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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

JAZZMIN CORTEZ, individually, and on behalf
of other aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

MILLARD MALL SERVICES, INC., an Illinois
corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No. **CVRI 21 0401 0**

**COMPLAINT FOR ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698 ET
SEQ.**

COMES NOW, Plaintiff JAZZMIN CORTEZ (“Plaintiff”), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges as follows:

JURISDICTION AND VENUE

1. This is an enforcement action under the California Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698, et seq. (“PAGA”) to recover civil penalties on behalf of Plaintiff, the State of California, and all individuals who worked for Defendants in the State of California as hourly-paid and/or non-exempt employees at any time during the period from August 27, 2019 to final judgment (“aggrieved employees”).

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

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

4. Venue is proper in this Court because a majority of the acts, events, and violations occurred in this County. Upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of Riverside.

THE PARTIES

5. At all times herein mentioned, Plaintiff Jazzmin Cortez was a resident of the County of Riverside, State of California.

6. At all times herein mentioned, Defendant MILLARD MALL SERVICES, INC., an Illinois corporation, was and is an employer whose employees are engaged in the State of California, including the County of Riverside.

7. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 25 but will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known.

1 8. Plaintiff is informed and believes, and based thereon alleges, that each and all of the
2 acts and omissions alleged herein were performed by, or are attributable to Defendant MILLARD
3 MALL SERVICES, INC. and/or DOES 1 through 25 (collectively “Defendants”), each acting as the
4 agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
5 Defendants and within the course and scope of such agency, employment, joint venture, or concerted
6 activity with legal authority to act on the others’ behalf. The acts of any and all Defendants represent
7 and were in accordance with Defendants’ official policy.

8 9. At all relevant times, Defendants were the employer of Plaintiff within the meaning of
9 all applicable state laws and statutes. Defendants directly or indirectly controlled or affected the
10 working conditions, wages, working hours, and conditions of employment of Plaintiff so as to make
11 each of said Defendants employers and employers liable under the statutory provisions set forth herein.

12 10. Defendants had the authority to hire and terminate Plaintiff and the other aggrieved
13 employees, to set work rules and conditions governing Plaintiff’s and the other aggrieved
14 employees’ employment, and to supervise their daily employment activities.

15 11. Defendants exercised sufficient authority over the terms and conditions of Plaintiff’s
16 and the other aggrieved employees’ employment for them to be joint employers of Plaintiff and the
17 other aggrieved employees.

18 12. Defendants directly hired and paid wages and benefits to Plaintiff and the other
19 aggrieved employees.

20 13. Defendants continue to employ hourly paid and/or non-exempt employees within the
21 State of California.

22 14. At all relevant times, Defendants, and each of them, ratified each and every act or
23 omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted
24 the acts and omissions of each and all the other Defendants in proximately causing the damages herein
25 alleged.

26 15. Plaintiff is informed and believes, and based thereon alleges, that each of said
27 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
28 omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

16. From approximately August 2019 to February 2020, Defendants, jointly and severally, employed Plaintiff as a non-exempt, hourly-paid employee in the County of Riverside. At the time her employment ended, Plaintiff was an Assistant Project Manager working at the Galleria at Tyler mall in Riverside, California.

17. Defendants provide maintenance services to malls throughout the State of California.

18. Defendants hired Plaintiff and the aggrieved employees but failed to properly pay them all overtime wages and minimum wages due, failed to provide them with all meal periods and rest periods to which they were entitled, failed to timely pay them all wages during their employment, failed to timely pay them all wages due upon termination of their employment, failed to provide them with accurate itemized wage statements, failed to maintain accurate payroll records, failed to reimburse them for necessary business expenses, and failed to provide and adhere to other related protections afforded by the California Labor Code and applicable Industrial Welfare Commission Wage Order.

19. Plaintiff and the other aggrieved employees worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

20. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive certain wages for overtime compensation and that Plaintiff and the other aggrieved employees were not receiving certain wages for overtime compensation. By way of example, Defendants altered the time Plaintiff and the other aggrieved employees recorded in their time records in order to avoid paying overtime compensation. Plaintiff reported this wage theft to Defendants, but Defendants failed to change their practices, and ultimately retaliated against Plaintiff by terminating her employment.

21. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other aggrieved employees were entitled to receive at least minimum wages for hours worked and that Plaintiff and the other aggrieved employees were not receiving minimum wages for all hours worked. Not only did Defendants alter Plaintiff and the other aggrieved employees' time records to avoid paying overtime compensation, but they required Plaintiff

1 and the other aggrieved employees to perform work off-the-clock, including, but not limited to,
2 responding to phone calls and text messages.

3 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
4 should have known that Plaintiff and the other aggrieved employees were entitled to receive all meal
5 periods or payment of one (1) additional hour of pay at their regular rate of compensation when they
6 were not provided with an uninterrupted meal period of no less than thirty (30) minutes for a work
7 period of more than five hours per day, and that Plaintiff and the other aggrieved employees did not
8 receive all meal periods or payment of one (1) additional hour of pay at their regular rate of
9 compensation when a meal period was missed, shortened, taken late, and/or interrupted.

10 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
11 should have known that Plaintiff and the other aggrieved employees were entitled to receive all meal
12 periods or payment of one (1) additional hour of pay at their regular rate of compensation when they
13 were not provided with an uninterrupted second meal period of no less than thirty (30) minutes for a
14 work period of more than ten (10) hours per day, and that Plaintiff and the other aggrieved employees
15 did not receive all second meal periods or payment of one (1) additional hour of pay at their regular
16 rate of compensation when a second meal period was missed, shortened, taken late, and/or interrupted.

17 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
18 should have known that Plaintiff and the other aggrieved employees were entitled to receive all rest
19 periods or payment of one (1) additional hour of pay at their regular rate of compensation when they
20 were not provided with an uninterrupted rest period of no less than ten (10) minutes for every four
21 hours, or major fraction thereof, worked, and that Plaintiff and the other aggrieved employees did not
22 receive all rest periods or payment of one (1) additional hour of pay at their regular rate of
23 compensation when a rest period was missed, shortened, taken late, and/or interrupted.

24 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
25 should have known that Plaintiff and the other aggrieved employees were entitled to timely payment
26 of wages during their employment. In violation of the California Labor Code, Plaintiff and the other
27 aggrieved employees did not receive payment of all wages, including, but not limited to, overtime
28 wages, minimum wages, meal period premium wages, and rest period premium wages within

1 permissible time periods.

2 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
3 should have known that Plaintiff and the other aggrieved employees were entitled to receive all wages
4 upon termination of employment, including, without limitation, overtime wages, minimum wages,
5 meal period premium wages, and rest period premium wages, and that Plaintiff and the other aggrieved
6 employees did not receive payment of all wages upon termination of employment.

7 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
8 or should have known that Plaintiff and the other aggrieved employees were entitled to receive
9 complete and accurate wage statements in accordance with California law, but, in fact, Plaintiff and
10 the other aggrieved employees did not receive complete and accurate wage statements from
11 Defendants.

12 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
13 or should have known that Defendants had to keep complete and accurate payroll records for
14 Plaintiff and the other aggrieved employees in accordance with California law, but, in fact, did not
15 keep complete and accurate payroll records.

16 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
17 or should have known that Plaintiff and the other aggrieved employees were entitled to
18 reimbursement for necessary business-related expenses, but, in fact, did not reimburse Plaintiff and
19 the other aggrieved employees for necessary business-related expenses, including, but not limited
20 to, reimbursement for the use of personal cell phones for work. Plaintiff requested that Defendants
21 provide her with a cell phone for work, but Defendants denied her request.

22 30. In response to the COVID-19 pandemic, the Judicial Council of California enacted
23 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any other
24 law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled
25 from April 6, 2020, until October 1, 2020.

26 31. Plaintiff and Defendants entered into a tolling agreement whereby the parties agreed
27 that the period of time between March 2, 2021 and September 27, 2021 shall not be included in
28 determining or calculating the applicability of the statutes of limitation, laches, or any other argument

1 or defense based on the lapse or passage of time in any action brought by, filed, or asserted by the
2 parties against each other.

3 **PAGA ALLEGATIONS**

4 32. At all times set forth herein, PAGA was applicable to Plaintiff's employment by
5 Defendants.

6 33. At all times set forth herein, PAGA provides that any provision of law under the
7 California Labor Code that provides for a civil penalty, including unpaid wages and premium wages,
8 to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA")
9 for violations of the California Labor Code may, as an alternative, be recovered through a civil action
10 brought by an aggrieved employee on behalf of herself and other current or former employees pursuant
11 to procedures outlined in California Labor Code section 2699.3.

12 34. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is
13 any person that was employed by the alleged violator and against whom one or more of the alleged
14 violations was committed.

15 35. Plaintiff was employed by Defendants and the alleged violations were committed
16 against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and
17 the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c)
18 in that they are current or former employees of Defendants and one of more of the alleged violations
19 were committed against them.

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

23 (a) The aggrieved employee shall give written notice by certified mail (hereinafter
24 "Employee's Notice") to the LWDA and the employer of the specific provisions of the
25 Labor Code alleged to have been violated, including the facts and theories to support the
26 alleged violations.

27 (b) The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the
28 aggrieved employee by certified mail that it does not intend to investigate the alleged

1 violation within sixty (60) calendar days of the postmark date of the Employee's Notice.
2 Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty
3 five (65) calendar days of the postmark date of the Employee's Notice, the aggrieved
4 employee may commence a civil action pursuant to California Labor Code section 2699
5 to recover civil penalties in addition to any other penalties to which the employee may be
6 entitled.

7 37. On August 27, 2020, Plaintiff provided notice by electronic submission to the LWDA
8 and by certified mail to Defendants regarding the specific provisions of the Labor Code alleged to
9 have been violated, including the facts and theories to support the alleged violations, pursuant to Labor
10 Code section 2699.3. Plaintiff did not receive an LWDA notice within 65 days of submitting her
11 notice.

12 38. Therefore, the administrative prerequisites under California Labor Code section
13 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies for violations of
14 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197,
15 1197.1, 1198, 2800 and 2802 have been satisfied.

16 **FIRST CAUSE OF ACTION**

17 **Violation of California Labor Code §§ 2698, Et Seq.**

18 **(Against MILLARD MALL SERVICES, INC. and DOES 1-25)**

19 39. Plaintiff incorporates herein by specific reference, as though fully set forth, the
20 allegations in all preceding paragraphs.

21 40. PAGA expressly establishes that any provision of the California labor Code which
22 provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
23 divisions, commissions, boards, agencies or employees for a violation of the California Labor Code,
24 may be recovered through a civil action brought by an aggrieved employee on behalf of himself or
25 herself, and other current or former employees.

26 41. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
27 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to
28 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

1 42. Plaintiff and the other hourly-paid, non-exempt employees are “aggrieved employees”
2 as defined by California Labor Code section 2699(c) in that they are all current or former employees
3 of Defendants, and one or more of the alleged violations were committed against them.

4 43. Defendants’ conduct, as alleged herein, violates numerous sections of the California
5 Labor Code, including, but not limited to, the following:

- 6 (a) Violation of California Labor Code sections 510 and 1198 for failure to pay
7 overtime wages, as set forth more fully below;
- 8 (b) Violation of California Labor Code sections 1194, 1197, and 1197.1 for failure to
9 pay minimum wages, as set forth more fully below;
- 10 (c) Violation of California Labor Code sections 226.7 and 512(a) for failure to provide
11 legally required meal periods, as set forth more fully below;
- 12 (d) Violation of California Labor Code section 226.7 for failure to provide legally
13 required rest periods, as set forth more fully below;
- 14 (e) Violation of California Labor Code section 204 for failure to timely pay wages to
15 Plaintiff and other aggrieved employees during employment, as set forth more fully
16 before;
- 17 (f) Violation of California Labor Code sections 201, 202, and 203 for failure to pay all
18 wages at time of discharge from employment, as set forth more fully below;
- 19 (g) Violation of California Labor Code section 226(a) for failure to provide accurate
20 wage statements to Plaintiff and other aggrieved employees, as set forth more fully
21 below;
- 22 (h) Violation of California Labor Code section 1174(d) for failure to keep complete
23 and accurate payroll records relating to Plaintiff and other aggrieved employees, as
24 set forth more fully below; and
- 25 (i) Violation of California Labor Code sections 2800 and 2802 for failure to reimburse
26 Plaintiff and other aggrieved employees for necessary business-related expenses,
27 as set forth more fully below.

28 44. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5,

1 Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of
2 civil penalties for Plaintiff, all other aggrieved employees, and the State of California against
3 Defendants, in addition to other remedies, for violations of Labor Code sections set forth herein.
4 Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees
5 shall be distributed as follows: seventy-five percent (75%) to the LWDA for the enforcement of labor
6 laws and education of employers and employees about their rights and responsibilities and twenty-five
7 (25%) to the aggrieved employees. Further, and as authorized by the California Labor Code sections
8 210, 218.5, and 2699, Plaintiff seeks recovery of her attorneys' fees and costs.

9 **Failure to Pay Overtime Wages**

10 45. California Labor Code section 1198 and the applicable Industrial Welfare Commission
11 ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a
12 rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the
13 number of hours worked by the person on a daily or weekly basis.

14 46. Specifically, the applicable IWC Wage Order provides that Defendants are and were
15 required to pay Plaintiff and aggrieved employees employed by Defendants, and working more than
16 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half
17 for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

18 47. The applicable IWC Wage Order further provides that Defendants are and were
19 required to pay Plaintiff and aggrieved employees employed by Defendants, and working more than
20 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.

21 48. California Labor Code section 510 codifies the right to overtime compensation at one-
22 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
23 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to
24 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours
25 in a day or in excess of eight (8) hours in a day on the seventh day of work.

26 49. During the relevant time period, Plaintiff and aggrieved employees regularly worked
27 in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty
28 (40) hours in a week performing work duties "off-the-clock," including, but not limited to reviewing

1 and/or responding to phone calls and text messages.

2 50. Defendants' failure to pay Plaintiff and aggrieved employees the unpaid balance of
3 overtime compensation, as required by California law, violates the provisions of California Labor
4 Code sections 510 and 1198, and is therefore unlawful.

5 51. Pursuant to California Labor Code section 1194, Plaintiff and aggrieved employees are
6 entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

7 **Failure to Pay Minimum Wages**

8 52. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1 provide
9 that the minimum wage for employees fixed by the Industrial Welfare Commission is the minimum
10 wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
11 Defendants' failure to pay minimum wages included, inter alia, Defendants' effective payment of zero
12 dollars per hour for time spent working "off-the-clock" performing duties, including, but not limited
13 to, reviewing and/or responding to phone calls and text messages. Accordingly, Defendants regularly
14 failed to pay at least minimum wages to Plaintiff and aggrieved employees for all of the hours they
15 worked in violation of California Labor Code sections 1194, 1197 and 1197.1.

16 53. Defendants' failure to pay Plaintiff and aggrieved employees the minimum wage as
17 required violates California Labor Code sections 1194, 1197 and 1197.1. Pursuant to those sections,
18 Plaintiff and aggrieved employees are entitled to recover the unpaid balance of their minimum wage
19 compensation, as well as interest, costs, and attorney's fees.

20 **Failure to Provide Meal Periods**

21 54. At all relevant times herein set forth, the applicable IWC Wage Order(s) and California
22 Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other aggrieved
23 employees' employment by Defendants and each of them.

24 55. At all relevant times herein set forth, California Labor Code section 226.7 provides that
25 no employer shall require an employee to work during any meal period mandated by an applicable
26 IWC Order.

27 56. At all relevant times herein set forth, California Labor Code section 512(a) provides
28 that an employer may not require, cause, or permit an employee to work for a period of more than five

1 (5) hours per day without providing the employee with a meal period of not less than thirty (30)
2 minutes, except that if the total work period per day of the employee is not more than six (6) hours,
3 the meal period may be waived by mutual consent of both the employer and the employee.

4 57. During the relevant time period, Plaintiff and other aggrieved employees scheduled to
5 work for a period of time no longer than six (6) hours, and who did not waive their legally mandated
6 meal periods by mutual consent, were required to work for periods longer than five (5) hours without
7 a meal period of not less than thirty (30) minutes.

8 58. During the relevant time period, Plaintiff and the other aggrieved employees,
9 who were scheduled to work for a period of time in excess of six (6) hours, were required to work for
10 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
11 minutes.

12 59. During the relevant time period, Plaintiff and the other aggrieved employees,
13 who were scheduled to work for a period of time in excess of ten (10) hours but no longer than twelve
14 (12) hours, and who did not waive their legally-mandated meal periods by mutual consent, were
15 required to work in excess of ten (10) hours without receiving a second uninterrupted meal period of
16 not less than thirty (30) minutes.

17 60. During the relevant time period, Plaintiff and the other aggrieved employees,
18 who were scheduled to work for a period of time in excess of twelve (12) hours, were required to work
19 for periods longer than ten (10) hours without a second uninterrupted meal period of not less than
20 thirty (30) minutes.

21 61. Pursuant to the applicable IWC Wage Order and California Labor Code section
22 226.7(b), Plaintiff and other aggrieved employees are entitled to recover from Defendants one (1)
23 additional hour of pay at the employee's regular hourly rate of compensation for each work day that
24 the meal period was not provided.

25 62. During the relevant time period, Defendants willfully required Plaintiff and aggrieved
26 employees to work during meal periods and failed to compensate Plaintiff and aggrieved employees
27 for work performed during meal periods. By way of example, Defendants failed to relieve Plaintiff of
28 all duties such that Plaintiff could take compliant meal periods. As a result, Plaintiff worked through

1 mandated meal periods.

2 63. Defendants failed to pay Plaintiff and aggrieved employees the full meal period
3 premium due in violation of California Labor Code sections 226.7 and 512 on each occasion when a
4 timely, uninterrupted meal period was not provided. Defendants failed to incorporate all
5 nondiscretionary payments for work performed by Plaintiff and the aggrieved employees in the regular
6 rate of compensation.

7 64. Defendants' conduct violates applicable IWC Wage Order(s), and California Labor
8 Code sections 226.7 and 512(a).

9 **Failure to Provide Rest Periods**

10 65. At all relevant times herein set forth, the applicable IWC Wage Order and California
11 Labor Code section 226.7 were applicable to Plaintiff's and aggrieved employees' employment by
12 Defendants.

13 66. At all relevant times, California Labor Code section 226.7 provides that no employer
14 shall require an employee to work during any rest period mandated by an applicable order of the
15 California IWC.

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

21 68. Pursuant to the applicable IWC Wage Order and California Labor Code section
22 226.7(b), Plaintiff and aggrieved employees are entitled to recover from Defendants one (1) additional
23 hour of pay at the employee's regular hourly rate of compensation for each work day that the rest
24 period was not provided.

25 69. During the relevant time period, Defendants required Plaintiff and aggrieved
26 employees to work four (4) or more hours without authorizing or permitting a ten (10) minute rest
27 period per each four (4) hour period, or major fraction thereof worked. During the relevant time
28 period, Defendants willfully required Plaintiff and the other aggrieved employees to work during rest

1 periods. By way of example, Defendants failed to relieve Plaintiff of all duties such that Plaintiff
2 could take compliant rest periods. As a result, Plaintiff worked through mandated rest periods.

3 70. Defendants failed to pay Plaintiff and aggrieved employees the full rest-period
4 premium due in violation of California Labor Code sections 226.7 and 512 on each occasion when a
5 timely, uninterrupted rest period was not provided. Defendants failed to incorporate all
6 nondiscretionary payments for work performed by Plaintiff and the aggrieved employees in the regular
7 rate of compensation.

8 71. Defendants' conduct violates the applicable IWC Wage Orders and California Labor
9 Code section 226.7.

10 **Failure to Timely Pay Wages During Employment**

11 72. At all relevant times herein set forth, California Labor Code section 204 provides that
12 all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any
13 calendar month, other than those wages due upon termination of an employee, are due and payable
14 between the 16th and the 26th day of the month during which the labor was performed.

15 73. At all times herein set forth, California Labor Code section 204 provides that all wages
16 earned by any person in any employment between the 16th and the last day, inclusive, of any calendar
17 month, other than those wages due upon termination of an employee, are due and payable between the
18 1st and the 10th day of the following month.

19 74. At all times herein set forth, California Labor Code section 204 provides that all wages
20 earned for labor in excess of the normal work period shall be paid no later than the payday for the next
21 regular payroll period.

22 75. During the relevant time period, Defendants intentionally and willfully failed to pay
23 Plaintiff and the other aggrieved employees all wages due to them, within any time period permissible
24 under California Labor Code section 204, including wages for overtime compensation, minimum wage
25 compensation, meal period premiums, and rest period premiums.

26 **Failure to Timely Pay Wages Upon Termination**

27 76. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
28 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code section

201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 mandates that if an employee quits, 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 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.

77. California Labor Code section 203 provides that if an employer willfully fails to pay, in accordance with California Labor Code sections 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than thirty (30) days.

78. At the time that Plaintiff and the other aggrieved employees' employment with Defendants ended, Defendants knowingly and willfully failed to pay Plaintiff and the other aggrieved employees all wages owed to them pursuant to California Labor Code sections 201 and 202, including, without limitation, overtime wages, minimum wages, meal period premium wages, and rest period premium wages.

Failure to Provide Compliant Wage Statements

79. At all relevant times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of its employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the

1 deductions shall be kept on file by the employer for at least three years at the place of employment or
2 at a central location within the State of California.

3 80. Defendants have intentionally and willfully failed to provide employees with complete
4 and accurate wage statements. The deficiencies include, among other things, the failure to state all
5 rates of pay, all hours worked, all meal period premium wages, and all rest period premium wages.

6 81. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff
7 and aggrieved employees have suffered injury and damage to their statutorily protected rights.

8 82. Specifically, Plaintiff and aggrieved employees have been injured by Defendants'
9 intentional violation of California Labor Code section 226(a) because they were denied both their legal
10 right to receive, and their protected interest in receiving, accurate, itemized wage statements under
11 California Labor Code section 226(a). In addition, because Defendants failed to provide the accurate
12 number of total hours worked on wage statements, Plaintiff has been prevented by Defendants from
13 determining if all hours worked were paid and the extent of the underpayment. Plaintiff has had to file
14 this lawsuit, and will further have to conduct discovery, reconstruct time records, and perform
15 computations in order to analyze whether in fact Plaintiff was paid correctly and the extent of the
16 underpayment, thereby causing Plaintiff to incur expenses and lost time. Plaintiff would not have had
17 to engage in these efforts and incur these costs had Defendants provided the accurate number of total
18 hours worked. This has also delayed Plaintiff's ability to demand and recover the underpayment of
19 wages from Defendants.

20 **Failure to Keep Requisite Payroll Records**

21 83. At all relevant times set forth herein, California Labor Code section 1174(d) requires
22 an employer to keep, at a central location in the state or at the plants or establishments at which
23 employees are employed, payroll records showing the hours worked daily by and the wages paid to,
24 and the number of piece-rate units earned by and any applicable piece rate paid to, employees
25 employed at the respective plants or establishments. These records shall be kept in accordance with
26 rules established for this purpose by the commission, but in any case shall be kept on file for not less
27 than two years.

28 84. Defendants have intentionally and willfully failed to keep accurate and complete

1 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other aggrieved
2 employees.

3 85. As a result of Defendants' violation of California Labor Code section 1174(d), Plaintiff
4 and the other aggrieved employees have suffered injury and damage to their statutorily-protected
5 rights.

6 86. More specifically, Plaintiff and the other aggrieved employees have been injured by
7 Defendants' intentional and willful violation of California Labor Code section 1174(d) because they
8 were denied both their legal right and protected interest, in having available, accurate and complete
9 payroll records pursuant to California Labor Code section 1174(d).

10 **Failure to Reimburse Necessary Business Expenses**

11 87. Pursuant to California Labor Code sections 2800 and 2802, an employer must
12 reimburse its employees for all necessary expenditures incurred by the employee in direct consequence
13 of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct
14 consequence of his or her obedience to the directions of the employer.

15 88. Plaintiff and the other aggrieved employees incurred necessary business-related
16 expenses and costs that were not fully reimbursed by Defendants, including, but not limited to, the use
17 of personal cell phones for work-related purposes.

18 89. Defendants intentionally and willfully failed to reimburse Plaintiff and the other
19 aggrieved employees for all necessary business-related expenses and costs.

20 **PRAYER FOR RELIEF**

21 Plaintiff prays for relief and judgment against Defendants, jointly and severally, as follows:

22 1. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g), plus
23 costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a),
24 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

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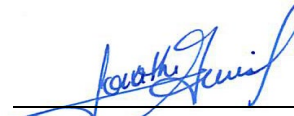
1 2. For such other and further relief as the Court may deem proper.

2 Respectfully Submitted,

3 Dated: September 1, 2021

BLACKSTONE LAW, APC

4
5 By:



Jonathan M. Genish

Attorneys for Plaintiff Jazzmin Cortez