispute resolution policy and/or arbitration agreement was and is both procedurally and substantively unconscionable. Specifically, Defendants presented new hires with an "Arbitration – Agreement to Mutual Mandatory Arbitration of Disputes" ("Arbitration Agreement") during the onboarding process, which had to be reviewed and signed immediately. In fact, upon information and belief, this Arbitration Agreement was one of several documents presented to

1 new employees for signature during the orientation process, including the Team Member
2 Handbook Acknowledgement and Information Security Policy, among other documents.
3 Also, employees did not have a meaningful opportunity to negotiate the terms of the
4 Arbitration Agreement. Rather, it was provided to Defendants' employees for them to sign on
5 a take-it or leave-it basis at the time they were hired, along with all of the other on-boarding
6 documents. Further, Defendants did not set forth in the agreement or otherwise provide
7 employees with the rules which will govern the arbitration, instead forcing employees to seek
8 this information out on their own.

9 8. UNIFY FINANCIAL CREDIT UNION was and is, upon information and
10 belief, a federally chartered credit union, and at all times hereinafter mentioned, an employer
11 whose employees are engaged throughout this county and the State of California.

12 9. Plaintiff is unaware of the true names or capacities of the Defendants sued
13 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
14 amend the complaint and serve such fictitiously named Defendants once their names and
15 capacities become known.

16 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
17 were the partners, agents, owners, or managers of UNIFY FINANCIAL CREDIT UNION at
18 all relevant times.

19 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
20 acts and omissions alleged herein was performed by, or is attributable to, UNIFY
21 FINANCIAL CREDIT UNION; and/or DOES 1 through 10 (collectively, "Defendants" or
22 "UNIFY"), each acting as the agent, employee, alter ego, and/or joint venturer of, or working
23 in concert with, each of the other co-Defendants and was acting within the course and scope of
24 such agency, employment, joint venture, or concerted activity with legal authority to act on
25 the others' behalf. The acts of any and all Defendants were in accordance with, and represent,
26 the official policy of Defendants.

27 12. At all relevant times, Defendants, and each of them, ratified each and every act
28 or omission complained of herein. At all relevant times, Defendants, and each of them, aided

1 and abetted the acts and omissions of each and all the other Defendants in proximately causing
2 the damages herein alleged.

3 13. Plaintiff is informed and believes, and thereon alleges, that each of said
4 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
5 omissions, occurrences, and transactions alleged herein.

6 **PAGA REPRESENTATIVE ALLEGATIONS**

7 14. Defendants provide retail banking services to customers throughout the United
8 States, including California. Upon information and belief, Defendants maintain a single,
9 centralized Human Resources (“HR”) department at their corporate headquarters in Torrance,
10 California, which is responsible for the recruiting and hiring of new employees, and
11 communicating and implementing Defendants’ company-wide policies, including timekeeping
12 policies and meal and rest period policies, to employees throughout California.

13 15. In particular, Plaintiff and other non-party Aggrieved Employees, on
14 information and belief, received the same standardized documents and/or written policies.
15 Upon information and belief, the usage of standardized documents and/or written policies,
16 including new-hire documents, indicate that Defendants dictated policies at the corporate level
17 and implemented them company-wide, regardless of their employees’ assigned locations or
18 positions. Upon information and belief, Defendants set forth uniform policies and procedures
19 in several documents provided at an employee’s time of hire.

20 16. Upon information and belief, Defendants maintain a centralized Payroll
21 department at their corporate headquarters in Torrance, California, which processes payroll for
22 all non-exempt, hourly paid employees working for Defendants at their various locations and
23 jobsites in California, including Plaintiff and other non-party Aggrieved Employees. Based
24 upon information and belief, Defendants issue the same formatted wage statements to all non-
25 exempt, hourly paid employees in California, irrespective of their work locations. Upon
26 information and belief, Defendants process payroll for departing employees in the same
27 manner throughout the State of California, regardless of the manner in which each employee’s
28 employment ends.

1 17. Defendants continue to employ non-exempt or hourly paid employees in
2 California.

3 18. Plaintiff is informed and believes, and thereon alleges, that at all times herein
4 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
5 and advisors knowledgeable about California labor and wage law, employment and personnel
6 practices, and about the requirements of California law.

7 19. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
8 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
9 were not recorded.

10 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
12 receive certain wages for overtime compensation and that they were not receiving certain
13 wages for overtime compensation.

14 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 be paid at a regular rate of pay, and corresponding overtime rates of pay, that included as
17 eligible income all income derived from incentive pay, nondiscretionary bonuses, and/or other
18 forms of compensation.

19 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
21 receive at least minimum wages for compensation and that they were not receiving at least
22 minimum wages for work that was required to be done off-the-clock. In violation of the
23 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
24 least minimum wages for work done off-the-clock.

25 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
27 meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay
28 at their regular rates of pay when they were not provided with timely, uninterrupted, thirty

1 (30) minute meal periods and that Plaintiff and other non-party Aggrieved Employees were
2 not provided with all meal periods or payment of one (1) additional hour of pay at their
3 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
4 period.

5 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
7 rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment
8 of one (1) additional hour of pay at their regular rates of pay when they were not authorized
9 and permitted to take a compliant rest period. In violation of the California Labor Code,
10 Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to take
11 compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved
12 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
13 they were not authorized and permitted to take a compliant rest period.

14 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 receive complete and accurate wage statements in accordance with California law. In
17 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
18 were not provided complete and accurate wage statements.

19 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that they had a duty to maintain accurate and complete payroll records in
21 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
22 and intentionally failed to do so.

23 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
25 timely payment of all wages earned upon termination of employment. In violation of the
26 California Labor Code, Plaintiff other non-party Aggrieved Employees did not receive
27 payment of all wages due, including, but not limited to, overtime wages, minimum wages, and
28 meal and rest period premiums, within permissible time periods.

1 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
3 timely payment of wages during their employment. In violation of the California Labor Code,
4 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
5 including, but not limited to, overtime wages, minimum wages, and meal and rest period
6 premiums, within permissible time periods.

7 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that they were not permitted to compel or coerce Plaintiff and other non-
9 party Aggrieved Employees to patronize their business in the purchase of anything of value,
10 but did in fact require other non-party Aggrieved Employees to purchase various items,
11 including uniforms, from Defendants.

12 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
14 suitable seating and/or were entitled to sit when it did not interfere with the performance of
15 their duties and also have seats nearby to use during a lull in tasks that do require moving
16 about or standing.

17 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
19 receive reimbursement for all business-related expenses and costs they incurred during the
20 course and scope of their employment and that they did not receive reimbursement of
21 applicable business-related expenses and costs incurred.

22 32. Plaintiff is informed and believes, and thereon alleges, that at all times herein
23 mentioned, Defendants knew or should have known that they had a duty to compensate
24 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
25 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
26 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
27 that they were properly denied wages, all in order to increase Defendants' profits.

28 33. At all times herein set forth, PAGA provides that any provision of law under

1 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
2 assessed and collected by the LWDA for violations of the California Labor Code and
3 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
4 civil action brought on behalf of themselves and other current or former employees pursuant
5 to procedures outlined in California Labor Code section 2699.3.

6 34. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any
7 person who was employed by the alleged violator and against whom one or more of the
8 alleged violations was committed.”

9 35. Plaintiff and other current and former employees of Defendants are “aggrieved
10 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
11 or former employees and one or more of the alleged violations were committed against them.

12 36. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
13 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
14 following requirements have been met:

- 15 (a) The aggrieved employee shall give written notice by online filing
16 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail
17 to the employer of the specific provisions of the California Labor Code
18 alleged to have been violated, including the facts and theories to support
19 the alleged violations.
- 20 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
21 2699.3(a) and any employer response to that notice shall be
22 accompanied by a filing fee of seventy-five dollars (\$75).
- 23 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
24 employer and the aggrieved employee by certified mail that it does not
25 intend to investigate the alleged violation within sixty (60) calendar
26 days of the postmark date of the Employee’s Notice. Upon receipt of
27 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
28 five (65) calendar days of the postmark date of the Employee’s Notice,

1 the aggrieved employee may commence a civil action pursuant to
2 California Labor Code section 2699 to recover civil penalties in addition
3 to any other penalties to which the employee may be entitled.

4 37. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
5 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
6 provision other than those listed in Section 2699.5 after the following requirements have been
7 met:

- 8 (a) The aggrieved employee or representative shall give written notice by
9 online filing to the LWDA and by certified mail to the employer of the
10 specific provisions of the California Labor Code alleged to have been
11 violated (other than those listed in Section 2699.5), including the facts
12 and theories to support the alleged violation.
- 13 (b) An aggrieved employee's notice filed with the LWDA pursuant to
14 2699.3(c) and any employer response to that notice shall be
15 accompanied by a filing fee of seventy-five dollars (\$75).
- 16 (c) The employer may cure the alleged violation within thirty-three (33)
17 calendar days of the postmark date of the notice. The employer shall
18 give written notice by certified mail within that period of time to the
19 aggrieved employee or representative and the agency if the alleged
20 violation is cured, including a description of actions taken, and no civil
21 action pursuant to Section 2699 may commence. If the alleged violation
22 is not cured within the 33-day period, the employee may commence a
23 civil action pursuant to Section 2699.

24 38. On July 17, 2020, Plaintiff provided written notice by online filing to the
25 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
26 Code alleged to have been violated, including facts and theories to support the alleged
27 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
28 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The

1 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
2 Plaintiff PAGA Case Number LWDA-CM-797417-20. A true and correct copy of Plaintiff's
3 written notice to the LWDA and Defendants dated July 17, 2020, is attached hereto as
4 "Exhibit 1."

5 39. As of the filing date of this complaint, over 65 days have passed since Plaintiff
6 sent the LWDA Notice described above, and the LWDA has not responded that it intends to
7 investigate Plaintiff's claims, and Defendants have not cured the violations.

8 40. Thus, Plaintiff has satisfied the administrative prerequisites under California
9 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
10 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 450, 510, 512,
11 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

12 41. Labor Code section 558(a) provides "[a]ny employer or other person acting on
13 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
14 provision regulating hours and days of work in any order of the Industrial Welfare
15 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
16 dollars (\$50) for each underpaid employee for each pay period for which the employee was
17 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
18 underpaid employee for each pay period for which the employee was underpaid" Labor
19 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
20 to any other civil or criminal penalty provided by law." Plaintiff, acting in the public interest
21 as a private attorney general, seeks assessment and collection of civil penalties under Labor
22 Code section 558 for herself, all other non-party Aggrieved Employees, and the State of
23 California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198,
24 and the applicable IWC wage order. Plaintiff, acting in the public interest as a private
25 attorney general, does not seek the recovery of unpaid wages under Labor Code section 558
26 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the
27 applicable IWC wage order.

28 42. Defendants, at all times relevant to this complaint, were employers or persons

1 acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved
2 Employees' rights by violating various sections of the California Labor Code as set forth
3 above.

4 43. As set forth below, Defendants have violated numerous provisions of both the
5 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
6 Order.

7 44. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
8 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
9 private attorney general, seeks assessment and collection of civil penalties for herself, all other
10 non-party Aggrieved Employees, and the State of California against Defendants for violations
11 of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 450, 510, 512, 516,
12 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

13 **FIRST CAUSE OF ACTION**

14 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

15 **(Against all Defendants)**

16 45. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 46. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
19 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
20 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a),
21 226.7, 450, 510, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section 2699.3(c)
22 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
23 those Labor Code sections not found in section 2699.5, including sections 516 and 1182.12.

24 47. Defendants' conduct, as alleged herein, violates numerous sections of the
25 California Labor Code, including, but not limited to, the following:

- 26 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
27 wage order for Defendants' failure to compensate Plaintiff and other
28 non-party Aggrieved Employees with all required overtime pay and

1 failure to properly calculate the overtime rates paid to Plaintiff and other
2 non-party Aggrieved Employees, as set forth below;

3 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the
4 applicable IWC wage order for Defendants' failure to compensate
5 Plaintiff and other non-party Aggrieved Employees with at least
6 minimum wages for all hours worked as set forth below;

7 (c) Violation of Labor Code sections 226.7, 512(a), 516, 1198, and the
8 applicable IWC wage order for Defendants' failure to provide Plaintiff
9 and other non-party Aggrieved Employees with meal periods, as set
10 forth below;

11 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
12 IWC wage order for Defendants' failure to authorize and permit
13 Plaintiff and other non-party Aggrieved Employees to take rest periods,
14 as set forth below;

15 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
16 wage order for failure to provide accurate and complete wage statements
17 to Plaintiff and other non-party Aggrieved Employees, as set forth
18 below;

19 (f) Violation of Labor Code sections 1174(d), 1198, and the applicable
20 IWC wage order for failure to maintain payroll records as set forth
21 below;

22 (g) Violation of Labor Code section 204 for failure to pay all earned wages
23 during employment as set forth below;

24 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
25 earned wages upon termination as set forth below;

26 (i) Violation of California Labor Code section 450 for Defendants'
27 compelling and/or coercing other non-party Aggrieved Employees to
28 patronize Defendants' business, as set forth below;

1 (j) Violation of Labor Code section 1198 for failing to provide suitable
2 seating to Plaintiff and other non-party Aggrieved Employees, as set
3 forth below;

4 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
5 and other non-party Aggrieved Employees for all business expenses
6 necessarily incurred, as set forth below.

7 **FAILURE TO PAY OVERTIME**

8 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

9 48. Labor Code section 1198 makes it illegal to employ an employee under
10 conditions of labor that are prohibited by the applicable wage order. California Labor Code
11 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
12 be the . . . standard conditions of labor for employees. The employment of any employee . . .
13 under conditions of labor prohibited by the order is unlawful.”

14 49. California Labor Code section 1198 and the applicable IWC Wage Order
15 provide that it is unlawful to employ persons without compensating them at a rate of pay
16 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
17 number of hours worked by the person on a daily or weekly basis.

18 50. Specifically, the applicable IWC Wage Order provides that Defendants are and
19 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
20 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
21 one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
22 hours in a workweek.

23 51. The applicable IWC Wage Order further provides that Defendants are and were
24 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
25 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
26 An employee’s regular rate of pay includes all remuneration for employment paid to, or on
27 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

28 52. California Labor Code section 510 codifies the right to overtime compensation

1 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
2 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
3 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
4 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
5 in a day on the seventh (7th) day of work.

6 53. First, during the relevant period, Defendants had, and continue to have, a
7 company-wide policy and/or practice of requiring Plaintiff and other non-party Aggrieved
8 Employees to complete work-related tasks while off-the-clock. For example, Plaintiff spent
9 approximately 15 minutes per day off-the-clock, prior to her shifts, responding to her
10 supervisors on her personal cellular phone, and approximately 30-60 minutes per week
11 meeting with supervisors about work assignments, after she had clocked out for the day.
12 Further, when Plaintiff and other non-party Aggrieved Employees drove to work at
13 Defendants' other branch locations to cover additional shifts, they were not compensated for
14 their travel time. For example, when Plaintiff was assigned to work at the Santa Ana branch
15 location approximately twice per month, she drove 10 miles (approximately 15 minutes) each
16 way, but was not paid for this travel time. Thus, Defendants failed to track the time spent
17 working before and after scheduled shifts, and Plaintiff and other non-party Aggrieved
18 Employees received no compensation for this time.

19 54. Second, Defendants had, and continue to have, a company-wide policy and/or
20 practice of understaffing their locations, while assigning heavy workloads and implementing
21 monthly sales quotas for loans booked at each branch, resulting in a failure to provide Plaintiff
22 and other non-party Aggrieved Employees with adequate meal period coverage. Further,
23 Defendants had a requirement that a managerial employee, such as a Branch Supervisor, be
24 present in the branch at all times and prohibited managers from leaving the bank premises
25 unless another manager was also on duty, resulting in a lack of meal period coverage for
26 managerial employees. At the same time, Defendants' practice and/or policy of understaffing
27 did not always allow for more than one manager to be on the schedule at all times. As a
28 result, Plaintiff and other non-party Aggrieved Employees were sometimes the only managers

1 on duty, but would have their meal periods interrupted or would work through them in order
2 to assist their coworkers, respond to questions from supervisors, and handle a heavy workload
3 of daily and weekly tasks to complete, including handling the teller line. As a result of this
4 lack of meal period coverage, Plaintiff and other non-party Aggrieved Employees were not
5 always provided uninterrupted 30-minute meal periods during shifts when they were entitled
6 to receive a meal period. For example, once per week, Plaintiff would miss her meal periods
7 entirely in order to complete the tasks and duties Defendants assigned to her and/or due to a
8 lack of coverage resulting from being the only managerial employee scheduled to work.
9 Additionally, her meal periods were frequently interrupted or cut short in order to respond to
10 supervisor's requests for help with customers. Thus, Plaintiff and other non-party Aggrieved
11 Employees missed or had meal periods interrupted in order to complete their assigned
12 workloads.

13 55. Further, on information and belief, because Defendants frowned upon
14 employees accruing meal period penalties, Defendants adjusted employee time records to
15 reflect compliant meal periods, regardless of whether they had received a compliant meal
16 period or not, in order to strictly limit meal penalties that Defendants would otherwise owe.
17 Thus, Plaintiff and other non-party Aggrieved Employees performed work during meal
18 periods for which they were not paid. Defendants did not pay Plaintiff and other non-party
19 Aggrieved Employees for the time they continued to perform tasks during meal periods.

20 56. Defendants knew or should have known that, as a result of these company-wide
21 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
22 their assigned duties during their meal periods, and were suffered or permitted to perform
23 work for which they were not paid. Defendants also knew, or should have known, that it did
24 not compensate Plaintiff and other non-party Aggrieved Employees applicable overtime rates
25 of pay for overtime hours that they worked.

26 57. Because Plaintiff and other non-party Aggrieved Employees worked shifts of
27 eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock
28 work qualified for overtime premium pay. Therefore, Plaintiff and other non-party Aggrieved

1 Employees were not paid overtime wages for all of the overtime hours they actually worked.

2 58. Furthermore, Defendants did not pay Plaintiff and other non-party Aggrieved
3 Employees the correct overtime rate for the recorded overtime hours that they generated. In
4 addition to an hourly wage, Defendants paid Plaintiff and other non-party Aggrieved
5 Employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration.
6 However, in violation of the California Labor Code, Defendants failed to incorporate all
7 compensation, including but not limited to, all incentive pay, nondiscretionary bonuses, and/or
8 other forms of remuneration, into the calculation of the regular rate of pay for purposes of
9 calculating the overtime wage rate. Therefore, during times when Plaintiff and other non-
10 party Aggrieved Employees worked overtime and received these other forms of pay,
11 Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

12 59. Specifically, Defendants paid Plaintiff and other non-party Aggrieved
13 Employees nondiscretionary bonuses or incentive pay for reaching certain branch sales goals.
14 On information and belief, these nondiscretionary bonuses and/or incentive pay were listed on
15 Plaintiff's and other non-party Aggrieved Employees' wage statements as "Sales Incentive."
16 During pay periods that Plaintiff and other non-party Aggrieved Employees were paid
17 overtime wages, Defendants failed to incorporate the nondiscretionary bonus and/or incentive
18 pay into Plaintiff's and other non-party Aggrieved Employees' regular rate of pay and, as a
19 result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically,
20 Defendants paid Plaintiff and other non-party Aggrieved Employees 1.5 times their hourly
21 rate of pay instead of 1.5 times their regular rate of pay. For example, for the pay period
22 ending August 16, 2019, Plaintiff earned a Sales Incentive of \$250.00; for the pay period
23 ending October 11, 2019, a Sales Incentive of \$10.00; for the pay period ending November 22,
24 2019, a Sales Incentive of \$20.00; for the pay period ending December 20, 2019, a Sales
25 Incentive of \$40.00. During these pay periods, Plaintiff also earned overtime wages at an
26 incorrect rate. Defendants' failure to properly calculate the overtime rates of pay based on all
27 remuneration paid has resulted in an underpayment of overtime wages to Plaintiff and other
28 non-party Aggrieved Employees on a company-wide basis.

1 60. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
2 the balance of overtime compensation as required by California law, violates the provisions of
3 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
4 Employees are entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
5 2699(a), (f), and (g).

6 **FAILURE TO PAY MINIMUM WAGES**

7 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

8 61. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
9 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
10 to be paid to employees, and the payment of a wage less than the minimum so fixed is
11 unlawful. Compensable work time is defined by the applicable wage order as "the time
12 during which an employee is subject to the control of an employer, and includes all the time
13 the employee is suffered or permitted to work, whether or not required to do so." Cal. Code.
14 Regs. tit. 8, § 11040(2)(K) (defining "Hours Worked").

15 62. As set forth above, Plaintiff and other non-party Aggrieved Employees were
16 forced to work off-the-clock performing tasks before and after their scheduled shifts, such as
17 responding to communications from supervisors on their personal cellular phones and driving
18 to Defendants' other branch locations to cover shifts, but were not provided a means by
19 Defendants to account for this time. Additionally, as a result of Defendants' policy and/or
20 practice of understaffing while assigning heavy workloads and stringent sales quotas, and
21 resultant lack of meal period coverage, Plaintiff and other non-party Aggrieved Employees
22 were impeded from taking all uninterrupted meal periods to which they were entitled and were
23 required to work off-the-clock. Also, in conjunction with understaffing their branch locations,
24 Defendants had a requirement that a managerial employee be present in the bank premises at
25 all times, which exacerbated the lack of meal period coverage.

26 63. Moreover, Defendants maintained and implemented a company-wide policy of
27 requiring all employees to undergo fingerprint-based background checks upon hiring. This
28 required Plaintiff and other non-party Aggrieved Employees to travel to a fingerprinting

1 service provider on their own time and using their own personal vehicles to undergo
2 fingerprinting. For example, Plaintiff traveled to and from an approved fingerprinting
3 provider in Irvine, California, driving 10 miles roundtrip for approximately 30 minutes in her
4 personal vehicle, and spent approximately 1.25 hours waiting and undergoing the
5 fingerprinting. However, Defendants did not compensate Plaintiff and other non-party
6 Aggrieved Employees for the time they spent traveling to and from the fingerprinting service
7 providers, or for the time they spent undergoing their fingerprinting.

8 64. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
9 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
10 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
11 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
12 1194, 1197, and 1198.

13 65. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
14 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
15 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
16 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

17 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
18 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

19 66. At all relevant times herein set forth, the applicable IWC Wage Order(s) and
20 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
21 non-party Aggrieved Employees' employment by Defendants.

22 67. At all relevant times herein set forth, California Labor Code section 512(a)
23 provides that an employer may not require, cause, or permit an employee to work for a period
24 of more than five (5) hours per day without providing the employee with a meal period of not
25 less than thirty (30) minutes, except that if the total work period per day of the employee is
26 not more than six (6) hours, the meal period may be waived by mutual consent of both the
27 employer and the employee. Under California law, first meal periods must start after no more
28 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.

1 2012).

2 68. At all relevant times herein set forth, California Labor Code section 226.7,
3 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
4 meal period mandated by an applicable order of the IWC.

5 69. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
6 and the applicable IWC Wage Order also require employers to provide a second meal period
7 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay
8 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
9 total hours worked is no more than twelve (12) hours, the second meal period may be waived
10 by mutual consent of the employer and the employee only if the first meal period was not
11 waived.

12 70. First, during the relevant time period, Defendants had, and continue to have, a
13 company-wide policy and/or practice of understaffing their branch locations and assigning
14 demanding workloads and sales quotas, which resulted in a lack of adequate meal period
15 coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all
16 timely, uninterrupted meal periods to which they were entitled. In conjunction with
17 understaffing their branch locations, as stated above, Defendants had a requirement that a
18 managerial employee be present on the branch premises at all times, but Defendants' policies
19 did not always allow for more than one manager to be on the schedule at all times. As a
20 result, Plaintiff and other managerial employees were sometimes the only managers on duty,
21 and would have their meal periods interrupted or would work through them in order to assist
22 their coworkers and customers.

23 71. Further, Defendants had a company-wide practice and/or policy of failing to
24 adhere to a schedule of meal periods, which further caused Plaintiff and other non-party
25 Aggrieved Employees to not be relieved of their duties for compliant meal periods. As a
26 result, Plaintiff and other non-party Aggrieved Employees were forced to work in excess of
27 five (5) hours before taking a meal period, had their meal periods interrupted, and/or had to
28 forgo their meal periods altogether in order to complete their assigned workloads. For

1 example, Plaintiff was forced to forego meal periods at least once per week in order to
2 complete the tasks and duties Defendants assigned to her and/or due to lack of available
3 coverage by other managers. Additionally, approximately twice per week, Plaintiff waited
4 more than five (5) hours into her shift to take a meal period in order to assist customers in the
5 teller line or assist with other duties. Furthermore, she was regularly interrupted and had her
6 meal periods cut short by management and/or supervisors requesting her assistance with
7 work-related tasks. Moreover, on information and belief, because Defendants frowned upon
8 employees accruing meal period penalties, Defendants' management would adjust Plaintiff's
9 and other non-party Aggrieved Employees' time records in order to strictly limit meal
10 penalties that would need to be paid by Defendants. Plaintiff and other non-party Aggrieved
11 Employees worked through meal periods or had their meal periods interrupted, because there
12 were not enough employees on duty to handle the assigned workload.

13 72. Second, Defendants did not schedule second meal periods and had no policy for
14 providing Plaintiff and other non-party Aggrieved Employees with second 30-minute meal
15 periods on days that they worked in excess of ten (10) hours in one day. As a result, Plaintiff
16 and other non-party Aggrieved Employees did not receive second 30-minute meal periods on
17 days that they worked in excess of ten (10) hours in one day. For example, on September 6,
18 2019, November 15, 2019, and December 19, 2019, Plaintiff worked over ten (10) hours in a
19 day, but was not provided a second meal period or paid a meal penalty. Plaintiff and other
20 non-party Aggrieved Employees did not sign valid meal period waivers on days that they were
21 entitled to meal periods and were not relieved of all duties.

22 73. Defendants knew or should have known that as a result of their policies,
23 Plaintiff and other non-party Aggrieved Employees were not actually relieved of all duties to
24 take timely, uninterrupted meal periods. Defendants further knew or should have known that
25 they did not pay Plaintiff and other non-party Aggrieved Employees meal period premium
26 wages when they were missed, late, short, and/or interrupted.

27 74. Defendants also have engaged in a company-wide practice and/or policy of not
28 paying meal period premiums owed when compliant meal periods are not provided. Because

1 of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not
2 received premium pay for missed, late, and interrupted meal periods. Alternatively, to the
3 extent that Defendants did pay meal period premium wages to Plaintiff and other non-party
4 Aggrieved Employees, they did so at the incorrect rates. Because Defendants did not properly
5 calculate Plaintiff's and other non-party Aggrieved Employees' regular rates of pay by
6 including all remunerations, such as incentive pay and/or nondiscretionary bonuses, any
7 premiums paid for meal period violations were also paid at an incorrect rate and resulted in an
8 underpayment of meal period premium wages.

9 75. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
10 Employees compliant meal periods and failed to pay the full meal period premiums due.
11 Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
12 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are
13 entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and
14 (g).

15 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**
16 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

17 76. At all relevant times herein set forth, the applicable IWC Wage Order and
18 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff and other
19 non-party Aggrieved Employees' employment by Defendants.

20 77. At all relevant times, the applicable IWC Wage Order provides that "[e]very
21 employer shall authorize and permit all employees to take rest periods, which insofar as
22 practicable shall be in the middle of each work period" and that the "rest period time shall be
23 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
24 hours or major fraction thereof" unless the total daily work time is less than three and one-half
25 (3½) hours.

26 78. At all relevant times, California Labor Code section 226.7 provides that no
27 employer shall require an employee to work during any rest period mandated by an applicable
28 order of the California IWC. To comply with its obligation to authorize and permit rest

1 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
2 employer must “relinquish any control over how employees spend their break time, and
3 relieve their employees of all duties—including the obligation that an employee remain on
4 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
5 *Inc.*, 2 Cal. 5th 257, 269-270 (2016).

6 79. Pursuant to the applicable IWC Wage Order and California Labor Code section
7 226.7, Plaintiff and other non-party Aggrieved Employees are entitled to recover from
8 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
9 required rest period was not authorized and permitted.

10 80. During the relevant time period, Defendants regularly failed to authorize and
11 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
12 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
13 Defendants’ policies and/or practice of understaffing their branch locations and assigning
14 heavy workloads prevented Plaintiff and other non-party Aggrieved Employees from being
15 relieved of all duty to take compliant rest periods. As a result, Plaintiff missed her rest
16 periods or would have her rest periods interrupted. On average, Plaintiff missed
17 approximately eight (8) or more rest periods per week.

18 81. Additionally, as stated, Defendants prohibited Plaintiff and other non-party
19 Aggrieved Employees from leaving the premises during their rest periods if they were the
20 only managers on the schedule, as they were the only employees that could institute an
21 override in the bank’s system. Because Plaintiff and other non-party Aggrieved Employees
22 were restricted from leaving the premises during rest periods, they were denied the ability to
23 use their rest periods freely for their own purposes. Thus, Defendants effectively maintained
24 control over Plaintiff and other non-party Aggrieved Employees during rest periods.

25 82. As a result of Defendants’ practices and policies, Plaintiff and other non-party
26 Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
27 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
28 were entitled. Throughout her employment, Plaintiff missed her rest periods due to

1 understaffing, assignment of sales quotas, and a heavy workload.

2 83. Defendants also have engaged in a company-wide practice and/or policy of not
3 paying all rest period premiums owed when compliant rest periods are not authorized or
4 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
5 Employees have not received premium pay for all missed rest periods. Alternatively, to the
6 extent that Defendants did pay rest period premium wages to Plaintiff and other non-party
7 Aggrieved Employees, they did so at the incorrect rates. Because Defendants did not properly
8 calculate Plaintiff's and other non-party Aggrieved Employees' regular rates of pay by
9 including all remunerations, such as incentive pay and/or nondiscretionary bonuses, any
10 premiums paid for rest period violations were also paid at an incorrect rate and resulted in an
11 underpayment of rest period premium wages.

12 84. Defendants' conduct violates the applicable IWC Wage Order and California
13 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
14 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
15 558 and/or 2699(a), (f), and (g).

16 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
17 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

18 85. At all relevant times herein, California Labor Code section 226(a) provides that
19 every employer shall furnish each of his or her employees an accurate and complete itemized
20 wage statement in writing, including, but not limited to, the name and address of the legal
21 entity that is the employer, the inclusive dates of the pay period, total hours worked, and all
22 applicable rates of pay.

23 86. During the relevant time period, Defendants have knowingly and intentionally
24 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
25 inaccurate wage statements. For example, Defendants issued uniform wage statements to
26 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
27 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
28 the pay period, including overtime rates of pay, and the corresponding number of hours

1 worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2),
2 226(a)(5), and 226(a)(9).

3 87. Because Defendants did not record the time Plaintiff and other non-party
4 Aggrieved Employees spent working off-the-clock and deducted time from their records for
5 meal periods that were interrupted or missed (and therefore time for which they should have
6 been paid), Defendants did not list the correct amount of gross wages and net wages earned by
7 Plaintiff and other non-party Aggrieved Employees in compliance with section 226(a)(1) and
8 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours
9 worked by Plaintiff and other non-party Aggrieved Employees in violation of section
10 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period
11 and corresponding accurate number of work hours worked at each hourly rate in violation of
12 section 226(a)(9).

13 88. Additionally, because Defendants did not calculate Plaintiff's and other non-
14 party Aggrieved Employees' regular rate of pay correctly for purposes of paying overtime
15 wages, Defendants did not list the correct amount of gross wages earned by Plaintiff and/or
16 other non-party Aggrieved Employees in compliance with section 226(a)(1) and did not list
17 the correct amount of net wages earned by Plaintiff and other non-party Aggrieved Employees
18 in violation of section 226(a)(5). Defendants also failed to correctly list all applicable hourly
19 rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of
20 pay for premium wages, in violation of section 226(a)(9).

21 89. The wage statement deficiencies also include, without limitation, failing to list
22 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
23 a piece-rate basis; failing to list all deductions; failing to list the name of the employee and
24 only the last four digits of his or her social security number or an employee identification
25 number other than a social security number; failing to list the name and address of the legal
26 entity that is the employer; failing to list the inclusive dates of the period for which aggrieved
27 employees were paid; and/or failing to state all hours worked as a result of not recording or
28 stating hours worked off-the-clock.

1 90. California Labor Code section 1198 provides that the maximum hours of work
2 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
3 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
4 employment of any employees for longer hours than those fixed by the order or under
5 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
6 Wage Order, employers are required to keep accurate time records showing when the
7 employee begins and ends each work period and meal period. During the relevant time
8 period, Defendants engaged in company-wide practices and/or policies of failing to record
9 actual hours worked (including falsifying time records by recording that compliant meal
10 periods were taken regardless of if or when meal periods were actually taken), and thereby
11 failed to keep accurate records of work period and meal period start and end times for Plaintiff
12 and other non-party Aggrieved Employees in violation of section 1198. Furthermore, in light
13 of Defendants’ failure to provide Plaintiff and other non-party Aggrieved Employees with
14 second 30-minute meal periods to which they were entitled, Defendants kept no records of
15 meal start and end times for second meal periods.

16 91. California Labor Code section 1174(d) provides that “[e]very person employing
17 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
18 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
19 plants or establishments at which employees are employed, payroll records showing the hours
20 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
21 applicable piece rate paid to, employees employed at the respective plants or establishments
22 . . .” At all relevant times, and in violation of Labor Code section 1174(d), Defendants
23 willfully failed to maintain accurate payroll records for Plaintiff and other non-party
24 Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a
25 result of failing to record the off-the-clock hours that they worked.

26 92. Because Defendants’ violations of 226(a) and 1174(d) were committed against
27 Plaintiff and other non-party Aggrieved Employees, Plaintiff and other non-party Aggrieved
28 Employees are entitled to recover civil penalties pursuant to Labor Code sections 226.3,

1 1174.5, and/or 2699(a), (f), and (g).

2 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

3 **VIOLATION OF LABOR CODE SECTION 204**

4 93. At all relevant times herein set forth, California Labor Code section 204
5 requires that all wages earned by any person in any employment between the 1st and the 15th
6 days, inclusive, of any calendar month, other than those wages due upon termination of an
7 employee, are due and payable between the 16th and the 26th day of the month during which
8 the labor was performed. Labor Code section 204 further provides that all wages earned by
9 any person in any employment between the 16th and the last day, inclusive, of any calendar
10 month, other than those wages due upon termination of an employee, are due and payable
11 between the 1st and the 10th day of the following month.

12 94. At all relevant times herein, California Labor Code section 204 also requires
13 that all wages earned for labor in excess of the normal work period shall be paid no later than
14 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
15 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
16 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
17 more than seven (7) calendar days following the close of the payroll period.

18 95. During the relevant time period, Defendants willfully failed to pay Plaintiff and
19 other non-party Aggrieved Employees all wages due to them within any time period specified
20 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
21 wages, and meal and rest period premium wages.

22 96. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
23 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

24 **FAILURE TO PAY WAGES UPON TERMINATION**

25 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

26 97. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
27 that if an employer discharges an employee, the wages earned and unpaid at the time of
28 discharge are due and payable immediately, and that if an employee voluntarily leaves his or

1 her employment, his or her wages shall become due and payable not later than seventy-two
2 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
3 his or her intention to quit, in which case the employee is entitled to his or her wages at the
4 time of quitting.

5 98. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
6 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
7 above, including but not limited to, overtime wages, minimum wages, and meal and rest
8 period premium wages, either at the time of discharge, or within seventy-two (72) hours of
9 their leaving Defendants' employ.

10 99. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
11 who are no longer employed by Defendants their wages earned and unpaid at the time of
12 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
13 Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are
14 therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or
15 2699(a), (f), and (g).

16 **COMPELLING PATRONIZATION**

17 **VIOLATION OF LABOR CODE SECTION 450**

18 100. California Labor Code section 450 provides that an employer may not "compel
19 or coerce any employee, or applicant for employment, to patronize his or her employer, or any
20 other person, in the purchase of anything of value." An employer violates section 450 by
21 forcing an employee to patronize the employer's business in the purchase of a company-
22 provided good.

23 101. During the relevant time period, Defendants had a company-wide policy of
24 requiring employees to purchase uniform items directly from the company. Upon information
25 and belief, other non-party Aggrieved Employees were required to pay \$36.00 or more for
26 uniform items, including shirts bearing Defendants' logo.

27 102. Defendants' conduct of compelling and/or coercing other non-party Aggrieved
28 Employees to purchase goods from them is in violation of California Labor Code section 450.

1 Other non-party Aggrieved Employees are entitled to recover civil penalties pursuant to Labor
2 Code sections 2699(a), (f), and (g).

3 **FAILURE TO PROVIDE SUITABLE SEATING**
4 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
5 **REGULATIONS, TITLE 8, SECTION 11040(14)(A)**

6 103. At all relevant times herein, California Labor Code section 1198 makes it
7 illegal to employ an employee under conditions of labor that are prohibited by the applicable
8 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
9 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
10 The employment of any employee . . . under conditions of labor prohibited by the order is
11 unlawful.”

12 104. California Code of Regulations, Title 8, section 11040(14)(A) provides that
13 “[a]ll working employees shall be provided with suitable seats when the nature of the work
14 reasonably permits the use of seats.”

15 105. Plaintiff alleges that Defendants’ branch locations are generally similar in their
16 layout and design and there was, and continues to be, space behind each teller station to allow
17 for the presence and use of a seat or stool by Plaintiff and other non-party Aggrieved
18 Employees (with reasonable or no modification to these work areas) during the performance
19 of their work duties. Defendants could have provided Plaintiff and other non-party Aggrieved
20 Employees with a suitable seat or stool at the teller stations, but instead denied them suitable
21 seating and forced Plaintiff and other non-party Aggrieved Employees to stand throughout the
22 day.

23 106. Plaintiff and other non-party Aggrieved Employees spent a substantial portion
24 of their day behind or at these teller stations. The nature of the work of an employee
25 performing teller duties can reasonably be accomplished from a seated position. However,
26 Defendants systematically, and on a company-wide basis, did not provide suitable seats or
27 stools at or near the teller stations, forcing Plaintiff and other non-party Aggrieved Employees
28 to stand throughout their work shifts.

1 107. During the relevant time period, Defendants violated California Labor Code
2 section 1198 and California Code of Regulations, Title 8, section 11040(14)(A), because
3 Plaintiff and other non-party Aggrieved Employees were not provided with suitable seats and,
4 therefore, effectively were not allowed to sit, even when it would not have interfered with the
5 performance of their duties. Plaintiffs and other non-party Aggrieved Employees were
6 assigned teller duties, which were performed from and connected to a teller station, and could
7 have been performed from a seated position. Plaintiff and other non-party Aggrieved
8 Employees could have handled transactions at the teller stations and provided customer
9 service while seated, without interference to their ability to complete these duties.

10 108. Defendants could have placed suitable seats or stools at each teller station for
11 use by Plaintiff and other non-party Aggrieved Employees with reasonable or no modification
12 to these work areas. However, on a company-wide basis, Defendants did not provide suitable
13 seats or stools at teller stations. Defendants' management did not inform Plaintiff and other
14 non-party Aggrieved Employees that they were allowed to sit down, provide any feasible
15 means for them to sit down, and/or mention any policy regarding sitting.

16 109. As a result of Defendants' company-wide policy and/or practice of prohibiting
17 employees from sitting during their shifts and company-wide failure to provide suitable
18 seating, Plaintiff and other non-party Aggrieved Employees were forced to stand during shifts
19 and denied seats. Defendants' failure to provide suitable seating to other non-party Aggrieved
20 Employees violated and continues to violate California Labor Code section 1198 and IWC
21 Wage Order 4-2001, Section 14(A).

22 110. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
23 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

24 **FAILURE TO PROVIDE SUITABLE SEATING**

25 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
26 **REGULATIONS, TITLE 8, SECTION 11040(14)(B)**

27 111. At all relevant times herein, California Labor Code section 1198 makes it
28 illegal to employ an employee under conditions of labor that are prohibited by the applicable

1 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
2 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
3 The employment of any employee . . . under conditions of labor prohibited by the order is
4 unlawful.”

5 112. California Code of Regulations, Title 8, section 11040(14)(B) provides that
6 “[w]hen employees are not engaged in the active duties of their employment and the nature of
7 the work requires standing, an adequate number of suitable seats shall be placed in reasonable
8 proximity to the work area and employees shall be permitted to use such seats when it does
9 not interfere with the performance of their duties.”

10 113. During the relevant time period, Defendants violated California Labor Code
11 section 1198 and California Code of Regulations, Title 8, section 11040(14)(B), because
12 Plaintiff and other non-party Aggrieved Employees were not provided with suitable seats in
13 reasonable proximity to their work areas and, therefore, effectively not allowed to sit, even
14 during lulls in their work duties.

15 114. As stated, Plaintiff alleges that Defendants’ California branch locations are
16 generally similar in their layout and design and there was, and continues to be, space near
17 their work areas (with reasonable or no modification to these work areas) to allow for the
18 presence and use of a seat or stool by Plaintiff and other non-party Aggrieved Employees
19 during lulls in operation. Defendants could have provided Plaintiff and other non-party
20 Aggrieved Employees with a seat or stool in their work areas, but instead denied Plaintiff and
21 other non-party Aggrieved Employees suitable seating altogether and effectively forced
22 Plaintiff and other non-party Aggrieved Employees to stand throughout the day.

23 115. Defendants did not provide Plaintiff and other non-party Aggrieved Employees
24 with suitable seats or stools in reasonable proximity to their work areas to allow them to use
25 seats when it would not interfere with the performance of their duties for times when they
26 were not engaged in active duties that require standing. In other words, to the extent Plaintiff
27 and other non-party Aggrieved Employees engaged in duties in which the nature of the work
28 required standing, Defendants denied them the use of suitable seats nearby during lulls in their

1 work duties. Moreover, Defendants did not inform Plaintiff and other non-party Aggrieved
2 Employees of their rights to a seat or stool under California law.

3 116. As a result of Defendants' company-wide policy and/or practice effectively
4 prohibiting employees from sitting at any time, even when they were not engaged in active
5 duties requiring standing, and company-wide failure to provide suitable seats in reasonable
6 proximity to their work areas, Plaintiff and other non-party Aggrieved Employees were forced
7 to stand during shifts and denied seats. Defendants' failure to provide suitable seating to
8 Plaintiff and other non-party Aggrieved Employees violated and continues to violate
9 California Labor Code section 1198 and IWC Wage Order 4-2001, Section 14(B).

10 117. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
11 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

12 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

13 **VIOLATION OF LABOR CODE SECTION 2802**

14 118. At all times herein set forth, California Labor Code section 2802 provides that
15 an employer must reimburse employees for all necessary expenditures and losses incurred by
16 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
17 to prevent employers from passing off their cost of doing business and operating expenses on
18 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
19 (2014). The applicable wage order, IWC Wage Order 4-2001, provides that: "[w]hen the
20 employer requires the use of tools or equipment or they are necessary to the performance of a
21 job, such tools and equipment shall be provided and maintained by the employer, except that
22 an employee whose wages are at least two (2) times the minimum wage may provide and
23 maintain hand tools and equipment customarily required by the particular trade or craft."

24 119. First, during the relevant time period, Defendants, on a company-wide basis,
25 required that Plaintiff and other non-party Aggrieved Employees utilize their own personal
26 cellular phones and/or cellular phone data to carry out their job duties, but failed to reimburse
27 them for the costs of their cellular phone and/or data plans. Plaintiff and other non-party
28 Aggrieved Employees were required to use their personal cellular phones to complete their

1 work-related tasks, such as discussing assignments with managers prior to starting their shifts.
2 For example, Plaintiff would spend at least 15 minutes per day responding to her supervisor
3 about upcoming assignments and work-related matters, using her personal cellular phone.
4 Although Defendants required Plaintiff and other non-party Aggrieved Employees to utilize
5 their personal cellular phones to carry out their work-related responsibilities, Defendants
6 failed to fully reimburse them for this cost.

7 120. Second, Defendants, on a company-wide basis, required Plaintiff and other
8 non-party Aggrieved Employees to utilize their own personal vehicles to carry out company
9 business, but failed to fully reimburse them for all costs of travel, including mileage. As
10 stated, Defendants had a policy of requiring Plaintiff and other non-party Aggrieved
11 Employees to travel in their own personal vehicles to fingerprinting service providers to
12 undergo fingerprinting, but they were not reimbursed for their mileage to and from the
13 facilities. For example, Plaintiff was required to travel approximately 10 miles roundtrip
14 using her personal vehicle to obtain her mandatory fingerprint-based background check from a
15 fingerprinting provider in Irvine, California. Also, when Plaintiff and other non-party
16 Aggrieved Employees drove to work at Defendants' other locations to cover additional shifts,
17 they were not compensated for their mileage. For example, when Plaintiff was assigned to
18 work at the Santa Ana branch location approximately twice per month, she drove 20 miles
19 (approximately 30 minutes) roundtrip, but was not reimbursed for this cost. Although
20 Defendants required Plaintiff and other non-party Aggrieved Employees to use their own
21 vehicles and complete these tasks as part of their job duties, Defendants failed to reimburse
22 them for all of these expenses.

23 121. Third, during the relevant time period, on a company-wide basis, Defendants
24 expected Plaintiff and other non-party Aggrieved Employees to report to work in clean and
25 presentable uniforms, including uniform button-down shirts emblazoned with Defendants'
26 logo, which forced Plaintiff and other non-party Aggrieved Employees to launder or replace
27 their uniforms more frequently, and incur expenses in doing so. This was pursuant to
28 Defendants' company-wide policy requiring employees to "[m]aintain a professional

appearance” in their work areas and “[e]nsure you . . . adhere[] to UNIFY FCU personal appearance guidelines – Business Casual.” Defendants required Plaintiff and other non-party Aggrieved Employees to wear their uniform shirts bearing the company logo on a daily basis, but only provided their employees two (2) uniform shirts each. However, Plaintiff and other non-party Aggrieved Employees were scheduled to work five (5) to six (6) days in a week, and thus incurred additional laundry expenses for the upkeep of their uniforms because employees had to wash their uniform items more frequently and separately from any other items. On a company-wide basis, Defendants failed to provide Plaintiff and other non-party Aggrieved Employees with uniform cleaning services or reimburse them for cleaning expenses incurred. Furthermore, since Defendants did not provide an adequate number of uniform shirts to employees, other non-party Aggrieved Employees were required to purchase additional uniform shirts directly from Defendants for \$36.00 each, and were not reimbursed for this cost. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved Employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, forcing Plaintiff and other non-party Aggrieved Employees to pay out-of-pocket for laundry costs and costs of replacement uniform shirts.

122. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with the actual tools for use on the job, such as company phones, company vehicles, or an adequate number of uniform shirts or access to a cleaning service. Or, Defendants could have reimbursed employees for the costs of their cellular phone expenses, travel expenses, mileage, and uniform laundering expenses. Instead, Defendants passed these operating costs off onto Plaintiff and other non-party Aggrieved Employees.

123. Defendants’ company-wide policy and/or practice of passing on their operating costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code section 2802. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

1 **PRAYER FOR RELIEF**

2 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
3 judgment against Defendants, jointly and severally, as follows:

4 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
5 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

6 **As to the First Cause of Action**

7 2. That the Court declare, adjudge and decree that Defendants violated the
8 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
9 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
10 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512, 516,
11 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
12 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
13 statements and maintain accurate payroll records); 201, 202, and 203 (by failing timely to pay
14 all earned wages upon termination); 204 (by failing timely to pay all earned wages during
15 employment); 450 (by compelling and/or coercing employees to patronize employer's
16 business); 1198 (by failing to provide suitable seating); and 2802 (by failing to reimburse
17 business expenses).

18 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
19 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202,
20 203, 204, 226(a), 226.7, 450, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802;

21 4. For attorneys' fees and costs pursuant to California Labor Code section
22 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
23 Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 405, 510, 512(a), 516, 1174(d),
24 1182.12, 1194, 1197, 1198, and 2802;

25 5. For pre-judgment and post-judgment interest as provided by law; and

26 //

27 //

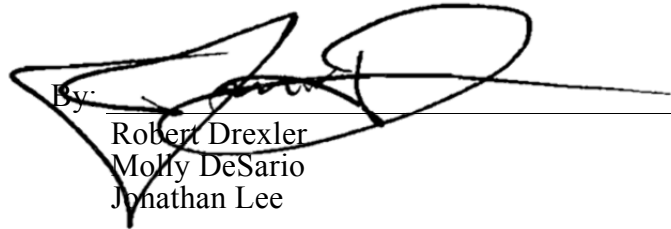
28 //

1 6. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: September 24, 2020

Respectfully submitted,

Capstone Law APC

6
7  By: _____
8 Robert Drexler
9 Molly DeSario
Jonathan Lee

Attorneys for Plaintiff Natasha Amaral

Exhibit 1

MICHELLE C. KENNEDY
310.712.8146 Direct
Michelle.Kennedy@capstonelawyers.com

July 17, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Natasha Amaral v. UNIFY Financial Credit Union*

Dear PAGA Administrator:

This office represents Natasha Amaral in connection with her claims under the California Labor Code. Ms. Amaral was an employee of UNIFY FINANCIAL CREDIT UNION ("UNIFY").

The employer may be contacted directly at the address below:

UNIFY FINANCIAL CREDIT UNION
1899 WESTERN WAY
TORRANCE, CA 90501

Ms. Amaral intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Amaral seeks relief on behalf of herself, the State of California, and other persons who are or were employed by UNIFY in California as a non-exempt, hourly paid employee and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

UNIFY employed Ms. Amaral as a non-exempt, hourly paid Branch Supervisor from approximately May 20, 2019, to January 30, 2020. Ms. Amaral worked for UNIFY at its branch location in Irvine, California. She typically worked eight (8) hours or more per day, five (5) to six (6) days per week, from approximately 8:00 a.m. to 5:30 p.m. or later. At the time her employment ended, Ms. Amaral earned approximately \$27.88 per hour. Ms. Amaral's job duties included, without limitation, providing customer service; opening new accounts for customers; preparing reports on overdrafts and loan accounts; loading cash into the ATMs at the front of the store; and managing the vault by counting money daily and ordering replenishment for vault funds as needed.

UNIFY has committed one or more of the following Labor Code violations against Ms. Amaral, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

UNIFY’s Company-Wide and Uniform Payroll and HR Practices

UNIFY provides retail banking services to customers throughout the United States, including California. UNIFY operates approximately 59 branch locations in at least 19 states, including approximately 24 branch locations in California, and employs approximately 600 employees nationwide. UNIFY is a federally-chartered credit union headquartered in Torrance, California. Upon information and belief, UNIFY maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Torrance, California, for all non-exempt, hourly paid employees working for UNIFY in California, including Ms. Amaral and other aggrieved employees. At all relevant times, UNIFY issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Amaral and other aggrieved employees, regardless of their location or position.

Upon information and belief, UNIFY maintains a centralized Payroll department at its corporate headquarters in Torrance, California, which processes payroll for all non-exempt, hourly paid employees working for UNIFY in California, including Ms. Amaral and other aggrieved employees. Further, UNIFY issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Amaral and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, UNIFY utilized the same methods and formulas when calculating wages due to Ms. Amaral and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

UNIFY willfully failed to pay all overtime wages owed to Ms. Amaral and other aggrieved employees. During the relevant time period, Ms. Amaral and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in

¹ These facts, theories, and claims are based on Ms. Amaral’s experience and counsel’s review of those records currently available relating to Ms. Amaral’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Amaral reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, UNIFY had, and continues to have, a company-wide policy and/or practice of requiring employees to complete work-related tasks while off-the-clock. For example, Ms. Amaral spent approximately 15 minutes per day off-the-clock, prior to her shifts, responding to her supervisors on her personal cellular phone, and approximately 30-60 minutes per week meeting with supervisors about work assignments, after she had clocked out for the day. Further, when Ms. Amaral and other aggrieved employees drove to work at other UNIFY branch locations to cover additional shifts, they were not compensated for their travel time. For example, when Ms. Amaral was assigned to work at the Santa Ana branch location approximately twice per month, she drove 10 miles (approximately 15 minutes) each way, but was not paid for this travel time. Thus, UNIFY failed to track the time spent working before and after scheduled shifts, and Ms. Amaral and other aggrieved employees received no compensation for this time.

Second, UNIFY had, and continues to have, a company-wide policy and/or practice of understaffing its locations, while assigning heavy workloads and implementing monthly sales quotas for loans booked at each branch, resulting in a failure to provide Ms. Amaral and other aggrieved employees with adequate meal period coverage. Further, UNIFY had a requirement that a managerial employee, such as a Branch Supervisor, be present in the branch at all times and prohibited managers from leaving the bank premises unless another manager was also on duty, resulting in a lack of meal period coverage for managerial employees. At the same time, UNIFY's practice and/or policy of understaffing did not always allow for more than one manager to be on the schedule at all times. As a result, Ms. Amaral and other managerial employees were sometimes the only managers on duty, but would have their meal periods interrupted or would work through them in order to assist their coworkers, respond to questions from supervisors, and handle a heavy workload of daily and weekly tasks to complete, including handling the teller line. As a result of this lack of meal period coverage, Ms. Amaral and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, once per week, Ms. Amaral would miss her meal periods entirely in order to complete the tasks and duties UNIFY assigned to her and/or due to a lack of coverage resulting from being the only managerial employee scheduled to work. Additionally, her meal periods were frequently interrupted or cut short in responding to supervisor's requests for help with customers. Thus, Ms. Amaral and other aggrieved employees missed or had meal periods interrupted in order to complete their assigned workloads. Further, on information and belief, because UNIFY frowned upon employees accruing meal period penalties, UNIFY adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that UNIFY would otherwise owe. Thus, Ms. Amaral and other aggrieved employees performed work during meal periods for which they were not paid. UNIFY did not pay Ms. Amaral and other aggrieved employees for the time they continued to perform tasks during meal periods.

UNIFY knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Amaral and other aggrieved employees were performing their assigned duties off-the-clock and during meal periods, and were suffered or permitted to perform work for which they were not paid. UNIFY also knew, or should have known, that it did not compensate Ms. Amaral and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Ms. Amaral and other aggrieved employees regularly worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime

premium pay. Therefore, Ms. Amaral and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. UNIFY's failure to pay Ms. Amaral and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Furthermore, UNIFY did not pay Ms. Amaral and other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, UNIFY paid Ms. Amaral and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, UNIFY failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when Ms. Amaral and other aggrieved employees worked overtime and received these other forms of pay, UNIFY failed to pay all overtime wages by paying a lower overtime rate than required.

Specifically, UNIFY paid Ms. Amaral and other aggrieved employees nondiscretionary bonuses or incentive pay for reaching certain branch sales goals. On information and belief, these nondiscretionary bonuses and/or incentive pay were listed on Ms. Amaral's and other aggrieved employees' wage statements as "Sales Incentive." During pay periods that Ms. Amaral and other aggrieved employees were paid overtime wages, UNIFY failed to incorporate the nondiscretionary bonus and/or incentive pay into Ms. Amaral's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked.

Specifically, UNIFY paid Ms. Amaral and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. For example, for the pay period ending August 16, 2019, Ms. Amaral earned a Sales Incentive of \$250.00; for the pay period ending October 11, 2019, a Sales Incentive of \$10.00; for the pay period ending November 22, 2019, a Sales Incentive of \$20.00; for the pay period ending December 20, 2019, a Sales Incentive of \$40.00. During these pay periods, Ms. Amaral also earned overtime wages at an incorrect rate. UNIFY's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Ms. Amaral and other aggrieved employees on a company-wide basis.

Ms. Amaral and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 4 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." Cal. Code. Regs. tit. 8, § 11040(2)(K) (defining "Hours Worked").

As set forth above, Ms. Amaral and other aggrieved employees were forced to work off-the-clock performing tasks before and after their scheduled shifts, such as responding to communications from supervisors on their personal cellular phones and driving to other UNIFY branch locations to cover shifts, but were not provided a means by UNIFY to account for this time. Additionally, as a result of UNIFY's policy and/or practice of understaffing while assigning heavy workloads and stringent sales

quotas, and resultant lack of meal period coverage, Ms. Amaral and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. In conjunction with understaffing its branch locations, UNIFY had a requirement that a managerial employee be present in the bank premises at all times, which exacerbated the lack of meal period coverage.

Moreover, UNIFY maintained and implemented a company-wide policy of requiring all employees to undergo fingerprint-based background checks upon hiring. This required Ms. Amaral and other aggrieved employees to travel to a fingerprinting service provider on their own time and using their own personal vehicles to undergo fingerprinting. For example, Ms. Amaral traveled to and from an approved fingerprinting provider in Irvine, California, driving 10 miles roundtrip for approximately 30 minutes in her personal vehicle, and spent approximately 1.25 hours waiting and undergoing the fingerprinting. However, UNIFY did not compensate Ms. Amaral and other aggrieved employees for the time they spent traveling to and from the fingerprinting service providers, or for the time they spent undergoing their fingerprinting.

Thus, UNIFY did not pay minimum wages for all hours worked by Ms. Amaral and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, UNIFY did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, UNIFY regularly failed to pay at least minimum wages to Ms. Amaral and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Ms. Amaral and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal and rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant time period, UNIFY had, and continues to have, a company-wide policy and/or practice of understaffing its branch locations and assigning demanding workloads and sales quotas, which resulted in a lack of adequate meal period coverage and prevented Ms. Amaral and

other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. In conjunction with understaffing its branch locations, as stated above, UNIFY had a requirement that a managerial employee be present on the branch premises at all times, but UNIFY's policies did not always allow for more than one manager to be on the schedule at all times. As a result, Ms. Amaral and other managerial employees were sometimes the only managers on duty, and would have their meal periods interrupted or would work through them in order to assist their coworkers and customers.

Further, UNIFY had a company-wide practice and/or policy of failing to adhere to a schedule of meal periods, which further caused Ms. Amaral and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms. Amaral and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted, and/or had to forgo their meal periods altogether in order to complete their assigned workloads. For example, Ms. Amaral was forced to forego meal periods at least once per week in order to complete the tasks and duties UNIFY assigned to her and/or due to lack of coverage by other managers. Additionally, approximately twice per week, Ms. Amaral waited more than five (5) hours into her shift to take a meal period in order to assist customers in the teller line or assist with other duties. Furthermore, she was regularly interrupted and had her meal period cut short by management and/or supervisors requesting her assistance with work-related tasks. Moreover, on information and belief, because UNIFY frowned upon employees accruing meal period penalties, UNIFY's management would adjust Ms. Amaral's and other aggrieved employees' time records in order to strictly limit meal penalties that would need to be paid by UNIFY. Ms. Amaral and other aggrieved employees worked through meal periods or had their meal periods interrupted, because there were not enough employees on duty to handle the assigned workload.

Second, UNIFY did not schedule second meal periods and had no policy for providing Ms. Amaral and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. As a result, Ms. Amaral and other aggrieved employees did not receive second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, on September 6, 2019; November 15, 2019, and December 19, 2019, Ms. Amaral worked over ten (10) hours in a day, but was not provided a second meal period or paid a meal penalty. Ms. Amaral and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

UNIFY knew or should have known that as a result of its policies, Ms. Amaral and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. UNIFY further knew or should have known that it did not pay Ms. Amaral and other aggrieved employees all meal period premium wages when meal periods were missed, late, short, and/or interrupted because UNIFY altered employee time records to reflect compliant meal periods, even if none were taken.

UNIFY also has engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Amaral and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that UNIFY did pay meal period premium wages to Ms. Amaral and other aggrieved employees, it did so at the incorrect rates. Because UNIFY did not properly calculate Ms. Amaral's and other aggrieved employees' regular rates of pay by including all remunerations, such as incentive pay and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, UNIFY failed to provide all meal periods in violation of California Labor Code sections 226.7, 512, 516, and 1198. Ms. Amaral and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, UNIFY regularly failed to authorize and permit Ms. Amaral and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, UNIFY's policies and/or practice of understaffing its branch locations and assigning heavy workloads prevented Ms. Amaral and other aggrieved employees from being relieved of all duty to take compliant rest periods. As a result, Ms. Amaral missed her rest periods or would have her rest periods interrupted. On average, Ms. Amaral missed approximately eight (8) or more rest periods per week.

Additionally, as stated, UNIFY prohibited Ms. Amaral and other aggrieved employees from leaving the premises during their rest periods if they were the only managers on the schedule, as they were the only employees that could institute an override in the bank's system. Because Ms. Amaral and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, UNIFY effectively maintained control over Ms. Amaral and other aggrieved employees during rest periods. As a result of UNIFY's practices and policies, Ms. Amaral and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. Throughout her employment, Ms. Amaral missed her rest periods due to understaffing, assignment of sales quotas, and a heavy workload.

UNIFY also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized or permitted. Because of this practice and/or policy, Ms. Amaral and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that UNIFY did pay rest period premium wages to Ms. Amaral and other aggrieved employees, it did so at the incorrect rates. Because UNIFY did not properly calculate Ms. Amaral's and other aggrieved employees' regular rates of pay

by including all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, UNIFY failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Amaral and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. UNIFY has not provided Ms. Amaral and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, UNIFY has knowingly and intentionally provided Ms. Amaral and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, UNIFY issued uniform wage statements to Ms. Amaral and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, UNIFY violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because UNIFY did not record the time Ms. Amaral and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted or missed (and therefore time for which they should have been paid), UNIFY did not list the correct amount of gross wages and net wages earned by Ms. Amaral and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, UNIFY failed to accurately list the total number of the hours worked by Ms. Amaral and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, because UNIFY did not calculate Ms. Amaral's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, UNIFY did not list the correct amount of gross wages earned by Ms. Amaral and other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by Ms. Amaral and other aggrieved employees in violation of section 226(a)(5). UNIFY also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the correct name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[keep, 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, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), UNIFY willfully failed to maintain accurate payroll records for Ms. Amaral and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, as stated, UNIFY engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Amaral and other aggrieved employees in violation of section 1198. Furthermore, in light of UNIFY’s failure to provide Ms. Amaral and other aggrieved employees with second 30-minute meal periods to which they were entitled, UNIFY kept no records of meal start and end times for second meal periods.

Because UNIFY failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Amaral and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Amaral and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Amaral and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, UNIFY failed to pay Ms. Amaral and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Ms. Amaral and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

UNIFY willfully failed to pay Ms. Amaral and other aggrieved employees who are no longer employed by UNIFY all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premium wages, and/or all vested vacation pay, either at the time of discharge, or within seventy-two (72) hours of their leaving UNIFY's employ in violation of California Labor Code sections 201, 202, and 203.

Ms. Amaral and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 227.3 – Failure to Pay Vested Vacation Wages

California Labor Code section 227.3 provides that if a contract of employment or employer policy provides for paid vacations and an employer terminates an employee, all vested vacation shall be paid to the employee at the employee's final rate of pay, in accordance with such contract of employment or employer policy respecting eligibility or time served. Vacation time vests on a pro-rata basis and, upon termination, an employee is entitled to a pro rata share of vested vacation pay. An employer may not require an employee to forfeit earned but unused vacation pay.

UNIFY had a company-wide policy and practice of failing to pay Ms. Amaral and other aggrieved employees vested vacation wages that were owed to them at the end of their employment, including all vested vacation wages that accrued during employees' final week of employment, in violation of California Labor Code section 227.3. Specifically, Ms. Amaral had earned vested vacation pay until her employment with UNIFY ended on January 30, 2020. However, UNIFY only paid Ms. Amaral the balance of her accrued and unused vacation wages as of January 17, 2020, or the end of her prior pay period. UNIFY willfully and improperly paid Ms. Amaral and other aggrieved employees their unused and vested vacation wages through their second to last pay period worked. UNIFY's failure to pay Ms. Amaral and other aggrieved employees all vested vacation wages at the end of their employment has caused a forfeiture of vested vacation wages, in violation of California Labor Code section 227.3.

Ms. Amaral and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 450 – Compelling Patronization

California Labor Code section 450 provides that an employer may not "compel or coerce any employee, or applicant for employment, to patronize his or her employer, or any other person, in the purchase of anything of value." An employer violates section 450 by forcing an employee to patronize the employer's business in the purchase of a company-provided good.

UNIFY had a company-wide policy of requiring employees to purchase uniform items directly from the company. Upon information and belief, other aggrieved employees were required to pay for uniform shirts bearing UNIFY's logo at a cost of \$36.00 each.

UNIFY's conduct of compelling and/or coercing other aggrieved employees to purchase goods from them is in violation of California Labor Code section 450. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11040 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that "... 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 order is unlawful." California Code of Regulations, Title 8, section 11040(14)(A) provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats."

"The 'nature of the work' refers to an employee's tasks performed at a given location for which a right to a suitable seat is claimed, rather than a 'holistic' consideration of the entire range of an employee's duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for." *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). "Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer's business

judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee's characteristics." *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is "infeasible because no suitable seating exists." *See id.*

UNIFY's California branch locations are generally similar in their layout and design and there was, and continues to be, space behind each teller station to allow for the presence and use of a seat or stool by Ms. Amaral and other aggrieved employees during the performance of their work duties. UNIFY could have provided Ms. Amaral and other aggrieved employees with a seat or stool at all of its teller stations, with reasonable or no modification to these work areas, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

Ms. Amaral and other aggrieved employees spent a substantial portion of their day behind or at these teller stations. The nature of the work of an employee performing teller duties can reasonably be accomplished from a seated position. However, as set forth herein, UNIFY systematically, and on a company-wide basis, does not provide adequate and operable seats or stools at or near the teller stations, forcing Ms. Amaral and other aggrieved employees to stand throughout their work shifts.

UNIFY violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(14)(A) because Ms. Amaral and other aggrieved employees were effectively not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. UNIFY's management did not inform Ms. Amaral and other aggrieved employees that they were allowed to sit down, provide any feasible means for them to sit down, or mention any policy regarding sitting.

As a result of UNIFY's company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Ms. Amaral and other aggrieved employees were forced to stand during shifts and denied seats. UNIFY's failure to provide suitable seating to Ms. Amaral and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 4-2001, Section 14(A).

Ms. Amaral and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring UNIFY into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11040 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that ". . . 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 order is unlawful." California Code of Regulations, Title 8, section 11040(14)(B) provides that "[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties."

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

As stated, UNIFY’s California branch locations are generally similar in their layout and design and there was, and continues to be, space near their work areas to allow for the presence and use of a seat or stool by Ms. Amaral and other aggrieved employees during lulls in operation. UNIFY could have provided Ms. Amaral and other aggrieved employees with a seat or stool in its work areas, with reasonable or no modification to these work areas, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

UNIFY did not provide Ms. Amaral and other aggrieved employees with suitable seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Ms. Amaral and other aggrieved employees engaged in duties in which the nature of the work required standing, UNIFY denied them the use of seats nearby during lulls in their work duties. Moreover, UNIFY did not inform Ms. Amaral and other aggrieved employees of their rights to a seat or stool under California law.

As a result of UNIFY’s company-wide policy and/or practice of effectively prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Ms. Amaral and other aggrieved employees were forced to stand during shifts and denied seats. UNIFY’s failure to provide suitable seating to Ms. Amaral and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 4-2001, Section 14(B).

Ms. Amaral and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring UNIFY into compliance with California’s seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

First, during the relevant time period, UNIFY had a company-wide policy of requiring Ms. Amaral and other aggrieved employees to utilize their own personal cellular phones and cellular data to carry out their job duties, but UNIFY failed to reimburse them for the costs of their work-related cellular

phone expenses. Ms. Amaral and other aggrieved employees were required to use their personal cellular phones to complete their work-related tasks, such as discussing assignments with managers prior to starting their shifts. For example, Ms. Amaral would spend at least 15 minutes per day responding to her supervisor about upcoming assignments and work-related matters, using her personal cellular phone. Although UNIFY required Ms. Amaral and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, UNIFY failed to reimburse them for this cost.

Second, as stated, UNIFY had a company-wide policy of requiring Ms. Amaral and other aggrieved employees to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. As stated, UNIFY had a policy of requiring Ms. Amaral and other aggrieved employees to travel in their own personal vehicles to fingerprinting service providers to undergo fingerprinting, but were not reimbursed for their mileage to and from the facilities. For example, Ms. Amaral was required to travel approximately 10 miles roundtrip using her personal vehicle to obtain her mandatory fingerprint-based background check from a fingerprinting provider in Irvine, California. Also, when Ms. Amaral and other aggrieved employees drove to work at other UNIFY locations to cover additional shifts, they were not compensated for their mileage. For example, when Ms. Amaral was assigned to work at the Santa Ana branch location approximately twice per month, she drove 20 miles (approximately 30 minutes) roundtrip, but was not reimbursed for this cost. Although UNIFY required Ms. Amaral and other aggrieved employees to use their own vehicles and complete these tasks as part of their job duties, UNIFY failed to reimburse them for all of these expenses.

Third, UNIFY, on a company-wide basis, expected Ms. Amaral and other aggrieved employees to report to work in clean and presentable uniforms, including a uniform button-down shirt emblazoned with UNIFY's logo, which forced Ms. Amaral and other aggrieved employees to launder or replace their uniforms frequently, and incur expenses in doing so. UNIFY had a company-wide policy requiring employees to "[m]aintain a professional appearance" in their work areas and "[e]nsure you . . . adhere[] to UNIFY FCU personal appearance guidelines – Business Casual." UNIFY required Ms. Amaral and other aggrieved employees to wear their uniform shirts bearing the company logo on a daily basis, but only provided their employees two (2) uniform shirts each. However, Ms. Amaral and other aggrieved employees were scheduled to work five (5) to six (6) days in a week, and thus incurred additional laundry expenses for the upkeep of their uniforms because employees had to wash their uniform items more frequently and separately from any other items. On a company-wide basis, UNIFY failed to provide Ms. Amaral and other aggrieved employees with uniform cleaning services or reimburse them for cleaning expenses incurred. Furthermore, since UNIFY did not provide an adequate number of uniform shirts to employees, other aggrieved employees were required to purchase additional uniform shirts directly from UNIFY for \$36.00 each, and were not reimbursed for this cost. Thus, UNIFY failed to provide Ms. Amaral and other aggrieved employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, forcing Ms. Amaral and other aggrieved employees to pay out-of-pocket for laundry costs and costs of replacement uniform shirts.

UNIFY could have provided Ms. Amaral and other aggrieved employees with the actual tools for use on the job, such as company phones, company vehicles, or an adequate number of uniform shirts or access to a cleaning service. Or, UNIFY could have reimbursed employees for the costs of their cellular phone, mileage, travel expenses, and uniform laundering expenses. Instead, UNIFY passed these operating costs off onto Ms. Amaral and other aggrieved employees. At all relevant times, Ms. Amaral did not earn at least two (2) times the minimum wage.

Thus, UNIFY had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Amaral and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” UNIFY, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Amaral's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Amaral seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Amaral, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against UNIFY for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 450, 510, 512, 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Amaral seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Amaral's reasonable attempt to settle her dispute with UNIFY prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform UNIFY of Ms. Amaral's aforementioned grievances and the proposed remedies as detailed below, while affording UNIFY a reasonable opportunity to satisfy Ms. Amaral's demands.

Demand is hereby made that UNIFY shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. UNIFY shall pay Ms. Amaral and all other aggrieved employees employed by UNIFY at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. UNIFY shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.

3. UNIFY shall conduct a survey or interview all current and former aggrieved employees in California who worked for UNIFY in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mandatory fingerprinting, travel, and cellular phone expenses, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. UNIFY shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512, 516, and 1198. UNIFY also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. UNIFY shall pay former aggrieved employees their vested vacation wages at their final rate, in accordance with such contract of employment or employer policy respecting eligibility or time served, as required by Labor Code section 227.3.
6. UNIFY shall cease the practice of compelling and/or coercing aggrieved employees into purchasing uniforms or anything else of value from UNIFY, as set forth in Labor Code section 450.
7. UNIFY shall implement and provide suitable seating to all aggrieved employees.
8. UNIFY shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for UNIFY's benefit, including, but not limited to, costs of mandatory fingerprinting, travel, cellular phone, uniform laundering, and related expenses, as required by Labor Code section 2802.
9. UNIFY shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
10. UNIFY shall provide Ms. Amaral and all aggrieved employees employed by UNIFY at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
11. UNIFY shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
12. UNIFY shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 4-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Michelle C. Kennedy
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

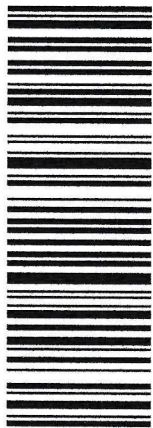
Best Regards,

A handwritten signature in black ink, appearing to read 'Michelle C. Kennedy', with a stylized flourish at the end.

Michelle C. Kennedy

Copy: UNIFY FINANCIAL CREDIT UNION (via U.S. Certified Mail)

CERTIFIED MAIL®



7019 2280 0000 7398 7357

stone
LAW APC
ury Park East, Ste 1000
es, CA 90067



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

UNIFY FINANCIAL CREDIT UNION
1899 WESTERN WAY
TORRANCE, CA 90501



9590 9403 0424 5163 3611 45

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7357

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

- ☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
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☐ Collect on Delivery Restricted Delivery
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☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

UNIFY FINANCIAL CREDIT UNION
1899 WESTERN WAY
TORRANCE, CA 90501

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

UNIFY FINANCIAL CREDIT UNION
1899 WESTERN WAY
TORRANCE, CA 90501

Postmark
Here

Amaral V. Unify
Financial Credit
Union

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions