

ORIGINAL

FILED

Superior Court of California
County of Los Angeles

OCT 27 2020

Sherri R. Carter, Executive Officer/Clerk

By Paul R. Cruz Deputy
Paul R. Cruz

Taras Kick (SBN No. 143379)
taras@kicklawfirm.com
Roy K. Suh (SBN No. 283988)
roy@kicklawfirm.com
Daniel J. Bass (SBN No. 287466)
daniel@kicklawfirm.com
THE KICK LAW FIRM, APC
815 Moraga Drive
Los Angeles, California 90049
Telephone: (310) 395-2988
Facsimile: (310) 395-2088

Attorneys for Plaintiff YAZMIN GONZALEZ,
individually, and on behalf of others similarly
situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE

YAZMIN GONZALEZ, individually, and on behalf of
of others similarly situated and aggrieved

Plaintiff,

v.

BRANDED ONLINE, INC., a Delaware
Corporation; and DOES 1 through 50, inclusive,
Defendants.

Case No. 20STCV29702

) *Assigned for all purposes to the Honorable Maren*
) *Nelson, Dept. 17*

**FIRST AMENDED CLASS &
REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Pay Minimum Wages
2. Failure to Pay Overtime Wages
3. Failure to Provide Required Meal Periods
4. Failure to Provide Required Rest Periods
5. Failure to Indemnify Employees for Necessary
Expenditures Incurred in Discharge of Duties
6. Failure to Furnish Accurate Itemized Wage
Statements
7. Failure to Pay Timely and All Wages Due to
Discharged and Quitting Employees
8. Unfair and Unlawful Business Practices
9. Civil Penalties Pursuant to PAGA

DEMAND FOR JURY TRIAL

Action Filed: August 5, 2020
Mot. Class Cert. Hearing August 22, 2021
Trial Date: None Set

FILED

1 **NATURE OF ACTION**

2 1. Plaintiff YAZMIN GONZALEZ ("PLAINTIFF") bring this first amended class and
3 representative action complaint and case on behalf of herself and all others similarly situated and
4 aggrieved current and former non-exempt employees, who worked in the State of California for defendant
5 BRANDED ONLINE, INC., a Delaware Corporation ("DEFENDANT BRANDED ONLINE, INC.") and
6 DOES 1 through 50 inclusive (collectively "DEFENDANTS") against DEFENDANTS to remedy
7 DEFENDANTS' illegal wage payment and employment policies and practices during the relevant
8 statutory periods, for which PLAINTIFF seeks damages, restitution, statutory and civil penalties,
9 injunctive relief, interest, attorneys' fees and costs, and all other legal and equitable remedies deemed just
10 and proper under California law.

11 **JURISDICTION**

12 2. The Superior Court of the State of California has jurisdiction over this matter because, at
13 all relevant times, PLAINTIFF is, or was, a resident of the State of California. PLAINTIFF is informed,
14 believes and thereon alleges that, at all relevant times, at least one of the DEFENDANTS was qualified to
15 do business in California as a foreign or domestic company or business entity and regularly conducted
16 business in California as a foreign or domestic company or business entity. Furthermore, no federal
17 question is at issue because PLAINTIFF's causes of action are based solely on California law. Finally, on
18 September 16, 2020, DEFENDANT BRANDED ONLINE, INC. answered PLAINTIFF's August 5, 2020
19 Complaint and has therefore consented to the jurisdiction of the California Superior Court.

20 **VENUE**

21 3. Venue is proper in this judicial district and the County of Los Angeles, California because
22 PLAINTIFF and persons similarly situated performed work for DEFENDANTS or resided in the County
23 of Los Angeles while working for DEFENDANTS and DEFENDANTS executed their illegal wage
24 payment and employment policies and practices, which are the subject of this action, in the County of Los
25 Angeles, which adversely impacted persons similarly situated including persons residing or working in
26 the County of Los Angeles.

27 **PLAINTIFF & CLASS MEMBERS**

28 4. PLAINTIFF is a resident of the State of California and a current or former employee of

1 DEFENDANTS. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS
2 employed and classified PLAINTIFF as a non-exempt employee for several years and into the Summer
3 of 2020.

4 5. PLAINTIFF brings this action as an individual and on behalf of the following similarly
5 situated class of individuals: all current and former non-exempt employees of DEFENDANTS in the State
6 of California at any time within the period beginning four (4) years prior to the original August 5, 2020
7 filing of this action to until the time it settles, ends in a final judgment, or to a date fixed by the Court
8 ("CLASS MEMBERS"). PLAINTIFF reserves the right to name additional class representatives.¹

9 6. PLAINTIFF also brings this action, as stated in PLAINTIFF's Ninth Cause of Action, as
10 an individual and on behalf of the following aggrieved employees: all current and former non-exempt
11 employees of DEFENDANTS in the State of California at any time within the period beginning in the one
12 (1) year prior to PLAINTIFF's July 15, 2020 written notice, pursuant to California Labor Code §
13 2699.3(a)(1)(A), which PLAINTIFF provided by online filing with the California Labor and Workforce
14 Development Agency ("LWDA"), Case No. LWDA-CM-797143-20, and by certified mail to
15 DEFENDANTS, to until the time it settles, ends in a final judgment, or to a date fixed by the Court.

16 7. PLAINTIFF's action and proposed class specifically excludes any periods of employment
17 covered by valid and binding arbitration agreements, according to proof, of the same.

18 8. During the relevant statutory periods, DEFENDANTS employed PLAINTIFF and CLASS
19 MEMBERS pursuant to employment agreements that were partly written, partly oral, and partly implied.
20 In perpetrating the acts and omissions alleged herein, DEFENDANTS acted pursuant to, and in
21 furtherance of, their policies and practices of not paying PLAINTIFF and CLASS MEMBERS all wages
22 earned and due through methods and schemes which include, but are not limited to, failing to pay all
23 minimum wages due; failing to pay all overtime wages due; failing to pay all split shift and/or reporting
24 time wages due; failing to timely provide compliant meal periods (or to pay compensation for a lack
25 thereof); failing to timely provide compliant rest periods (or to pay compensation for a lack thereof);

26 ¹ Unless otherwise stated, PLAINTIFF brings all factual allegations regarding PLAINTIFF's relevant
27 interactions with DEFENDANTS based on personal knowledge and all other allegations based on
28 information and belief including those based on PLAINTIFF's counsel's investigation. Each allegation in
the instant Complaint is supported by evidence or is likely to be supported by evidence after a reasonable
opportunity for further investigation and discovery.

1 failing to timely pay all wages due during employment; failing to timely pay all wages to due at time of
2 discharge or quitting; failing to provide accurate itemized statements; failing to maintain accurate records;
3 failing to indemnify PLAINTIFF and CLASS MEMBERS for necessary expenditures; and unlawfully
4 deducting wages from PLAINTIFF and CLASS MEMBERS, all in violation of the California Labor Code
5 and the applicable Industrial Welfare Commission ("IWC") Orders.

6 9. While performing work for DEFENDANTS, PLAINTIFF did not perform and is informed
7 and believes, and thereon alleges, that CLASS MEMBERS did not perform more than fifty percent (50%)
8 of their duties utilizing advanced knowledge, specialized intellectual instruction, invention, imagination,
9 originality, or artistic talent that would qualify them as exempt employees under any professional,
10 executive or administrative exemption.

11 10. While performing work for DEFENDANTS, PLAINTIFF did not perform and is informed
12 and believes, and thereon alleges, that CLASS MEMBERS did not perform more than fifty percent (50%)
13 of their duties making sales, obtaining orders, or contracts for services customarily or predominately away
14 from DEFENDANTS' places of business that would that would qualify them as an exempt employees
15 under the outside sales person exemption.

16 11. As a direct and proximate result of DEFENDANTS' unlawful acts and omissions,
17 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from loss of earnings in
18 amounts as yet unascertained, but subject to proof at trial, and in an amount no less than fifteen million
19 dollars (\$15,000,000.00), an amount within the jurisdiction of this Court.

20 **DEFENDANTS**

21 12. PLAINTIFF is informed, believes and thereon alleges that DEFENDANT BRANDED
22 ONLINE, INC. is, and at all times relevant herein was, a corporation formed and existing under the laws
23 of the State of Delaware. PLAINTIFF is further informed, believes and thereon alleges that the State of
24 California authorized DEFENDANT BRANDED ONLINE, INC. to conduct and that DEFENDANT
25 BRANDED ONLINE, INC. did conduct business in California under California Secretary of State
26 corporate number: C329417 including while doing business in the State of California and within the
27 County of Los Angeles. PLAINTIFF is further informed, believes and thereon alleges DEFENDANT
28 BRANDED ONLINE, INC., at all times relevant herein, maintained its headquarters offices and its

1 principal executive offices in California.

2 13. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
3 PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE defendants under fictitious names and
4 collectively with DEFENDANT BRANDED ONLINE, INC. (collectively referred to as
5 "DEFENDANTS"). PLAINTIFF is informed, believes and thereon alleges that each Defendant designated
6 as a DOE is in some manner highly responsible for the occurrences alleged herein, and that PLAINTIFF
7 and CLASS MEMBERS' injuries and damages, as alleged herein, were proximately caused by the conduct
8 of such DOE Defendant. PLAINTIFF shall seek leave of court to amend this Complaint to allege the true
9 names and capacities of such DOE Defendants when ascertained.

10 14. PLAINTIFF is informed, believes and thereon alleges that DEFENDANTS, at all times
11 relevant in this action, committed acts and omissions in concert with each other.² PLAINTIFF is informed,
12 believes and thereon alleges that there has been a unity of interest and ownership between the
13 DEFENDANTS such that any corporate individuality and separateness between them has ceased, that
14 they are alter egos of each other, and that if DEFENDANTS' acts are treated as those of only one of them,
15 then an inequitable result would follow .

16 15. PLAINTIFF is informed, believes and thereon alleges that, at all times relevant in this
17 action, DEFENDANTS were the joint employers, alter egos, divisions, affiliates, integrated enterprises,
18 subsidiaries, parents, principals, associates, managers, supervisors, managing agents, directors, owners,
19 sisters, related entities, co-conspirators, agents, partners, joint venturers, masters, servants, aidors,
20 abettors, franchisees, franchisors, joint enterprisers, and/or guarantors, actual or ostensible, of each other.
21 PLAINTIFF is informed, believes and thereon alleges that, at all times relevant in this action, each of the
22 DEFENDANTS was completely dominated by his, her or its co-defendant and had authority, actual or
23 ostensible, to perform the acts and omissions alleged herein. PLAINTIFF is informed, believes and
24 thereon alleges that, at all times relevant in this action, to the extent that certain actions and omissions
25 were perpetrated by certain DEFENDANTS, the remaining DEFENDANTS condoned, authorized, and
26 ratified such acts and omissions. Accordingly, whenever PLAINTIFF alleges that any of the

27 _____
28 ² PLAINTIFF alleges each of these theories of joint liability in the alternative whenever not doing so
would result in a contradiction with PLAINTIFF's other allegations.

1 DEFENDANTS committed an act or omission, PLAINTIFF attributes such allegations to each of the
2 DEFENDANTS individually, jointly, and severally.

3 16. As a direct and proximate result of DEFENDANTS' unlawful acts and omissions,
4 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from monetary losses in
5 amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this Court.

6 **CLASS ACTION DESIGNATION**

7 17. This action is appropriately suited as a class action because:

8 a. The potential class is a significant number and joinder of all current and former
9 employees individually would be impractical.

10 b. This action involves common questions of law and fact to the potential class
11 because the action focuses on DEFENDANTS' systematic course of illegal payroll practices and policies,
12 which were applied to all non-exempt employees in violation of the California Labor Code, the applicable
13 IWC Wage Orders, and the California Business and Professions Code, which prohibits unfair business
14 practices arising from such violations.

15 c. PLAINTIFF's causes of action are typical of the class because PLAINTIFF is
16 informed, believes and thereon alleges that DEFENDANTS subjected all non-exempt employees to
17 identical violations of the California Labor Code, the applicable IWC Wage Orders, and the California
18 Business and Professions Code.

19 d. PLAINTIFF is able to fairly and adequately protect the interests of all members of
20 the class because it is in PLAINTIFF's best interests to prosecute the causes of action alleged herein to
21 obtain full compensation due to them for all services rendered and hours worked.

22 **FIRST CAUSE OF ACTION**

23 **Failure to Pay Minimum Wages**

24 **[Cal. Labor Code §§ 1182.12, 1197 and IWC Wage Order No. 4-2001, §§ 4 & 5 or other applicable**
25 **IWC Wage Orders]**

26 **(Against all DEFENDANTS)**

27 18. Pursuant to California Labor Code §§ 1182.12, 1197, 1198 and IWC Wage Order No. 4-
28 2001, §§ 4 and 5 or other applicable IWC Wage Orders, California has fixed minimum wage rates, has

1 required employers in California to pay their employees no less than the minimum for all hours worked
2 in the payroll period, has provided that minimum wages for employees fixed by the IWC or by state law,
3 is the minimum wage to be paid to employees, and that payment of a lower wage than the minimum so
4 fixed is unlawful.

5 19. PLAINTIFF and CLASS MEMBERS are current and former non-exempt employees
6 entitled to the protections of California Labor Code §§ 1182.12, 1197, 1198 and IWC Wage Order No. 4-
7 2001, §§ 4 and 5 or other applicable IWC Wage Orders. During the relevant statutory periods,
8 DEFENDANTS routinely deprived PLAINTIFF and CLASS MEMBERS of all minimum wages earned
9 and due by requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock,
10 work through meal and rest periods, by failing to pay one hour of minimum wages in addition to the
11 minimum wage for that workday when PLAINTIFF and CLASS MEMBERS worked split shifts, by
12 failing to pay at least two hours or up to four hours of minimum wages, as reporting time pay, in addition
13 to the minimum wage for that workday when PLAINTIFF and CLASS MEMBERS were required to
14 report for work and did report, but were scheduled to work less than two hours, were not put to work, or
15 were furnished less than half of the usual or scheduled day's work, by illegally and inaccurately recording
16 time during which PLAINTIFF and CLASS MEMBERS worked, by failing to properly maintain
17 PLAINTIFF and CLASS MEMBERS' records, by failing to provide accurate itemized wage statements
18 to PLAINTIFF and CLASS MEMBERS for each pay period, by failing to, and by other methods to be
19 discovered, while failing to compensate PLAINTIFF and CLASS MEMBERS for all minimum wages for
20 all hours worked as required under California Labor Code §§ 1182.12, 1197, 1198 and IWC Wage Order
21 No. 4-2001, §§ 4 and 5 or other applicable IWC Wage Orders. As a proximate result, PLAINTIFF and
22 CLASS MEMBERS have suffered, and continue to suffer, substantial losses related to the use and
23 enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to
24 compel DEFENDANTS to fully perform their obligations under state law, all to their respective detriments
25 in amounts according to proof at time of trial, and within the jurisdiction of this Court.

26 20. DEFENDANTS' conduct described herein violates California Labor Code §§ 1182.12,
27 1197, 1198 and IWC Wage Order No. 4-2001, §§ 4 and 5 or other applicable IWC Wage Orders. As a
28 proximate result of the aforementioned violations, PLAINTIFF and CLASS MEMBERS have been

1 damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200,
2 201, 202, 203, 204, 558, 558.1, 1194, 1194.2, 1197.1, 1198 and other applicable provisions under the
3 California Labor Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to
4 recover the unpaid balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys'
5 fees, expenses, and costs of suit.

6 **SECOND CAUSE OF ACTION**

7 **Failure to Pay Overtime Wages**

8 **[Cal. Labor Code §§ 510, 1198; IWC Wage Order No. 4-2001, § 3 or other applicable IWC Wage**
9 **Orders]**

10 **(Against all DEFENDANTS)**

11 21. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
12 consistent with this cause of action, as if fully set forth herein.

13 22. Pursuant to California Labor Code §§ 510, 1198 and IWC Wage Order No. 4-2001, § 3 or
14 other applicable IWC Wage Orders, California has required employers to pay their employees at one and
15 one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or
16 forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with
17 double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked
18 in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

19 23. PLAINTIFF and CLASS MEMBERS are current and former non-exempt employees
20 entitled to the protections of California Labor Code §§ 510, 1198 and IWC Wage Order No. 4-2001, § 3
21 or other applicable IWC Wage Orders. During the relevant statutory periods, DEFENDANTS routinely
22 deprived PLAINTIFF and CLASS MEMBERS of all overtime wages earned and due by requiring,
23 permitting or suffering PLAINTIFF and CLASS MEMBERS to work off the clock, work through meal
24 and rest periods, by illegally and inaccurately recording time during which PLAINTIFF and CLASS
25 MEMBERS worked, by failing to properly maintain PLAINTIFF and CLASS MEMBERS' records, by
26 failing to provide accurate itemized wage statements to PLAINTIFF and CLASS MEMBERS for each
27 pay period, and by other methods to be discovered, while failing to compensate PLAINTIFF and CLASS
28 MEMBERS for all overtime wages calculated at one and one-half (1 ½) times the regular rate of pay for

1 all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first
2 eight (8) hours on the seventh consecutive workday, and at two (2) times the regular rate of pay for all
3 hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight
4 (8) hours on the seventh consecutive day of work in any workweek as required under California Labor
5 Code §§ 510, 1198 and IWC Wage Order No. 4-2001, § 3 or other applicable IWC Wage Orders.

6 24. In violation of California law, DEFENDANTS have knowingly and willfully refused to
7 perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all wages earned and
8 all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS have suffered, and continue
9 to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages,
10 and expenses and attorneys' fees in seeking to compel DEFENDANTS to fully perform their obligations
11 under state law, all to their respective detriments in amounts according to proof at time of trial, and within
12 the jurisdiction of this Court.

13 25. DEFENDANTS' conduct described herein violates California Labor Code §§ 510, 1198
14 and IWC Wage Order No. 4-2001, § 3 or other applicable IWC Wage Orders. Therefore, pursuant to
15 California Labor Code §§ 200, 201, 202, 203, 204, 226, 500, 510, 558, 558.1, 1194, 1197.1, 1198 and
16 other and other applicable provisions under the California Labor Code and IWC Wage Orders,
17 PLAINTIFF and CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them
18 by DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

19 **THIRD CAUSE OF ACTION**

20 **Failure to Provide Required Meal Periods**

21 **[Cal. Labor Code §§ 226.7, 512, 1198; IWC Wage Order No. 4-2001, § 11 or other applicable IWC**
22 **Wage Orders]**

23 **(Against all DEFENDANTS)**

24 26. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
25 consistent with this cause of action, as if fully set forth herein.

26 27. Pursuant to California Labor Code §§ 226.7, 512, 1198 and IWC Wage Order No. 4-2001,
27 § 11 or other applicable IWC Wage Orders, California has prohibited employers from employing person
28 for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except

1 that when a work period of not more than six (6) hours will complete the day's work the meal period may
2 be waived by mutual consent of the employer and the employee. California has also prohibited employers
3 from employing a person for a work period of more than ten (10) hours per day without providing the
4 employee with a second meal period of not less than 30 minutes, except that if the total hours worked is
5 no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the
6 employee only if the first meal period was not waived. California has also required that unless an employee
7 is relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on duty"
8 meal period and counted as time worked. Moreover, if an employer fails to provide an employee a meal
9 period in accordance with the applicable provisions of the relevant IWC Wage Order, then the employer
10 shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each
11 workday that the meal period is not provided.

12 28. PLAINTIFF and CLASS MEMBERS are current and former non-exempt employees
13 entitled to the protections of California Labor Code §§ 226.7, 512, 1198 and IWC Wage Order No. 4-
14 2001, § 11 or other applicable IWC Wage Orders. During the relevant statutory periods, DEFENDANTS
15 failed to provide PLAINTIFF and CLASS MEMBERS meal periods, or to pay one (1) additional hour of
16 compensation at PLAINTIFF and CLASS MEMBERS' regular rates of compensation for each workday
17 that a meal period was not provided, as required under the foregoing provisions of the California Labor
18 Code and IWC Wage Orders by, among other things: requiring, permitting or suffering PLAINTIFF and
19 CLASS MEMBERS to work past five (5) hours from the starts of their shifts before starting a meal period;
20 requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work past ten (10) hours from
21 the starts of their shifts before starting a second meal period; requiring, permitting or suffering
22 PLAINTIFF and CLASS MEMBERS to take meal periods of less than 30 minutes or that were otherwise
23 not duty-free inasmuch as DEFENDANTS failed to relieve PLAINTIFF and CLASS MEMBERS of all
24 of their duties or maintained control over them during that time; failing to count all times that
25 DEFENDANTS failed to provide PLAINTIFF and CLASS MEMBERS duty-free 30-minute meal periods
26 as time worked for the purposes of minimum wage and overtime wage payments; failing to pay
27 PLAINTIFF and CLASS MEMBERS one (1) hour of pay at their regular rates of compensation for each
28 workday that the meal period was not provided; and by other methods to be discovered, in violation of

1 California Labor Code §§ 226.7, 512, 1198 and IWC Wage Order No. 4-2001, § 11 or other applicable
2 IWC Wage Orders.

3 29. In violation of California law, DEFENDANTS have knowingly and willfully refused to
4 perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all wages earned and
5 all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS have suffered, and continue
6 to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages,
7 and expenses and attorneys' fees in seeking to compel DEFENDANTS to fully perform their obligations
8 under state law, all to their respective detriments in amounts according to proof at time of trial, and within
9 the jurisdiction of this Court.

10 30. DEFENDANTS' conduct described herein violates California Labor Code §§ 226.7, 510,
11 512, 1194, 1197, 1198 and IWC Wage Order No. 4-2001, § 11 or other applicable IWC Wage Orders.
12 Therefore, pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 226.7(c), 500, 510, 558, 558.1,
13 1194, 1194.2, 1197.1, 1198 and other applicable provisions under the California Labor Code and IWC
14 Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the unpaid balance of wages
15 owed to them by DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

16 **FOURTH CAUSE OF ACTION**

17 **Failure to Provide Required Rest Periods**

18 **[Cal. Labor Code §§ 226.7, 1198; IWC Wage Order No. 4-2001, § 12 or other applicable IWC**
19 **Wage Orders]**

20 **(Against all DEFENDANTS)**

21 31. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
22 consistent with this cause of action, as if fully set forth herein.

23 32. Pursuant to California Labor Code §§ 226.7, 1198, and IWC Wage Order No. 4-2001, §
24 12 or other applicable IWC Wage Orders, California has required that employers shall authorize and
25 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work
26 period, that the authorized rest period time shall be based on the total hours worked daily at the rate of ten
27 (10) minutes net rest time per four (4) hours or major fraction thereof, that a rest period need not be
28 authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours, and

1 that authorized rest period time shall be counted as hours worked for which there shall be no deduction
2 from wages. California has also required that if an employer fails to provide an employee a rest period in
3 accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour
4 of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

5 33. PLAINTIFF and CLASS MEMBERS are current and former non-exempt employees
6 entitled to the protections of California Labor Code §§ 226.7, 1198, and IWC Wage Order No. 4-2001, §
7 12 or other applicable IWC Wage Orders. During the relevant statutory periods, DEFENDANTS failed to
8 provide PLAINTIFF and CLASS MEMBERS rest periods, or to pay one (1) additional hour of
9 compensation at PLAINTIFF and CLASS MEMBERS' regular rates of compensation for each workday
10 that a rest period was not provided, as required under the foregoing provisions of the California Labor
11 Code and IWC Wage Order by, among other things: requiring, permitting or suffering PLAINTIFF and
12 CLASS MEMBERS to work past three and one-half (3 1/2) hours from the starts of their shifts without
13 authorizing and permitting them to take a timely and fully uninterrupted first rest period; requiring,
14 permitting or suffering PLAINTIFF and CLASS MEMBERS to work past six (6) hours from the starts of
15 their shifts without authorizing and permitting them to take a timely and fully uninterrupted second rest
16 period; requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to work past ten (10) hours
17 from the starts of their shifts without authorizing and permitting them to take a timely and fully
18 uninterrupted third rest period; requiring, permitting or suffering PLAINTIFF and CLASS MEMBERS to
19 take rest periods of less than 10 minutes or that were otherwise not duty-free inasmuch as DEFENDANTS
20 failed to relieve PLAINTIFF and CLASS MEMBERS of all of their duties or maintained control over
21 them during that time; failing to pay PLAINTIFF and CLASS MEMBERS one (1) hour of pay at their
22 regular rates of compensation for each workday that the rest period was not provided; and by other
23 methods to be discovered, in violation of California Labor Code §§ 226.7, 1198, and IWC Wage Order
24 No. 4-2001, § 12 or other applicable IWC Wage Orders.

25 34. In violation of California law, DEFENDANTS have knowingly and willfully refused to
26 perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all wages earned and
27 all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS have suffered, and continue
28 to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages,

1 and expenses and attorneys' fees in seeking to compel DEFENDANTS to fully perform their obligations
2 under state law, all to their respective detriments in amounts according to proof at time of trial, and within
3 the jurisdiction of this Court.

4 35. DEFENDANTS' conduct described herein violates California Labor Code §§ 226.7, 1198,
5 and IWC Wage Order No. 4-2001, § 12 or other applicable IWC Wage Orders. Therefore, pursuant to
6 California Labor Code §§ 200, 201, 202, 203, 204, 226.7(c), 558, 558.1, 1194, 1194.2, 1197.1, 1198 and
7 other applicable provisions under the California Labor Code and IWC Wage Orders, PLAINTIFF and
8 CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by DEFENDANTS,
9 plus interest, penalties, attorneys' fees, expenses, and costs of suit.

10 **FIFTH CAUSE OF ACTION**

11 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties**
12 **[Cal. Labor Code § 2802(a); IWC Wage Order No. 4-2001, § 9 or other applicable IWC Wage**
13 **Orders]**

14 **(Against all DEFENDANTS)**

15 36. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
16 consistent with this cause of action, as if fully set forth herein.

17 37. Pursuant to California Labor Code §§ 2802(a), 1198, and IWC Wage Order No. 4-2001, §
18 9 or other applicable IWC Wage Orders, California has required that employers indemnify employees for
19 all necessary expenditures or losses incurred by an employee in direct consequence of the discharge of his
20 or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless
21 the employee, at the time of obeying the directions, believed them to be unlawful.

22 38. PLAINTIFF and CLASS MEMBERS are current and former non-exempt employees
23 entitled to the protections of California Labor Code §§ 2802(a), 1198, and IWC Wage Order No. 4-2001,
24 § 9 or other applicable IWC Wage Orders. During the relevant statutory periods, DEFENDANTS
25 knowingly and willfully failed to indemnify PLAINTIFF and CLASS MEMBERS for all business
26 expenses and/or losses incurred in direct consequence of the discharge of their duties while working under
27 the direction of DEFENDANTS including, but not limited to, by failing to reimburse PLAINTIFF and
28 CLASS MEMBERS for expenses they incurred in complying with DEFENDANTS' instructions to

1 PLAINTIFF and CLASS MEMBERS to work from their homes or other remote locations, away from
2 Employer's regular business locations, without providing them the supplies, tools, equipment and/or
3 services to perform such work, and by other methods to be discovered.

4 39. In violation of California law, DEFENDANTS have knowingly and willfully refused to
5 perform their obligations to indemnify PLAINTIFF and CLASS MEMBERS for all monies they expended
6 in necessary expenditures or losses incurred. As a proximate result, PLAINTIFF and CLASS MEMBERS
7 have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such
8 unreimbursed monies, and expenses and attorneys' fees in seeking to compel DEFENDANTS to fully
9 perform their obligations under state law, all to their respective detriment in amounts according to proof
10 at time of trial, and within the jurisdiction of this Court.

11 40. DEFENDANTS' conduct described herein violates California Labor Code § 2802(a) 1198,
12 and IWC Wage Order No. 4-2001, § 9 or other applicable IWC Wage Orders. Therefore, pursuant to
13 California Labor Code §§ 2802(b), 2802(c), 2802(d), 1198 and other applicable provisions under the
14 California Labor Code and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to
15 recover the unreimbursed amounts owed to them by DEFENDANTS, plus interest, penalties, attorneys'
16 fees, expenses, and costs of suit.

17 **SIXTH CAUSE OF ACTION**

18 **Failure to Furnish Accurate Itemized Wage Statements**

19 **[Cal. Labor Code §§ 226(a), 226(e)(2)(B); IWC Wage Order No. 4-2001, § 7 or other applicable**
20 **IWC Wage Orders]**

21 **(Against all DEFENDANTS)**

22 41. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
23 consistent with this cause of action, as if fully set forth herein.

24 42. Pursuant to California Labor Code §§ 226(a), 226(e)(2)(B), 1198, and IWC Wage Order
25 No. 4-2001, § 7 or other applicable IWC Wage Orders, California has required that employers
26 semimonthly or at the time of each payment of wages set by the employer, furnish each of its employees
27 an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked
28 by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee

1 is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period
2 for which the employee is paid, (7) the name of the employee and only the last four digits of his or her
3 social security number or an employee identification number other than a social security number, (8) the
4 name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
5 the pay period and the corresponding number of hours worked at each hourly rate by the employee.
6 California law has stated that an employee is deemed to suffer injury for purposes of this subdivision if
7 the employer fails to provide accurate and complete information as required by any one or more of items
8 of the foregoing nine (9) enumerated items and the employee cannot promptly and easily determine from
9 the wage statement alone, *inter alia*, the amount of the gross wages or net wages paid to the employee
10 during the pay period or any of the other information required to be provided on the itemized wage
11 statement pursuant to enumerated items (2) to (4), inclusive, (6), and (9).

12 43. PLAINTIFF and CLASS MEMBERS are current and former non-exempt employees
13 entitled to the protections of California Labor Code §§ 226(a), 226(e)(2)(B), 1198, and IWC Wage Order
14 No. 4-2001, § 7 or other applicable IWC Wage Orders. During the relevant statutory periods,
15 DEFENDANTS failed to provide PLAINTIFF and CLASS MEMBERS accurate itemized wage
16 statements as required under the foregoing provisions of the California Labor Code and IWC Wage Order
17 by, among other things: failing to provide accurate writings showing each and every one of the nine (9)
18 enumerated items required by Labor Code § 226(a), failing to provide accurate writings enabling
19 PLAINTIFF and CLASS MEMBERS to promptly and easily determine from the wage statement alone
20 their total hours worked, all forms of premium payments earned and due including payments for overtime,
21 meal period, rest period and split shift premiums, all deductions, the inclusive dates for which they were
22 paid, and/or all applicable hourly rates in effect during the pay period and the corresponding number of
23 hours worked at each hourly rate by the employee, and by other methods to be discovered, in violation of
24 California Labor Code §§ 226(a), 226(e)(2)(B), 1198, and IWC Wage Order No. 4-2001, § 7 or other
25 applicable IWC Wage Orders.

26 44. In violation of California law, DEFENDANTS have knowingly and willfully refused to
27 perform their obligations to provide PLAINTIFF and CLASS MEMBERS with timely, accurate, and
28 itemized wage statements in accordance with California Labor Code §§ 226(a), 226(e)(2)(B), 1198, and

1 IWC Wage Order No. 4-2001, § 7 or other applicable IWC Wage Orders. As a proximate result,
2 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, substantial losses related to
3 the use and enjoyment of accurate itemized wage statements, and expenses and attorneys' fees in seeking
4 to compel DEFENDANTS to fully perform their obligations under state law, all to their respective
5 detriments in amounts according to proof at time of trial, and within the jurisdiction of this Court.

6 45. DEFENDANTS' conduct described herein violates California Labor Code § 226(a), 1198,
7 and IWC Wage Order No. 4-2001, § 7 or other applicable IWC Wage Orders. Therefore, pursuant to
8 California Labor Code §§ 226(e)(1), 226(e)(2)(B), 226(h), 1198, and IWC Wage Order No. 4-2001, § 7,
9 PLAINTIFF and CLASS MEMBERS are entitled to recover the greater of all actual damages or fifty
10 dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per
11 employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four
12 thousand dollars (\$4,000), and are entitled to an award of costs and reasonable attorney's fees.

13 **SEVENTH CAUSE OF ACTION**

14 **Failure to Timely Pay All Wages Due to Discharged and Quitting Employees**

15 **[Cal. Labor Code §§ 201(a), 202, 203]**

16 **(Against all DEFENDANTS)**

17 46. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
18 consistent with this cause of action, as if fully set forth herein.

19 47. Pursuant to California Labor Code §§ 201(a), 202, and 203, California has required that
20 employers pay their employees all wages earned and unpaid at the time of discharge, or if an employee
21 quits, not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or
22 her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting, and
23 that if an employer willfully fails to timely pay any wages of an employee who is discharged or who quits,
24 the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid
25 or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

26 48. PLAINTIFF and CLASS MEMBERS are current and former non-exempt employees
27 entitled to the protections of California Labor Code §§ 201, 202 and 203. During the relevant statutory
28 periods, DEFENDANTS failed to timely pay PLAINTIFF and CLASS MEMBERS all wages due at the

1 times they were discharged or at the times they quit under the foregoing provisions of the California Labor
2 Code and IWC Wage Order No. 4-2001, or other applicable IWC Wage Orders by, among other things:
3 failing to pay all earned wages to PLAINTIFF and CLASS MEMBERS in full; failing to pay all earned
4 wages to PLAINTIFF and CLASS MEMBERS at the time DEFENDANT discharged them or within 72
5 hours of the times they quit; and by failing to pay PLAINTIFF and CLASS MEMBERS wages as a penalty
6 from the due date thereof at the same rate until paid; and by other methods to be discovered, in violation
7 of California Labor Code §§ 201(a), 202, and 203.

8 49. In violation of California law, DEFENDANTS have knowingly and willfully refused to
9 perform their obligations to provide PLAINTIFF and CLASS MEMBERS with timely and full payment
10 of all wages earned and unpaid at the time of discharge or quitting in accordance with California Labor
11 Code §§ 201, 202, and 203. As a proximate result, PLAINTIFF and CLASS MEMBERS have suffered,
12 and continue to suffer, substantial losses related to the use and enjoyment of all final wages owed and due
13 to them including the penalties due to them as a result of DEFENDANTS' failures, and expenses and
14 attorneys' fees in seeking to compel DEFENDANTS to fully perform their obligations under state law, all
15 to their respective detriments in amounts according to proof at time of trial, and within the jurisdiction of
16 this Court.

17 50. DEFENDANTS' conduct described herein violates California Labor Code §§ 201, 202 and
18 203. Therefore, pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 226.7(c), 500, 510, 558,
19 558.1, 1194, 1194.2, 1197.1, 1198 and other applicable provisions under the California Labor Code and
20 IWC Wage Order No. 4-2001, or other applicable IWC Wage Orders IWC Wage Orders, PLAINTIFF
21 and CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by
22 DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

23 **EIGHTH CAUSE OF ACTION**

24 **Representative Action for Unfair and Unlawful Business Practices**

25 **[Cal. Bus. & Prof. Code §§ 17200 *et. seq.*]**

26 **(Against all DEFENDANTS)**

27 51. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
28 consistent with this cause of action, as if fully set forth herein.

1 52. Pursuant to California Business and Professions Code §§ 17200, *et seq.*, sometimes called
2 California's Unfair Competition Law ("UCL"), California has prohibited employers from engaging in
3 unlawful, unfair or fraudulent business acts or practices, which may include an employer's violations of
4 the California Labor Code sections which prohibit employers from unlawfully withholding wages from
5 an employee. Pursuant to § 17203, any person who engages, has engaged, or proposes to engage in unfair
6 competition may be enjoined in any court of competent jurisdiction to prevent the use or employment by
7 any person of any practice which constitutes unfair competition, or as may be necessary to restore to any
8 person in interest any money or property, real or personal, which may have been acquired by means of
9 such unfair competition. Furthermore, § 17203 provides that any person may pursue representative claims
10 or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and
11 complies with Section 382 of the Code of Civil Procedure.

12 53. Each and every one of DEFENDANTS' acts and omissions in violation of the California
13 Labor Code and/or the applicable IWC Wage Orders as alleged herein including, but not limited to,
14 DEFENDANTS' willful failure and refusal to pay minimum wages, DEFENDANTS' willful failure and
15 refusal to pay overtime wages, DEFENDANTS' willful failure and refusal to provide meal periods or pay
16 wages in lieu thereof, DEFENDANTS' willful failure and refusal to provide rest periods or pay wages in
17 lieu thereof, DEFENDANTS' willful failure and refusal to indemnify for necessary business expenses,
18 DEFENDANTS' willful failure and refusal to furnish accurate itemized wage statements, and
19 DEFENDANTS' willful failure and refusal to timely pay all wages due at time of discharge or quitting,
20 constitutes an unfair and unlawful business practice under California Business and Professions Code §§
21 17200 *et seq.*

22 54. DEFENDANTS' violations of California wage and hour laws constitute a business practice
23 because DEFENDANTS' aforementioned acts and omissions were done repeatedly over a significant
24 period of time, and in a systematic manner, to the detriment of PLAINTIFF, CLASS MEMBERS and
25 members of the general public. DEFENDANTS, pursuant to their deliberate engagement in unfair
26 competition practices, have avoided payment of wages, reimbursement of expenses, and the provision of
27 other entitlements owed to PLAINTIFF and CLASS MEMBERS as a result of their employment
28 relationships with DEFENDANTS, as required by the California Labor Code, the California Code of

1 Regulations, and the applicable IWC Wage Orders. Further, DEFENDANTS have failed to record, report,
2 and pay the correct sums of assessment including, but not limited to, payroll tax assessments, to the state
3 authorities under the California Labor Code and other applicable regulations as a direct consequence and
4 result of DEFENDANTS' wrongful wage underpayments alleged herein.

5 55. As a result of DEFENDANTS' unfair and unlawful business practices, DEFENDANTS
6 have reaped unfair and illegal profits during the CLASS PERIOD at the expense of PLAINTIFF, CLASS
7 MEMBERS, and members of the general public. DEFENDANTS should be made to disgorge their ill-
8 gotten gains and to restore them to PLAINTIFF, CLASS MEMBERS and state authorities.

9 56. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF and CLASS
10 MEMBERS to preliminary and permanent injunctive relief including, but not limited to, orders that
11 DEFENDANTS account for, disgorge, and restore to PLAINTIFF and CLASS MEMBERS the wages and
12 other compensation unlawfully withheld from them, along with the correct sums of assessment including,
13 but not limited to, payroll tax assessment to state authorities under the California Labor Code and other
14 applicable regulations. PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to be
15 disgorged from DEFENDANTS in an amount according to proof at the time of trial, and within the
16 jurisdiction of this Court.

17 **NINTH CAUSE OF ACTION**

18 **Representative Action for PAGA Civil Penalties**

19 **[Cal. Lab. Code §§ 2698 *et. seq.*]**

20 **(Against all DEFENDANTS)**

21 57. PLAINTIFF incorporates all facts alleged in the preceding paragraphs, which are
22 consistent with this cause of action, as if fully set forth herein.

23 58. Pursuant to California Labor Code §§ 2698 *et. seq.*, also known as PAGA, California has
24 stated that notwithstanding any other provision of law, any provision of the California Labor Code that
25 provides for a civil penalty to be assessed and collected by the California Labor and Workforce
26 Development Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or
27 employees, for a violation of the California Labor Code, may, as an alternative, be recovered through a
28 civil action brought by an aggrieved employee on behalf of himself or herself and other current or former

employees pursuant to the procedures specified in §§ 2699³ and 2699.3.⁴

59. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action on behalf of the State of California, herself and other current and former employees of DEFENDANTS pursuant to the procedures specified in California Labor Code § 2699.3, because DEFENDANTS employed PLAINTIFF, a person against whom one or more of the alleged violations of the Labor Code, either specified in the preceding paragraphs of this Complaint or specified below, was committed.

60. On July 15, 2020, pursuant to California Labor Code § 2699.3(a)(1)(A), PLAINTIFF provided written notice by online filing with the LWDA, Case No. LWDA-CM-797143-20, and by certified mail to DEFENDANTS, or some of them, and “any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, entities or other persons who are or may be liable under California law for any of the violations alleged” in the notice alleging the specific provisions of the California Labor Code and IWC Wage Orders PLAINTIFF alleges DEFENDANTS have violated along with the facts and theories supporting the alleged violations. PLAINTIFF's July 15, 2020 PAGA Notice is incorporated herein by reference. Furthermore, pursuant to California Labor Code § 2699.3(a)(1)(A), PLAINTIFF has

³ Pursuant to Labor Code § 2699 subdivision (a), California has stated: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.”

⁴ Pursuant to Labor Code § 2699.5, California has stated: “The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, paragraphs (1) to (5), inclusive, (7), and (9) of subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.4, 6310, 6311, and 6399.7.”

1 sent or intends to send the LWDA \$75.00 payment as a filing fee.

2 61. In PLAINTIFF's notice to the LWDA and to DEFENDANTS, or some of them, as required
3 under California Labor Code § 2699.3, PLAINTIFF alleged DEFENDANTS violated the following
4 provisions of the California Labor Code and IWC Wage Orders along with the facts and theories
5 supporting the alleged violations:

- 6 i. Labor Code § 201 (failure to timely pay all wages due at time of discharge);
- 7 ii. Labor Code § 201.3 (failure to timely pay all wages due as a temporary services
8 employer during employment and at time of discharge);
- 9 iii. Labor Code § 202 (failure to timely pay all wages due at time of quitting or within 72
10 hours thereof);
- 11 iv. Labor Code § 203 (failure to pay wages of the employee as continuing penalty up to 30
12 days after discharge or quitting);
- 13 v. Labor Code § 204 (failure to timely pay all wages due during employment);
- 14 vi. Labor Code § 226 (failure to furnish accurate itemized wage statements and maintain
15 accurate records);
- 16 vii. Labor Code § 226.7 (failure to timely pay all meal period and rest period wages due
17 during employment);
- 18 viii. Labor Code § 510 (failure to pay all overtime wages due);
- 19 ix. Labor Code § 512 (failure to provide timely first and second meal periods);
- 20 x. Labor Code § 1102.5 (retaliation for disclosing information reasonably believed to be a
21 violation of state or federal law);
- 22 xi. Labor Code § 1174(d) (failure to keep accurate payroll records in a central location in
23 California);
- 24 xii. Labor Code § 1197 (failure to pay all minimum wages including split shift wages and
25 reporting time wages);
- 26 xiii. Labor Code § 2802 (failure to indemnify employees).

27 62. PLAINTIFF is informed and believes and thereon alleges that the LWDA has not provided
28 PLAINTIFF with notice of its intent to investigate the alleged violations in the 65 calendar days that have

lapsed from the time PLAINTIFF sent notice. Accordingly, PLAINTIFF is informed and believes and thereon alleges that PLAINTIFF has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative action against DEFENDANTS on behalf of the State of California, herself and other aggrieved employees of DEFENDANTS.

63. As a result, and pursuant to PAGA, California Labor Code §§ 2698, *et seq.*, PLAINTIFF pursuant to an October 26, 2020 Court order granting PLAINTIFF leave to amend, PLAINTIFF now amends her complaint to seek an order for PAGA civil penalties under California Labor Code §§ 210, 225.5, 226.3, 1174.5, 1197.1, 1199, 2699, and IWC Wage Order No. 4-2001, § 20 to recover civil penalties from DEFENDANTS including, but not limited to, penalties for DEFENDANTS' violations of California Labor Code §§ 201, 202, 203, 204, 226, 226(a), 226.7, 510, 512, 1174(d), 1182.11, 1197, 1194, 1198 and 2802 in a representative action and the relevant provisions of IWC Wage Order No. 4-2001 any other provisions that may be brought upon the allegations in this complaint and PLAINTIFF's PAGA Notice, which is incorporated by reference.

64. Pursuant to California Labor Code § 2699(a), PLAINTIFF seeks civil penalties for DEFENDANTS' violations of California Labor Code provisions for which a civil penalty is specifically provided including, but not limited to, the following:

a. Pursuant to California Labor Code § 210, for DEFENDANTS' violations of California Labor Code § 204, PLAINTIFF may seek an award and DEFENDANTS' payment of civil penalties "[f]or any initial violation, one hundred dollars (\$100) for each failure to pay each employee" and "[f]or each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld."

b. Pursuant to California Labor Code § 226.3, for DEFENDANTS' violations of California Labor Code § 226(a), PLAINTIFF may seek an award and DEFENDANTS' payment of civil penalties "in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226."

c. Pursuant to California Labor Code § 558(a), for DEFENDANTS' violations of

1 California Labor Code §§ 510, 512 and IWC Wage Order No. 4-2001, § 3 or other applicable IWC Wage
2 Orders, PLAINTIFF may seek an award of DEFENDANTS' payment of civil penalties "[f]or any initial
3 violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was
4 underpaid" and "[f]or each subsequent violation, one hundred dollars (\$100) for each underpaid employee
5 for each pay period for which the employee was underpaid[.]"

6 d. Pursuant to California Labor Code § 1102.5(f), for violations of California Labor
7 Code § 1102.5, PLAINTIFF may seek an award and DEFENDANTS' payment of civil penalties as
8 follows: "(f) In addition to other penalties, an employer that is a corporation or limited liability company
9 is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of this section."

10 e. Pursuant to California Labor Code § 1174.5, for violations of California Labor
11 Code § 1174(b), (c) or (d), PLAINTIFF may seek an award and DEFENDANTS' payment of civil "a civil
12 penalty of five hundred dollars (\$500)."

13 f. Pursuant to California Labor Code § 1197.1, for DEFENDANTS' violations of
14 California Labor Code §§ 1182.11, 1197 and IWC Wage Order No. 4-2001, §§ 4 and 5 or other applicable
15 IWC Wage Orders, PLAINTIFF may seek an award and DEFENDANTS' payment of civil penalties "[f]or
16 any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid
17 employee for each pay period for which the employee is underpaid" and "[f]or each subsequent violation
18 for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
19 period for which the employee is underpaid regardless of whether the initial violation is intentionally
20 committed."

21 65. In the alternative, and in keeping with California Labor Code § 2699(f), which provides
22 that for all California Labor Code violations for which a civil penalty is not specifically provided, the
23 following civil penalties are established: one hundred dollars (\$100) for each aggrieved employee per pay
24 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period
25 for each subsequent violation, PLAINTIFF seeks such civil penalties under Labor Code § 2699(f) for
26 DEFENDANTS' violations of California Labor Code provisions for which a civil penalty is not
27 specifically provided including, but not limited to, for DEFENDANTS' violations of California Labor
28 Code §§ 201, 202, 203, 204, 226, 226(a), 226.7, 510, 512, 1102.5, 1174(d), 1182.11, 1194, 1197, 1198

1 and 2802 and the applicable IWC Wage Order provisions alleged herein.

2 66. PLAINTIFF shall also seek additionally reasonable attorney's fees and costs pursuant to
3 California Labor Code § 2699(g)(1).

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly situated,
6 respectfully prays for relief against DEFENDANTS, including DOES 1 through 50, inclusive, and each
7 of them, as follows:

8 1. For compensatory damages in an amount to be ascertained at trial as alleged herein for
9 unpaid minimum wage compensation, unpaid overtime wage compensation, unpaid meal period and rest
10 period premium payments, failure to indemnify employees for necessary expenditures and/or losses
11 incurred in discharging their duties, failure to furnish accurate itemized wage statements, and failure to
12 pay all wages due to discharged and quitting employees;

13 2. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;

14 3. For actual and/or statutory damages and/or penalties according to proof including, but not
15 limited to, all penalties authorized by the California Labor Code §§ 203 and 226(e);

16 4. For interest on the unpaid wages at 10% per annum pursuant to California Labor Code §§
17 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable provision providing
18 for pre-judgment interest;

19 5. For reasonable attorneys' fees and costs pursuant to California Labor Code §§ 1194,
20 2699(g)(1), 2802, California Civil Code § 1021.5, and/or any other applicable provisions providing for
21 attorneys' fees and costs;

22 6. For an accounting of all monies due to PLAINTIFF and CLASS MEMBERS arising from
23 DEFENDANTS' unfair and unlawful business practices;

24 7. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well as
25 disgorged profits arising from DEFENDANTS' unfair and unlawful business practices;

26 8. For preliminary and permanent injunctive relief enjoining DEFENDANTS from violating
27 the relevant provisions of the California Labor Code and the IWC Wager Orders, and from engaging in
28 the unlawful business practices complained of herein;

1 9. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth, Seventh
2 and Eighth Causes of Action as a class action;

3 10. For an order appointing PLAINTIFF as class representative and PLAINTIFF's counsel as
4 class counsel;

5 11. For all PAGA civil penalties and other recoveries according to proof including, but not
6 limited to, the amount of any all civil penalties or other amounts authorized by California Labor Code §§
7 210, 226(f), 226.3, 558(a), 1102.5(f), 1174.5, 1197.1, and 2699, and IWC Wage Order No. 4-2001, § 20
8 or other applicable IWC Wage Orders or any other applicable civil penalty provisions authorized under
9 California laws; and

10 12. For such further relief that the Court may deem just and proper.

11 DATED: October 27, 2020

Respectfully submitted,

12 **THE KICK LAW FIRM, APC**

13
14
15 By: 
16 TARAS KICK
ROY K. SUH
DANIEL J. BASS

17 Attorneys for Plaintiff YAZMIN GONZALEZ
18 individually, and on behalf of others similarly
situated and aggrieved

19 **DEMAND FOR JURY TRIAL**

20 PLAINTIFF hereby demands a jury trial with respect to all issues triable of right by jury.

21 DATED: October 27, 2020

Respectfully submitted,

22 **THE KICK LAW FIRM, APC**

23
24
25 By: 
26 TARAS KICK
ROY K. SUH
DANIEL J. BASS

27 Attorneys for Plaintiff YAZMIN GONZALEZ
28 individually, and on behalf of others similarly
situated and aggrieved

PROOF OF SERVICE

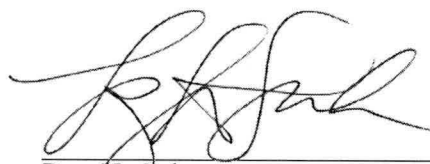
I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to this action. My business address is 815 Moraga Drive, Los Angeles, California 90049. On October 27, 2020, I served the following document or documents:

1. FIRST AMENDED CLASS & REPRESENTATIVE ACTION COMPLAINT

☒ **By e-mail or electronic transmission.** Based on an agreement of the parties to accept service by e-mail transmission, a request that the party or parties, who have appeared and are represented by counsel identified below, or pursuant to California Rules of Court, Appendix I (Emergency Rules Related to COVID-19), Emergency rule 12 (Electronic service), I caused the documents to be sent to the person(s) at the address(es) at the e-mail address(es) listed below. The transmission was either reported as being sent, complete and without error, or I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Michael H. BASSIRI (Cal. Bar No. 191808) mb@bassirilaw.com 1075 North Tustin Street, No. 5147 Orange, California 92863-5147 Telephone: (949) 222-0209 Facsimile: (949) 229-3721	Attorneys for Attorneys for Defendant BRANDED ONLINE, INC., a Delaware Corporation
Roger M. MANSUKHANI (Cal. Bar No. 164463) rmansukhani@grsm.com Tom T. NAGASHIMA (Cal. Bar No. 233636) tnagashima@grsm.com Miguel O. MEDINA (Cal. Bar No. 326048) mmedina@grsm.com GORDON REES SCULLY MANSUKHANI, LLP 633 West Fifth Street, 52nd Floor Los Angeles, California 90071 Telephone: (213) 576-5000 Facsimile: (213) 680-4470	Attorneys for Attorneys for Defendant BRANDED ONLINE, INC., a Delaware Corporation

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 27, 2020



Roy K. Suh

10/29/2020